



*City of Fairburn  
Workshop Agenda  
December 11, 2017  
6:00 PM*

**The Honorable Mayor Mario, B. Avery, Presiding**

***I. Council Discussion***

***II. Agenda Item(s) for Council Meeting at 7:00 PM.***

- 1. Office of the City Clerk*** ***Chief Hood***  
***Appointment of Permanent City Clerk, Mrs. Jennifer Elkins.***
- 2. Police Department*** ***Chief Sutherland***  
***Appointment of Deputy Chief Anthony Bazdylo to Interim Police Chief.***
- 3. City of Fairburn*** ***Chief Hood***  
***Recertification through GMA as a City of Ethics.***
- 4. Water and Sewer*** ***Mr. Tom Ridgway***  
***Sewer Repair in St. John's Crossing.***
- 5. Fulton County*** ***Attorney Randy Turner***  
***Intergovernmental Agreement with Fulton County for providing Animal Services.***

***III. Adjourn to Regular Council Meeting***





CITY OF FAIRBURN  
CITY HALL  
56 Malone Street  
Fairburn, GA 30213  
December 11, 2017  
7:00 PM

## REGULAR AGENDA

### *The Honorable Mayor Mario B. Avery, Presiding*

The Honorable Mayor Pro-Tem Hattie Portis-Jones  
The Honorable Alex Heath  
The Honorable James Whitmore

The Honorable Lydia Glaize  
The Honorable Pat Pallend

Stephen Hood  
Shana T. Moss  
Randy Turner

Interim City Administrator  
Interim City Clerk  
City Attorney

- |       |  |                           |
|-------|--|---------------------------|
| I.    | Meeting Called to Order:   | The Honorable Mayor Avery |
| II.   | Roll Call:   | Interim City Clerk        |
| III.  | Invocation:  | Appointee                 |
| IV.   | Pledge of Allegiance:  | In Unison                 |
| V.    | Presentation:  | City of Fairburn          |
| VI.   | Public Comments: Thirty (30) minutes shall be available for public comments. Each speaker shall be limited to three (3) minutes; however, a speaker may transfer his or her three (3) minutes to another speaker, but no speaker shall be permitted to speak for more than (6) minutes; further in the even more than ten (10) speakers desire to speak, each speaker shall be limited to two (2) minutes and no speaker may speak more than four (4) minutes. Issues raised at this time are generally referred to the City Administrator for review. Responses will be provided at a later date. |                           |
| VII.  | Adoption of the Council Agenda:  | Council Members           |
| VIII. | Adoption of City Council Minutes:  | Council Members           |

IX. Agenda Items:

- |      |  |   |
|------|--|---|
| 1.   | Office of the City Clerk<br>Appointment of Permanent City Clerk, Mrs. Jennifer Elkins.   | Chief Stephen Hood<br><b>(Action Item)</b>    |
| 2.   | Police Department<br>Appointment of Deputy Chief Anthony Bazdylo to Interim Police Chief, due to retirement of Chief Vernal Sutherland, III. | Chief Sutherland<br><b>(Action Item)</b>      |
| 3.   | City of Fairburn<br>City of Fairburn recertification through Georgia Municipal Association (GMA) as a City of Ethics.                        | Chief Stephen Hood<br><b>(Action Item)</b>    |
| 4.   | Water and Sewer<br>Sewer repair in St. John's Crossing.  | Mr. Tom Ridgway<br><b>(Action Item)</b>       |
| 5.   | Fulton County<br>Intergovernmental Agreement with Fulton County for providing Animal Services.   | Attorney Randy Turner<br><b>(Action Item)</b> |
| X.   | Council Comments:  | Council Members                               |
| XI.  | Executive Session  | Attorney Turner                               |
| XII. | Adjournment  | Council Members                               |

When an Executive Session is required, one will be called for the following issues:  
(1) Personnel (2) Real Estate or (3) Litigation.

# City of Fairburn: Mayor and Council Meeting Minutes

---

City of Fairburn  
Mayor and Council Meeting Minutes  
November 27, 2017  
6:00 PM

- I. Meeting was called to order at 6:00 PM by the Honorable Mayor Mario B. Avery.
- II. Roll Call was taken by Interim City Clerk, Shana T. Moss, all members of council were present; the city had a quorum and the meeting proceeded.
- III. Invocation was rendered by the Honorable Mayor Mario B. Avery.
- IV. The Pledge of Allegiance was recited in unison.
- V. Presentation: There were none.
- VI. Public Comments:
  1. Dr. Nick Parnell of 8410 Cleckler Road, stated he does not have communication from elected officials, he reached out to every official and did not receive a response. The City of Fairburn has environmental and traffic issues and the elected officials have slight disregard and will not call on other agencies that can be of assistance. He asked that the elected officials reach out to the National Transportation Safety Board (NTSB) for sound concerns, and the EPD for environmental issues. He further stated, Mayor Pro-Tem, Portis-Jones, Councilmembers, Glaize and Whitmore have attended numerous conferences on the environment and water supply. He is concerned about the contaminated water in the area, he asked Mayor and Council to call experts into the city to address these problems. He presented a document to Mayor and Council that will become a part of the official minutes.
  2. Mr. Christian Turner, of 8345 Cleckler Road, stated he moved to the area in 2003 for a more simpler lifestyle to raise a family, he is aware council wants many new warehouses in the area, due to the revenue they generate. Mayor and Council need to step up to the table, because the city is in need of repairs, Bohannon Road, Oakley Industrial, and Highway 74, the bridge on Bohannon is damaged, there is a huge crack in the bridge that immediately need repairs. McClarien Road always has high volume of tractor trailers, when they go over the railroad tracks, other cars cannot get through safely. If Saban Warehouse is approved, there will be an increase of employees going to work when it's dark, they can easily be hit due to no reflective vest, people walking in the street, it will be more added danger.
  3. Mrs. Tonya Clauss, of 8410 Cleckler Road, stated garbage has been increasing in the area; it is not good for the environment. There is an increase in bicycle traffic, one morning she left her home between 6:30 am and witnessed a tractor trailer, use the turn-a-round space occupied by Clorox, the bicyclist was almost ran over,

## City of Fairburn: Mayor and Council Meeting Minutes

the green traffic light on Highway 74 is only 34 seconds and that amounts to excessive traffic build-up.

4. Ms. Janet Adams of 2107, Sandtree Court, Atlanta, Georgia spoke in agreement of the warehouse. She stated her mother was a resident of the area; her mother is 90 years old and will not return to that location.
5. Mr. Doug Edmondson of 8545 Cleckler Road, stated he supported Saban.
6. Mr. Pete Edmondson of 8545 Cleckler Road, stated he supported Saban.
7. Mr. GERALD Todd, of 300 Rivertown Road, spoke in support of Saban, he rode through the area, the warehouse will generate revenue for the city, and we must change with the times if we want progress. The warehouse will bring more eateries, and be an overall benefit for the city. He has seen a tremendous amount of growth in Fairburn, he has been in the area since 1968, he has witnessed Fairburn being strangled and now it is a vibrant city with fresh ideas and Fairburn has to keep up with the times.
8. Mr. Al Nash of 141 Pryor Street, Suite 2052 stated he is the CEO of Select Fulton, the Economic Arm of the city. His understanding is this will be a high tech distribution warehouse; a lot of money is being invested into this project, which will create jobs, and will increase tax dollars. He thanked everyone for listening.
9. Mr. Aaron Shropshire, of 8471 Creekwood Road, Palmetto, GA 30268, stated his residence is close to the Clorox Warehouse, and he doesn't hear disturbing noises, he is in support of the warehouse.
10. Mr. Scott Nicholson, of 4795 Coates Drive, Fairburn, GA is an independent carrier for DHL and he is in support of the Saban Project.
11. Ms. Patricia Durette, of 8415 Clecker Road, Palmetto, GA 30268, stated she purchased the ugliest home in the area, and renovated it. She made an emphatic plea; she played a video with sound for Mayor and Council and narrated the sounds to illustrate the massive noise level. She was offered \$70,000 for her home. She stated Saban has said, they will plant vegetation for the sound, but no vegetation can be planted, she is begging for mercy; please, do not vote for this warehouse to be placed in her yard. She further stated, Saban has a lot of property, they have the option of going somewhere else, and she does not have that option, due to finances.
12. Ms. Vanessa Turner of 8575 Creekwood Ridge Drive stated she has to leave her home at 6:30 because of the traffic light. She has to wait for all the trucks that are currently entering and exiting from Clorox. With the addition of the Saban

## City of Fairburn: Mayor and Council Meeting Minutes

---

Warehouse, this is going to cause great danger, and she is concerned, someone is going to be hit or killed. Also, this will bring increased garbage to the area, to add another facility, this will compound the problem, she is not opposed to growth, she is opposed to danger.

13. Mr. Mike Stevenson, of 8475 Creekwood Road, stated he would appreciate if the city would hire professionals to come into the city to conduct studies, such as the Corps of Engineers, and EPD. He stated he invited the elected officials to come out on November 12<sup>th</sup>, and no one came, except Councilwoman Glaize, nor has any elected official gotten back in touch with the residents.

### VII. Adoption of the Council Agenda:

Motion to approve agenda was made by Councilman Pallend; motion, seconded by Councilman Whitmore, authorizing the removal of Item # 4 from Property Management, requesting approval to demolish a structure on Blighted Property at 231/233 Margaret Street. This item will be presented at a later date, after more information is obtained, per Attorney Valerie Ross. Adding Items 5 & 6, with 5 being GICH Discussion for DCA Chip Grant, and item 6 being Certification of the November 7<sup>th</sup>, General Election Results.

Vote: 5-0.

Motion Carried.

Motion to approve consent agenda was made by Councilwoman Glaize; motion, seconded, by Councilman Heath.

Vote: 5-0.

Motion Carried.

### VIII. Adoption of City Council Minutes:

Motion to approve minutes from the November 13, 2017 meeting was made by Councilman Heath; motion, seconded by Councilman Whitmore. Councilman Whitmore had a correction, page 4 under his comment section, instead of area; he stated the word should say community. The change was noted and made.

Vote: 5-0

Motion Carried.

### IX. Agenda Items:

#### **Old Business:**

Mayor Avery gave both the applicant and the opposing party thirty minutes, apiece to present their information.

1. Community Development/ Planning and Zoning Public Hearing: Rezoning 17 RZ-001 (DRI 2665) Saben, LLC. Ms. Walker stated this information was presented at the August 28<sup>th</sup> meeting. Motion to discuss this item as old business was made by Councilman Heath; motion, seconded by Councilman Whitmore.

Ms. Brendetta Walker

Ms. Walker stated

Motion to discuss this item

as old business was made by Councilman Heath; motion, seconded by Councilman

Whitmore.

Vote: 5-0

Motion Carried.

## City of Fairburn: Mayor and Council Meeting Minutes

---

Ms. Walker stated, the applicant (Saban) is requesting to rezone thirteen (13) parcels from AG-1 (Agricultural District) to M-1 (Light Industrial District). The subject properties are located by I-85 on the north, Creekwood Road (which begins at the southern end of Oakley Industrial Blvd) on the east, Cleckler Road on the south and John Seaborn Road on the west. This project consists of three (3) warehouse buildings totaling 107,370 square feet of warehouse/distribution space on approximately 99 acres. Site access is proposed along the northern side of the subject property, parallel to I-85 and Creekwood Road. The proposed project was submitted to the Atlanta Regional Commission (ARC) and Georgia Regional Transportation Authority (GRTA) for DRI (Developmental of Regional Impact) conceptual plan review on January 23 2017. GRTA approved the conceptual plan without conditions on March 29, 2017.

### **Applicant**

Ms. Walker stated additional studies were requested at the August 27, 2017 meeting, and those studies had been completed. Ms. Linda Dunlavy with the Dunlavy Law Firm representing Saban presented the team consisting of:

John Barker	Developer
Bobby Fountain	Principal of Saben and Shugart Family Member
Bill Hare	Real Estate to the Shugart Family
Sylvia & Mark Shugart	Family Members and principals of Saban
Randy Parker	Traffic Engineer
Dan McHugh	Sound Engineer
Brian Brumfield	Engineering Team

Ms. Dunlavy stated this item was deferred and since this time, a comprehensive sound study has been conducted, a zoning study was conducted, several site visits were conducted, supplemental vegetation was studied as to the best sound barrier for the area. Saban's sound study revealed decibel levels of the low 50's is what is present, trucks present decibels of low 60's. She referenced Exhibit C in the packet which depicted the quality of the area, noise, light and supplemental planting. Saban also presented 14 Proposed Conditions (which will become an official attachment to the minutes) that will be done on the site, as well as designing a parking lot with a barrier to block the Cleckler Subdivision, as well as a ring-a-round. There will be a 25 foot buffer around the property She stated there has been ongoing communication with the residents, a meeting was held on November 18, 2017. She stated her applicant has followed all regulations, the area is zoned M-1, and her applicant should be afforded the right to occupy the premises.

### **Opposing Party:**

Mrs. Tonya Clauss, stated she is Fairburn committed, she sees growth, but no attention is given to the citizens, and what is best for them. This is a tough position to be in, pouring your heart out to your elected officials, and seemingly falling on deaf ears. She has witnessed increased traffic, mainly truck traffic; she is concerned about

## City of Fairburn: Mayor and Council Meeting Minutes

---

the contamination runoff into the streams. Elected officials must take care of the citizens; recommendations should be done by professional government agencies. She is asking council members to postpone the vote, until additional studies and agencies can come into the area, conduct their studies, and present their findings. She asked, "What is the rush to push this vote through? She is requesting the Army Corp of Engineers, NTSB, and Georgia Power come into the area to conduct unbiased studies. She asked the city to hire a third party to study the environmental concerns this warehouse pose.

Dr. Nicholas Parnell, said he was going to reiterate what he has previously stated and referenced the handout he distributed. He feels the city need help in guidance and an outside agency to come in and conduct studies. He stated the citizens of the subdivision have been at the table negotiating with the Saban group; however, he stated the elected officials should be involved and sitting at the table with them. Dr. Parnell asked, "who will ensure the 14 points Saban identified, who will regulate to ensure they are carried out?"

Mr. Chuck Beaver, stated he is a truck driver, has driven all over the United States, and he has never seen a successful ring-a-round.

The hearing ended.  
Council Comments:

Councilwoman Glaize, stated she is proud to see communication with the Shuggart Family and the constituents. There is work to do on both sides, the City of Fairburn has to step up and deal with the problems the citizens referenced, such as the bridge on Bohannon Road, road damage, and the guard rail. She feels a few more things need to take place before a definitive decision can be made, because the citizens will be affected. There is no consideration for growth, more information is needed, and the City of Fairburn need to delay to allow more discussion. She made a substitute motion to delay the vote. The motion died for lack of a second.

Councilman Whitmore, stated the area was zoned from AG-1 to M-1, he is happy the citizens and the Shugart's have been communicating. He thanked everyone for coming out and sharing their concerns, he is listening and when he votes it will be within the confines of the law.

Councilman Heath, inquired about the buffer around the area, he asked City Engineer Ms. Brendetta Walker, "if there is a problem with the buffer, will you shut it down?" "Yes," replied Ms. Walker. Councilman Heath asked, Mr. Dan McHugh, sound engineer about his experience, he stated he has been doing sound analysis for 25 years in the Atlanta Market.

Mayor Pro-Tem Portis-Jones, stated the citizens of Fairburn for coming out and expressing their concerns. She stated the city streets are a problem, and Oakley



## City of Fairburn: Mayor and Council Meeting Minutes

---

Industrial Boulevard is the main road that will be the recipient of the city's T-SPLOST, that will begin next year.

Mayor Avery, asked about the regulatory mechanism and what would be a non-compliance scenario? City Engineer Walker, hypothetically gave this scenario, "if a buffer has been encroached; the first step is to sit down with the owner, and inform him it must be replanted or restored, there are strict guidelines regarding buffers and encroachment.

Councilman Pallend, asked, "Has everything been adhered to?" Ms. Walker, replied, "Yes."

Motion to approve the Saban Warehouse Project was made by Councilman Pallend; motion, seconded by Councilman Heath.

Vote: 4-1

Opposed: Councilwoman Glaize

Motion Carried.

### Agenda Item 5

Councilwoman Glaize

Consideration of GICH Team moving forward to submit CHIP application through DCA. Councilwoman Glaize presented information to determine if Council wanted to move forward with applying for CHIP Grant this year. This information was presented to Mayor and Council on October 9, 2017, council decided not to proceed with the CHIP application due to the \$100,000 matching funds the city would have to match. Councilwoman Glaize stated in workshop the city would not have to provide matching funds, in-kind donations such as employees working on the grant would suffice. Mayor Avery stated his concern was the employees would become so inundated with working on the grant which would equate to funds, in the form of manpower. The motion died on the floor, for lack of a second.

### Agenda Item 6

Certification of the General Election Results Interim Clerk, Shana T. Moss

Reported the City received the official certified election results from the November 7<sup>th</sup> General Election from Fulton County Board of Elections. In the Mayoral race, Elizabeth Carr Hurst qualified and ran unopposed, she received 1, 121 votes, equaling 93.57% of the vote, there were 77 write in votes, equaling 6.43% of the vote. 9 people qualified for the city's three council seats that were available, in alignment with the city's charter, the top vote getter wins the seat. The three people receiving the most votes were: Alex Heath with 592 votes, equaling 19.79% of the vote; Hattie Portis-Jones with 848 votes, equaling 28.34%; and Ulysses Smallwood with 405 votes, equaling 13.54% of the vote. Mayor Avery asked for a motion to accept the results; motion was made by Councilwoman Glaize; motion, seconded by Councilman Heath.

Vote: 5-0.

Motion Carried.

# City of Fairburn: Mayor and Council Meeting Minutes

---

## New Business:

All items were Consent Agenda Items (from Mayor and Council Workshop; motion made by Councilwoman Glaize; motion, seconded by Councilman Heath.

Vote: 5-0

Motion Carried.

1. City of Fairburn, cancellation of December 25, 2017 Council Meeting. This is the city's second meeting of the month, and Christmas Day is a city holiday.
2. Police Department, Surplus/Inoperable Police Equipment.
3. Utilities (Electric) Department, Recloser Purchase, the city will have one unit that will monitor all phases; this will result in less outages.
4. Item Removed: Will be heard at a later date.

## X. Council Comments:

Councilman Whitmore, stated he appreciated everyone coming out, the vote was legal.

Councilman Heath Thanked everyone for coming out, there were good arguments on both sides, his heart goes out to the citizens. He announced the city's Christmas Tree Lighting Event, which will be held on Saturday December 2<sup>nd</sup> from 6:00 PM-8:00 PM. He invited everyone to come out, and he wished everyone a Great Christmas.

Councilwoman Glaize, this was a grave situation, this wasn't a win situation, and it could have been a win-win situation. Did not get to the finish line, it is very hard to sell your property, she is disheartened. The corridor need to be returned to M-1. It has been a pleasure working with all of you; people should always be first; when people win, we all win. It has been an honor to serve.

Councilman Pallend, had no comment.

Mayor Pro-Tem Portis Jones stated she has been educated by the resident of Clecker Road and Creekwood. Ordinances, land-use maps, and zoning conditions have been established. This is an opportunity for us to create a win-win, by having continued dialogue.

Mayor Avery stated he has 41 days left; he remains committed to assisting the citizens as he always have. He remains committed to leaving the city in good shape for the next administration for Mayor-Elect Hurst, and City Administrator, Ms. Gayden. He announced that City Administrator, Ms. Donna Gayden would be present at the next meeting, as her hire date is December 4<sup>th</sup>. Don't forget the

## City of Fairburn: Mayor and Council Meeting Minutes

---

Christmas Tree Lighting Ceremony on Saturday December 2, 2017 from 6:00 PM-8:00 PM in the downtown courtyard.

- XI. Executive Session, at 9:21 pm motion to enter into Executive Session for litigation was made by Councilman Heath; motion, seconded by Councilman Whitmore.

Motion to exit Executive Session at 9: 55 pm was made by Councilman Whitmore, with second being provided by Councilman Pallend.

- XII. Adjournment: At 9:53 PM with no further business of the City of Fairburn, motion to adjourn was made by Councilman Pallend; motion, seconded by Councilman Heath.

---

Shana T. Moss  
Interim City Clerk

---

Mario B. Avery  
Mayor

I attest:

## Shana Moss

---

**From:** Hang Nguyen <hnguyen@fairburn.com>  
**Sent:** Monday, November 27, 2017 11:51 AM  
**To:** mayoravery@fairburn.com; hportisjones@fairburn.com; lglaize@fairburn.com; lizcarrhurst@gmail.com; ppallend@fairburn.com; aheath@fairburn.com; jwhitmorefairburncouncil@gmail.com  
**Cc:** chiefhood@fairburn.com; 'Nicholas Parnell'; 'Shana Moss'; 'Donna M Gayden'  
**Subject:** FW: URGENT: concerning pending re-zoning vote 27 November 2017

Good morning Mayor and Council,

I hope your Thanksgiving Holiday was wonderful. As requested, please see the below email from Mr. Nicolas Parnell of the Cleckler Road neighborhood. He has asked that we forward the below information to Mayor and Council. Please let us know if you have any questions or concerns that we can assist with. Thank you in advance.

Respectfully,



Hang Nguyen  
Assistant to the City Administrator  
56 Malone Street S.W.  
Fairburn, GA 30213  
P: (770) 964-2244 F: (770) 969-3484

**From:** Nicholas Parnell [mailto:nfpfish@aol.com]  
**Sent:** Sunday, November 26, 2017 1:27 PM  
**To:** hnguyen@fairburn.com; chiefhood@fairburn.com  
**Subject:** URGENT: concerning pending re-zoning vote 27 November 2017

Dear Hang,  
I have attempted to send this email to each Council member and the Mayor but given the issues with my other communications reaching them I have also sent it so you in the hopes that you can be sure they receive it.  
Thank you,  
Nicholas Parnell

-----Original Message-----

**From:** Nicholas Parnell <nfpfish@aol.com>  
**To:** jwhitmoreFairburnCouncil <jwhitmoreFairburnCouncil@gmail.com>  
**Sent:** Sun, Nov 26, 2017 1:24 pm  
**Subject:** URGENT: concerning pending re-zoning vote 27 November 2017

Dear Honorable Fairburn City Council members,

As a resident, landowner, and citizen of the Cleckler Road area of the City of Fairburn I have communicated with all of you multiple times regarding concerns and opposition to the re-zoning application 17RZ-001-Saben, LLC. On 8 August 2017 the Fairburn Planning & Zoning Commission voted to DENY re-zoning of this property due to the concerns of the Cleckler Road residents adjacent to the property. At the following City Council meeting on this topic, the Council voted to postpone a decision vote by 90 days for a variety of reasons including continued dialogue between the development group and concerned citizens and opportunity for site visits for Council members to see the developer and citizen's point of view. Unfortunately, neither of those major items have been completed to satisfaction despite continued efforts and for that reason I ask that the vote be delayed. While there has been a reasonable amount of communication between Saben, LLC and the Cleckler road citizens, those communications did not occur as a group until the month of November. The citizens have yet to be able to coordinate a visit to our neighborhood by more than one council member. We feel that a

visit by the majority of council members to the neighborhood is still warranted so that they can adequately assess the real world situation and understand our perspective, regardless of the result of the vote. Voting to re-zone the Saben, LLC property actually requires the city council members to have an even greater understanding of the citizens' concerns and needs.

I will now summarize the efforts and progress made pertaining to continued dialogue and communication with Saben, LLC, but I ask that Council remember three very important facts: 1) none of the concerned residents has this as their area of expertise: we are mechanics, veterinarians, biologists, truck drivers, retirees, etc. NOT real estate lawyers, developers or engineers; 2) many of us have full-time jobs and every second that we use on this topic is taken away from our personal time: this is not our occupation; 3) this is a financially uneven playing field as the concerned citizens do not have discretionary funds to spend on sound studies, well water safety studies, or other important data collection that is integral to us in supporting our contentions. The burden of proof and comparison on these topics should be the responsibility of the developer and not on the shoulders of the citizens.

On 16 October 2017 I emailed Council member Portis-Jones about arranging for all members to visit our neighborhood and hear our concerns. She passed my request on to the City Administrator to organize and as shown in the email thread at least three separate requests were made to all Council members on my behalf. One response was received from Mr. Whitmore but with only a day's notice we could not arrange accordingly and no follow-up was successful with him. Following that an email from another neighbor asking for visits was replied to by Council member Glaize and she spent over 3.5 hours with us on a Sunday afternoon (11/12/17) seeing our neighborhood and understanding our concerns. Other than the attempt by Councilman Whitmore and the attention from Councilwoman Glaize there have been no other attempts to meet with the citizen group.

From the conclusion of the last Council meeting on this topic (28 Aug 17) until the week of 5 November 2017 there was zero communication from the Saben group to members of our neighborhood despite reassurance from them at the 28 August 2017 meeting that they would reach out. One neighbor received a notice a week ahead of a scheduled "site tour" on 12 November 2017 and disseminated the information to the rest of us; another citizen learned of the same "site tour" with one week advanced notice, but only when she emailed their legal council asking for updates. Notices trickled in after that but with only a few days notice at most. Representatives of 6 families of Cleckler Road made the meeting and this was the same time that Councilwoman Glaize came out to see us. After this meeting we had one additional group meeting with the Saben group on 18 November 2017. During this meeting we discussed possible site mitigation strategies that they were considering to address our concerns if re-zoning was granted. We viewed their proposal objectively and despite some contentious discussions it was a good start. Following that meeting, myself and my wife, Tonya Clauss, corresponded with Linda Dunlavy about the conditions, which were submitted to you by her on 22 November 2017. Ms. Dunlavy took the time to review each of the conditions listed in the document. She took into account our feedback, as is evidenced by the rewording of some of those conditions. Per our discussion, this document represented a draft, not a final agreement, to show that communication was underway. It is not acceptable to us as citizens as a final document as it was sent to you. It should also be noted that there is no regulation guarantee that any proposed concessions will be made following approval of re-zoning and future development. That is unacceptable. We as citizens need to know that Saben, LLC or any other developer that may build on that property, if it is rezoned, will be held to the conditions. We trust that the city council will support us as constituents in making sure this occurs.

The key points here are that we have had only two meetings with the Saben group following initial contact some 16 weeks following the public hearing and only one Council member has come to visit our neighborhood. It is clear from the Saben application submitted to the City around 17 November 2017 that all but one Council member accepted invitations to meet with the Saben group (Councilwoman Glaize met with both groups concurrently). Equal attention should be given to both sides, especially when one side is represented by Fairburn constituents and not an outside company.

I have examined in detail as much information as I can during this time and have worked very hard to prepare a "case" for our neighborhood. I am not a lawyer or a politician and I don't have any more weight than that of a voting citizen of the city of Fairburn and the United States. But with that weight I am asking the City Council of Fairburn to table this vote. Please do not make a decision on 27 November 2017. This situation has no similarities to any past re-zoning decisions of this type in Fairburn, which are the basis for much of the justification to build a warehouse on this property. The impact of this particular project to area citizens and land values is far greater than any others that have occurred along this "warehouse corridor," and it is important that the Council have adequate information and understand the concerns of the citizens of our city. It is clear in our efforts that the majority of people living east and southwest of this project have no idea this is even happening. While I am grateful for the fact that we have finally been able to start a dialogue with the Saben group, I (and my neighbors) are not nearly satisfied with the outcome and we are awaiting more information on a number of topics therein. I cannot see how a decision can be made to approve this re-zoning and subsequent development without Council's being fully informed. Furthermore, we feel that if Council plans to pass the petition to re-zone, they should have a plan in place prior to that vote for minimizing impacts to the residents of the area.

In conclusion I ask for the support of City Council in tabling the vote on this topic scheduled for 27 November 2017. I also ask for the City to provide guidance and support to the concerned residents by acting as liaison between the Saben and neighborhood groups and formally working on the conditions of a potential vote to re-zone this property. I further ask the City to hold all applications for re-zoning any existing AG-1 lands until such a time that a committee can be formed to work with the Council and P&Z Committee to examine the effects of each potential project. This committee should include citizens appointed by the Council that represent those neighborhoods that have been or will be impacted by future re-zoning and development. This will allow full disclosure of the effects of such projects on adjacent and surrounding property values due to the litany of issues that can arise. If it is not possible to postpone this vote until all information can be gathered and reviewed with due diligence then I must ask the Council to vote to deny the application to re-zone at this time.

I am sincerely grateful for your time and attention on this matter and appreciate your support.

Nicholas Parnell, Ph.D.  
8410 Cleckler Rd.  
404-695-6609

PROPOSED CONDITIONS OF ZONING FOR CREEKWOOD DEVELOPMENT 11/27/17

1. The property shall be developed in substantial conformity with the Zoning Site Plan prepared by Eberly and Associates and submitted with the original rezoning application stamped received January 10, 2017, and attached as Exhibit A. Any determinations as to "substantial conformity" shall be made by City staff.
2. The property will be developed with no more than 1, 107, 370 square feet of warehouse space.
3. There will be no curb cuts to the Subject Property south of the culvert under Creekwood Road.
4. The southernmost curb cut on Creekwood Road will be designed to direct trucks exiting the site to turn left only.
5. As per the City of Fairburn Zoning Ordinance, there shall be a 50 foot zoning buffer around the perimeter of the Subject Property where it directly abuts 8475 Creekwood Road. No existing healthy trees are to be removed within this buffer after the Subject Property has been fully developed and received a certificate of occupancy.
6. Exterior of buildings shall be constructed predominantly of stone, brick, concrete, glass or metal. Building walls will not be clad with vinyl siding.
7. Lighting on the exterior of buildings on Subject Property shall be directed downward and internal to the property lines. All perimeter lighting shall be directed to the interior of the Subject Property. Lighting on the Subject Property shall have the same or similar attributes to the lighting package attached hereto as Exhibit B, which is the lighting package utilized for the Duracell Plant on Bohannon Road.
8. Developer shall provide a combination of existing trees and newly planted trees (where insufficient vegetation exists) <sup>per</sup> substantially similar to the supplemental vegetation plan prepared by Eberly and Associates attached hereto as Exhibit C. In addition to tree planting, a vegetated earthen berm shall be installed to screen the warehouse and truck lanes on site from view of residents as much as reasonably possible per the landscape plan attached hereto as Exhibit C.
9. Unless, Oakley Boulevard is extended beyond the Subject Property for public access, ingress and egress to the two larger warehouse buildings on site shall be exclusively via the private drive on the north side of the Subject Property running parallel to I-85 as depicted on the site plan attached hereto as Exhibit A. The private driveway shall be constructed by the Developer from the end of Oakley Boulevard into the site in substantial conformity with the site plan referenced.
10. In an effort to communicate with and provide information to the neighborhoods effected by construction activity on site, Developer shall appoint a person to provide information and in writing to a designated representative of residents along Cleckler and Creekwood Roads concerning construction and development schedules. Developer's representative shall specifically notify the neighborhood representative (or in their absence the City of Fairburn City Engineer) of the commencement of any substantial clearing activity, grading activity or significant pouring of concrete no later than 48 hours prior to the commencement of such activity and shall notify the

PROPOSED CONDITIONS OF ZONING FOR CREEKWOOD DEVELOPMENT 11/27/17

**neighborhood representative within 10 days of the issuance of any building permit for warehouse structures on site and the issuance of any land disturbance permit.**

- 11. The detention ponds shall meet the minimum City, County and State requirements.**
- 12. The employee parking lot on the west side of Creekwood Road north of Cleckler shall be buffered on the south and east sides as depicted in the plan attached as Exhibit C and a chain link fence shall be installed around the perimeter of this parking lot.**
- 13. A chain link fence shall be installed in the approximate locations depicted on Exhibit C at a height permitted by the City of Fairburn.**
- 14. To the extent permitted, vegetation and/or fencing on the outer perimeter of the truck lane will be installed by the Developer in an effort maximize screening and sound remediation for properties to the south of the Subject Property on Cleckler Road.**





CITY OF FAIRBURN  
CITY COUNCIL AGENDA ITEM

**SUBJECT:** Appointment of the City's Permanent City Clerk, Mrs. Jennifer Elkins.

( ) AGREEMENT                      ( ) POLICY / DISCUSSION                      ( ) CONTRACT  
( ) ORDINANCE                      ( ) RESOLUTION                      ( X ) OTHER

Submitted: 12/05/2017                      Work Session: 12/11/2017                      Council Meeting: 12/11/2017

**DEPARTMENT:** Office of the City Clerk

**BUDGET IMPACT:** Clerk's Salary

**PUBLIC HEARING?** ( ) Yes      ( x ) No

---

**PURPOSE:** The City of Fairburn is hiring a permanent City Clerk. The city advertised the position, conducted interviews and selected a permanent clerk.

**HISTORY:** The City Clerk is the keeper of the city seal, minutes, and records of the city.

**RECOMMENDED ACTION:** Appointment

---

*Donna M. Gayden, City Administrator*

---

*Mario B. Avery, Mayor*



## CITY OF FAIRBURN

### CITY COUNCIL AGENDA ITEM

**SUBJECT: Appointment of Interim Police Chief due to the retirement of Chief Vernal Sutherland,  
III. Appointing Deputy Chief Anthony Bazdylo as Interim Chief**

( ) AGREEMENT                      ( ) POLICY / DISCUSSION                      ( ) CONTRACT  
( ) ORDINANCE                      ( ) RESOLUTION                                      ( X ) OTHER

Submitted: 12/05/2017                      Work Session: 12/11/2017                      Council Meeting: 12/11/2017

**DEPARTMENT:**     Police

**BUDGET IMPACT:** Interim Chief's Salary

**PUBLIC HEARING?** ( ) Yes     ( x ) No

---

**PURPOSE:** Current Police Chief Sutherland is retiring, an Interim Chief need to be named.

**HISTORY:** The Police Chief oversees the city's police department.

**RECOMMENDED ACTION:** Appointment

---

*Donna M. Gayden, City Administrator*

---

*Mario B. Avery, Mayor*



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

**SUBJECT: Recertification as a Georgia City of Ethics.**

( ) AGREEMENT                      ( ) POLICY / DISCUSSION                      ( ) CONTRACT  
( X ) ORDINANCE                      ( ) RESOLUTION                      ( X ) OTHER

Submitted: 12/05/2017                      Work Session: 12/11/2017                      Council Meeting: 12/11/2017

**DEPARTMENT:** Office of the City Clerk

**BUDGET IMPACT:** None

**PUBLIC HEARING?** ( ) Yes                      ( x ) No

---

**PURPOSE:** The City of Ethics program began in 1999 and was developed by a panel of business and government leaders to encourage cities to adopt and adhere to a set of key ethical principles and adopt a local ethics ordinance. The ordinance must contain definitions, prohibited conduct and due process for officials accused of violations in areas such as financial disclosures, conflicts of interests and outside employment. The ordinance must also contain penalties for city officials who violate the ordinance.

**HISTORY:** To recognize cities that have adopted principles and procedures that offer guidance on ethical issues, along with a mechanism to resolve complaints at the local level.

**RECOMMENDED ACTION:** Appointment.

---

*Donna M. Gayden, City Administrator*

---

*Mario B. Avery, Mayor*

CITY OF FAIRBURN

RESOLUTION

**WHEREAS** the Board of Directors of the Georgia Municipal Association has established a Certified City of Ethics program; and,

**WHEREAS** the City of Fairburn, wishes to be certified as a Certified City of Ethics under the GMA Program; and,

**WHEREAS** part of the certification process requires the Mayor and Council to subscribe to the ethics principles approved by the GMA Board;

**NOW THEREFORE BE IT RESOLVED** by the governing authority of the City of Fairburn, Georgia, that as a group and as individuals, the governing authority subscribes to the following ethics principles and pledges to conduct its affairs accordingly:

- \* Serve Others, Not Ourselves
- \* Use Resources With Efficiency and Economy
- \* Treat All People Fairly
- \* Use The Power of Our Position For The Well Being Of Our Constituents
- \* Create An Environment Of Honesty, Openness And Integrity

**RESOLVED** this 11th day of December, 2017.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
ATTEST:

City of Fairburn Ethics Ordinance

City of Fairburn

State of Georgia

ORDINANCE Number: 2017-12

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF FAURBURN, GEORGIA TO PROVIDE A NEW CODE SECTION 2-4, ETHICS; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Fairburn, Georgia is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs and local government; and

WHEREAS, the duly elected governing authority of the City of Fairburn, Georgia is the Mayor and Council thereof; and

WHEREAS, the governing authority deems it essential to the proper operation of democratic government that the public officials be, and give the appearance of being, independent, impartial, and responsible to the people; that governmental decisions and policies be made in the proper channels of the governmental structure; and that public office not be used for personal gain; and

WHEREAS such measures are necessary to provide the public with confidence in the integrity of its government.

NOW THEREFORE it is the policy of the city that its officials, employees, appointees, and volunteers conducting official city business:

- Serve others and not themselves;
- Be independent, impartial and responsible;
- Use resources with efficiency and economy;
- Treat all people fairly;
- Use the power of their position for the wellbeing of their constituents; and
- Create an environment of honesty, openness and integrity.

NOW THEREFORE BE IT AND IT IS HEREBY ORDAINED:

Section 1.

That the Code of Ordinances of the City of Fairburn Georgia is hereby amended by adding sections to be numbered 2017-12, Code of Ethics, which said sections, read as follows:

## PURPOSE

The purpose of this code of ethics is to:

- (a) Encourage high ethical standards in official conduct by city officials;
- (b) Establish guidelines for ethical standards of conduct for all such officials
- (c) Require disclosure by such officials of private financial or other interest in matters affecting the city; and
- (d) Serve as a basis for disciplining those who refuse to abide by its terms.

The provisions of this code of ethics shall be applicable to all elected or appointed city officials. Notwithstanding anything herein to the contrary, state law and the charter of the city shall be controlling in the event of an actual conflict with the provisions of this code of ethics. This ordinance shall be interpreted to supplement, and not replace, said provisions of state law and the charter

DEFINITIONS Solely for the purpose of this code of ethics:

- (a) City official or official, unless otherwise expressly defined does not include city employees but does mean the mayor, members of the city council, municipal court judges (including substitute judges), city manager, city clerk, city attorney, and all other persons holding positions designated by the city charter, as amended. The term "city official" also includes all individuals, including city employees, appointed by the mayor and/or city council as appropriate to city authorities, commissions, committees, boards, task forces, or other bodies which can or may vote or take formal action or make official recommendations to the mayor and/or city council.
- (b) Decision means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the city council or other city board or commission, as well as the discussions or deliberations of the council, board, or commission which can or may lead to a vote or formal action by that body.
- (c) Employee means any person who is a full-time or part-time employee of the city.
- (d) Immediate family means the spouse, mother, father, grandparent, brother, sister, son or daughter of any city official related by blood, adoption or marriage. The relationship by marriage shall include in-laws
- (e) Incidental interest means an interest in a person, entity or property which is not a substantial interest as defined herein and which has insignificant value.
- (f) Remote interest means an interest of a person or entity, including a city official, which would be affected in the same way as the general public. For example, the interest of an official in the property tax rate, general city fees, city utility charges or a comprehensive zoning ordinance or similar matters is deemed remote to the extent that the official would be affected in common with the general public.
- (g) Substantial interest means an interest, either directly or through a member of the immediate family, in another person or entity, where:
  - (1) the interest is ownership of five percent or more of the voting stock, shares or equity of the entity or ownership of \$5,000.00 or more of the equity or market value of the entity; or

(2) the funds received by the person from the other person or entity during the previous 12 months either equal or exceed (a) \$5,000.00 in salary, bonuses, commissions or professional fees, or \$5,000.00 in payment for goods, products or services, or (b) ten percent of the recipient's gross income during that period, whichever is less;

(3) the person serves as a corporate officer or member of the board of directors or other governing board of a for-profit entity other than a corporate entity owned or created by the city council; or

(4) the person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000.00 or more.

PROHIBITIONS 4 (a) No city official shall use such position to secure special privileges or exemptions for himself or herself or others, or to secure confidential information for any purpose other than official duties on behalf of the city.

(b) No city official, in any matter before the council or other city body, relating to a person or entity in which the official has a substantial interest, shall fail to disclose for the record such interest prior to any discussion or vote or fail to recuse himself/herself from such discussion or vote as applicable.

(c) No city official shall act as an agent or attorney for another in any matter before the city council or other city body

(d) No city official shall directly or indirectly receive, or agree to receive, any compensation, gift, reward, or gratuity in any matter or proceeding connected with, or related to, the duties of his office except as may be provided by law.

(e) No city official shall enter into any contract with, or have any interest in, either directly or indirectly, the city except as authorized by state law.

(i) This prohibition shall not be applicable to the professional activities of the city attorney in his or her work as an independent contractor and legal advisor on behalf of the city.

(ii) This prohibition shall not be applicable to an otherwise valid employment contract between the city and a city official who is not elected (such as, by way of example, a city manager, city administrator or chief of police).

(iii) Any official who has a proprietary interest in an agency doing business with the city shall make that interest known in writing to the city council and the city clerk.

(f) All public funds shall be used for the general welfare of the people and not for personal economic gain.

(g) Public property shall be disposed of in accordance with state law.

(h) No city official shall solicit or accept other employment to be performed, or compensation to be received, while still a city official if the employment or compensation could reasonably be expected to impair such official's judgment or performance of city duties.

(i) If a city official accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity or property which would be affected by any decision upon which the official might reasonably be expected to act, investigate, advise, or make a recommendation, the official shall disclose the fact to the city council and shall recuse himself/herself and take no further action on matters regarding the potential future employer.

(j) No city official shall use city facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.

(k) No city official shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.

(l) A city official shall not directly or indirectly make use of, or permit others to make use of, official information not made available to the general public for the purpose of furthering a private interest.

(m) A city official shall not use his or her position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to such official or persons within the official's immediate family, or those with whom the official has business or financial ties amounting to a substantial interest.

(n) A city official shall not order any goods and services for the city without prior official authorization for such an expenditure. No city official shall attempt to obligate the city nor give the impression of obligating the city without proper prior authorization.

(o) No city official shall draw travel funds or per diem from the city for attendance at meetings, seminars, training or other educational events and fail to attend such events without promptly reimbursing the city therefore.

(p) No city official shall attempt to unduly influence the outcome of a case before the Municipal Court of the City Fairburn nor shall any city official engage in ex parte communication with a municipal court judge of the City of Fairburn on any matter pending before the Municipal Court of the City of Fairburn.

#### CONFLICT OF INTEREST 6

(a) A city official may not participate in a vote or decision on a matter affecting an immediate family member or any person, entity, or property in which the official has a substantial interest.



(b) A city official who serves as a corporate officer or member of the board of directors of a nonprofit entity must disclose their interest in said entity to the mayor and council prior to participating in a vote or decision regarding funding of the entity by or through the city.

(c) Where the interest of a city official in the subject matter of a vote or decision is remote or incidental, the city official may participate in the vote or decision and need not disclose the interest.

#### BOARD OF ETHICS

Select Alternative A, B, C or D or draft another suitable alternative. If Alternative D is chosen, subsections (b) through (f) may be omitted. Alternative D can also be used in conjunction with one of the other alternatives to hear complaints against any member of the Board of Ethics or when the Board of Ethics cannot convene because appointed members of the Board of Ethics have conflicts of interest in hearing the matter. Alternative A (a) The Board of Ethics of the City shall consist of three (3) residents of the City, one appointed by the mayor, one appointed by the city council, and the third appointed by the mayor and approved by a majority of the city council.

Alternative B (a) The Board of Ethics shall consist of three (3) residents of the City, one appointed by the mayor, one appointed by the council, and the third appointed by the two named Board members and approved by a majority of the city council. The third member of the Board of Ethics shall be a member in good standing of the State Bar of Georgia.

Alternative C (a) The Board of Ethics of the City shall be composed of three (3) residents of the City to be appointed as follows: the mayor and councilmembers shall each designate one (1) qualified citizen to provide a pool of individuals who have consented to serve as a member of such Board of Ethics and who will be available for a period of two (2) years to be called upon to serve in the event a Board of Ethics is appointed. The City Clerk shall maintain a listing of these qualified citizens. Upon receipt of a properly verified complaint and timely forwarding of that complaint to the city official charged in the complaint, the Mayor and Council, at the next regularly scheduled public meeting or at a specially called public meeting, shall draw names randomly from the listing of qualified citizens until three (3) members of the Board of Ethics have been appointed. Such Board will elect one of its members to serve as chair. Alternative D

(a) The Municipal Court of the City Fairburn shall hear and render decisions on all proper verified complaints filed under this ordinance.

(b) All members of the Board of Ethics shall be residents of the city for at least one (1) year immediately preceding the date of taking office and shall remain a resident while serving on the Board.

(c) All members of the Board of Ethics shall serve a \_\_\_\_-year term.

(d) No person shall serve as a member of the Board of Ethics if the person has, or has had within the preceding one (1) year period, any interest in any contract or contracting opportunity with the city or has been employed by the City.

(e) Members of the Board of Ethics with any permit or rezoning application pending before the city, or any pending or potential litigation against the city or any city official charged in the complaint shall be disqualified from serving on the Board of Ethics for that complaint. An alternate member of the Board of Ethics shall be selected in the same manner as the disqualified individual.

(f) The members of the Board of Ethics shall serve without compensation. The city council shall provide meeting space for the Board of Ethics and, subject to budgetary procedures and requirements of the City, such supplies and equipment as may be reasonably necessary for the Board to perform its duties and responsibilities.

(g) No person shall serve on the Board of Ethics who has been convicted of a felony involving moral turpitude in this state or any other state, unless such person's civil rights have been restored and at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude.

(h) No person shall serve on the Board of Ethics who is less than 21 years of age, who holds a public elective office, who is physically or mentally 8 unable to discharge the duties of a member of the Board of Ethics, or who is not qualified to be a registered voter in the City of Fairburn.

(i) Upon appointment, members of the Board of Ethics shall sign an affidavit attesting to their qualification to serve as a member of the Board of Ethics. (j) Members of the Board of Ethics may be removed by majority vote of the city governing authority. OR

(j) Members of the Board of Ethics may be removed by majority vote of the city governing authority for cause including, but not limited to, failure to maintain any requirement for qualification to serve on the Board of Ethics.

RECEIPT OF COMPLAINTS Select Alternative A, B, C or D or draft another suitable alternative. If Alternative D is chosen, conform the language in the following sections by substituting "municipal court" for "board." Alternatives A & B

(a) All complaints against city officials shall be filed with the Board of Ethics, who may require that oral complaints, and complaints illegibly or informally drawn, be reduced to a memorandum of complaint in such form as may be prescribed by the city council or the Board of Ethics. Upon receipt of a complaint in proper form, the chair of the Board of Ethics shall forward a copy of the complaint to the city official or officials charged in the complaint within no more than seven (7) calendar days.

(b) Alternative C (a) All complaints against city officials shall be filed with the city clerk, who will give it to the Mayor and Council. The Mayor and

Council may require that oral complaints, and complaints illegibly or informally drawn, be reduced to a memorandum of complaint in such form as may be prescribed by the city council. Upon receipt of a complaint in proper form, the city clerk or the clerk's designee shall forward a copy of the complaint to the city official or officials charged in the complaint within no more than seven (7) calendar days.

(c) Alternative

(d) D (a) All complaints against city officials shall be filed with the clerk of the Municipal Court of the City of Fairburn Upon receipt of a complaint in proper form, the municipal court clerk shall forward a copy of the 9 complaint to the city official or officials charged in the complaint within no more than seven (7) calendar days (b) All complaints shall be submitted and signed under oath, shall be legibly drawn and shall clearly address matters within the scope of this ordinance. (c) Upon receipt of a complaint in proper form, the Board shall review it to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke the disciplinary jurisdiction of the City Council. The Board of Ethics is empowered to dismiss in writing complaints that it determines are unjustified, frivolous, patently unfounded or fail to state facts sufficient to invoke the disciplinary jurisdiction of the City Council; provided, however, that a rejection of such complaint by the Board of Ethics shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the city official. For complaints that are not dismissed, the Board of Ethics is empowered to collect evidence and information concerning any complaint and add the findings and results of its investigations to the file containing such complaint. (d) Upon completion of its investigation of a complaint, the Board of Ethics is empowered to dismiss in writing those complaints which it determines are unjustified, frivolous, patently unfounded or which fail to state facts sufficient to invoke the disciplinary jurisdiction of the City Council; provided, however, that a rejection of such complaint by the Board of Ethics shall not deprive the complaining party of any action such party might otherwise have at law or in equity against the city official.

(e) The Board of Ethics is empowered to conduct investigations, to take evidence, and to hold hearings to address the subject matter of a complaint.

(f) The Board of Ethics is empowered to adopt forms for formal complaints, notices, and any other necessary or desirable documents within its jurisdiction where the city council has not prescribed such forms.

(g) Findings of the Board of Ethics shall be submitted to the City Council for action. Some elected officials raised concerns about potential misuse of the ethics complaint process for political purposes. The governing authority may elect to remain silent on this issue and allow local ethics complaints to be filed and processed at any time or the governing authority may consider

Alternative A or B below or draft another suitable alternative. 10 Alternative A

(h) To discourage the filing of ethics complaints solely for political purposes, complaints will not be accepted against a person seeking election as a city official, whether currently serving as a city official or not, from the date qualifying opens for the elected office at issue through the date the election results for that office are certified. The time for filing complaints will not run during this period. Properly filed complaints will be accepted and processed after the election results have been certified. Alternative B (h) To discourage the filing of ethics complaints solely for political purposes, ethics complaints against a person seeking election as a city official, whether currently serving as a city official or not, which are filed between the date of qualifying for municipal office and the date of certification of the election results will be held and will not be processed until the election results for that office have been certified.

**SERVICE OF COMPLAINT** The city clerk or Board of Ethics as appointed herein set forth shall cause the complaint to be served on the city official charged as soon as practicable but in no event later than seven (7) calendar days after receipt of a proper, verified complaint. Service may be by personal service, by certified mail, return receipt requested or by statutory overnight delivery. A hearing shall be held within sixty (60) calendar days after filing of the complaint. The Board of Ethics shall conduct hearings in accordance with the procedures and regulations it establishes but, in all circumstances, at least one hearing shall include the taking of testimony and the cross-examination of available witnesses. The decision of the Board of Ethics shall be rendered to Mayor and Council within seven (7) calendar days after completion of the final hearing. At any hearing held by the Board of Ethics, the city official who is the subject of inquiry shall have the right to written notice of the hearing and the allegations at least seven (7) calendar days before the first hearing, to be represented by counsel, to hear and examine the evidence and witnesses and, to oppose or try to mitigate the allegations. The city official subject to the inquiry shall have also have the right but not the obligation of submitting evidence and calling witnesses. Failure to comply with any of time deadlines in this section of the ordinance shall not invalidate any otherwise valid complaint or in any way affect the power or jurisdiction of the Board of Ethics or the city council to act upon any complaint.

#### **RIGHT TO APPEAL**

1 (a) Any city official or complainant adversely affected by the findings or recommendations of the Board of Ethics may obtain judicial review of such decision as provided in this Section.

(b) An action for judicial review may be commenced by filing an application for a writ of certiorari in the Superior Court of X County within

thirty (30) days after the decision of the Board of Ethics. The filing of such application shall act as supersedeas.

PENALTY Any person violating any provision of this article is subject to:

- (a) Public reprimand or censure by the city council; or
- (b) Request for resignation by the city council.” Section 2. The sections, subsections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any section, subsection, paragraph, sentence,

Section 2. The sections, subsections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any section, subsection, paragraph, sentence, clause or phrase shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such illegality shall not affect any of the remaining section, subsections, paragraphs, sentences, clauses and phrases of this ordinance.

Section 3. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

Section 4.

The adoption date of this ordinance is December 11,2017 and the effective date of this ordinance shall be December 11, 2017.

ORDAINED this 11th day of December 2017. City Fairburn, Georgia

Mayor : \_\_\_\_\_ Mario B. Avery

City Clerk: \_\_\_\_\_ Shana T. Moss (Interim)

I attest:

City Seal



## CITY OF FAIRBURN

### CITY COUNCIL AGENDA ITEM

**SUBJECT: SEWER REPAIR IN ST. JOHN'S CROSSING**

( ) AGREEMENT                      ( ) POLICY / DISCUSSION                      ( ) CONTRACT  
( ) ORDINANCE                      ( ) RESOLUTION                      ( X ) OTHER

**Submitted: 11/28/17                      Work Session: 12/11/17                      Council Meeting: 12/11/17**

**DEPARTMENT: Water/Sewer**

**BUDGET IMPACT: \$78,165 from account # 505-0000-54-1400**

**PUBLIC HEARING? ( ) Yes                      ( X ) No**

---

**PURPOSE:** For Mayor and Council to accept a proposal from Crawford Grading & Pipeline, the most responsive bidder, in the amount of \$78,165 to replace and upsize two sections of sewer main in St. John's Crossing.

**HISTORY:** There have been four sewer overflows at this location within the past two years, with the overflow entering into the creek.

**FACTS AND ISSUES:** The section of sewer main adjacent to 1795 Crosswinds Walk has longitudinal crack, misaligned joints and voids in the pipe. The manhole abutting the creek is in extremely poor condition. The Fernco boot joining the concrete pipe to the metal pipe at the stream crossing has dry rotted and roots are entering the pipe at this point, trapping rags and other solid debris.

**RECOMMENDED ACTION:** For City Council to authorize the Mayor to accept a proposal from Crawford Grading & Pipeline in the amount of \$78,165 for sewer repairs in St. John's Crossing.

---

*Donna Gayden, City Administrator*

---

*Mario B. Avery, Mayor*



City of Fairburn  
56 Malone Street  
Fairburn, GA 30213

---

## CITY OF FAIRBURN AGENDA ITEM FACTS SHEET

To: City Administrator, Mayor and Council

From: Tom Ridgway

Date: November 14, 2017

Re: Winding Crossing Sewer Replacement

---

**Who:** Water/Sewer Department

**What:** Replacement of one manhole and two eight inch diameter sections of sewer line adjacent to Winding Crossing Trail. One section of pipe is 140 feet of concrete pipe that will be changed to PVC, and one section is 80 feet of ductile pipe. At this time, the pipe segments will also be increased to 10 inch diameter pipe to accommodate potential increased flow in the future. As this project involves replacing pipe beneath a well-established lawn, with a portion of the pipe located beneath a large boulder, we are recommending using a pipe bursting technique similar to the process used on Malone Circle to minimize disruption of the property.

**Why:** In the past two years there have been four sewer overflows at this location. Video inspection has determined that one section of this line is concrete with numerous longitudinal cracks, which allow roots and stormwater to penetrate the pipe. There is one point that has a separated joint and broken and deformed pipe. This pipe flows to an old brick manhole that is in very poor condition, with roots entering the pipe on either side. A rotten Fernco coupling is also allowing roots to penetrate the pipe. The roots trap debris in the flow, blocking the pipe and contributing to the overflows. The pipe leading from this manhole to the next manhole downstream crosses the creek. This pipe is not installed in casing, making it more susceptible to damage from falling limbs and trees.

**When:** Project will be released to the contractor upon approval of the contract by Council.

**Where:** Winding Crossing Trail adjacent to 1975 and the creek



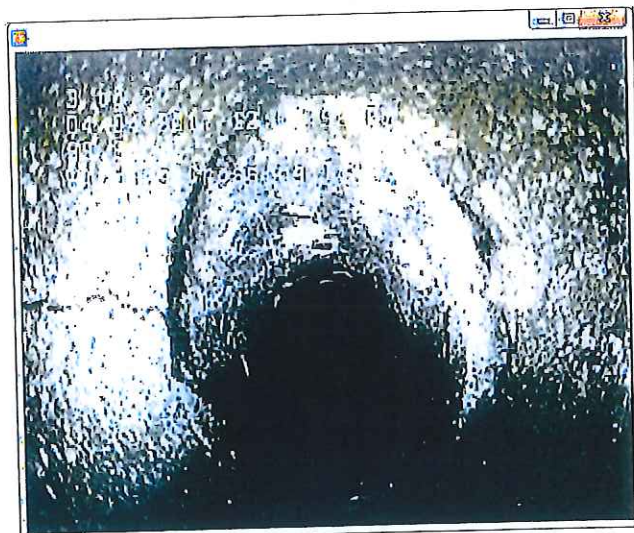
8" uncased pipe crossing stream



Rotten Fernco coupling



Dilapidated brick manhole



Crack at 9 o'clock, broken joint, deformed pipe





# Proposal

**Submitted To:** John Caldwell / Tom Ridgway  
 City of Fairburn Water & Sewer  
[jcaldwell@fairburn.com](mailto:jcaldwell@fairburn.com)  
[tridgway@fairburn.com](mailto:tridgway@fairburn.com)

**Date:** November 16, 2017

Job Name	Job Location	Plan Information
Winding Crossing Trail Sewer	Fairburn, Ga	N/A

## DEMO

Description	Quantity	Unit of Measure
REMOVE AND REPLACE 6' FENCE	55	LF
REMOVE AND REPLACE ROSE BUSHES	2	EA
REMOVE EXISTING MANHOLE	1	EA
REMOVE TREES AND DEBRIS	1	DUMP
REMOVE CONCRETE PIERS (5' TALL)	3	EA

## SEWER

Description	Quantity	Unit of Measure
10" HDPE DR 17	140	LF
FUSES	6	FUSES
PIPE BURSTING WENCH	1	LS
10" DIP CL-350	80	LF
20" CASING	60	LF
20"X10" CASING SPACERS	4	EA
20"X10" END SEALS	2	EA
10" FIELD LOK GASKETS	4	EA
SSMH (6VF) W/ RING AND COVER	1	EA
5' TALL PIERS	2	EA
TIE INTO EXISTING MANHOLE AT STREET	1	EA
TIE INTO EXISTING MANHOLE AT CREEK	1	EA
6" SERVICE LINE FROM HOUSE	14	LF
10"X6" HDPE TEE	1	EA
6" FERNCO	1	EA
SILT FENCE TYPE A	200	LF
RIP RAP	18	TONS
BYPASS PUMPING (7 DAYS)	1	LS
TESTING	220	LF

## MISCELLANEOUS

Description	Quantity	Unit of Measure
BERMUDA SOD	8	PALLETS
CLEAN UP AND DEMOBILIZE	1	LS
GRAND TOTAL:		\$78,165.00

### PROJECT NOTES:

- 1) ROCK EXCAVATION EXCLUDED.
- 2) NO SEWER PROTECTO LINING QUOTED FOR SEWER OR MANHOLES.

#### Notes:

Price does not include permits, bonds, license, engineering, staking, surveying, silt fence, clearing, landscaping, pavement, testing, curb or sidewalk replacement unless noted above. Rock Excavation is \$60.00 per Cubic Yard, Minimum Rock Excavation Fee is \$2,500.00

This Proposal may be withdrawn if not accepted within 30 days.  
If any additional testing or any intermediate testing is required, then an additional fee will be charged.

To accept this quotation, sign here and return: \_\_\_\_\_

# 1975 Winding Crossing Trail Sewer Repair



## RDJE, Inc.

679 Hwy 29 South, Suite A  
Newnan, GA 30263

Contact: David Warda

Phone: 404-427-2998

Fax:

Quote To: City of Fairburn  
Mr. Tom Ridgeway  
Mr. John Caldwell

Job Name: 1975 Winding Crossing Trail - SS Repair  
Date of Plans: n/a

Phone:  
Fax:

Revision Date:

Unit price Contract  
Modify Concrete Piers only

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
1	Mobilization	1.00	LS	13,500.00	13,500.00
5	ByPass Pumping	1.00	LS	12,500.00	12,500.00
10	10" HDPE DR 17 (PipeBursting) <i>2.41 TO</i>	140.00	LF	198.00	27,720.00
20	10" CL 350 DIP (does not include P401)	80.00	LF	130.00	10,400.00
30	16" x .25 Wall Steel Casing	50.00	LF	225.00	11,250.00
40	Precast Manhole #2	1.00	EA	6,900.00	6,900.00
50	Modify Concrete Piers	3.00	EA	950.00	2,850.00
60	Grassing	1.00	LS	1,100.00	1,100.00
65	Sodding	500.00	SF	2.00	1,000.00
70	Silt Fence - TY C	200.00	LF	4.00	800.00
80	Fence Removal & Replacement	60.00	LF	40.00	2,400.00
<b>GRAND TOTAL</b>					<b>\$90,420.00</b>

### NOTES:

Standard Terms & Conditions for RDJE Quotes:

- + Payment and Performance Bond is not included, if required add 2% to the bid amount.
- + No Engineering included.
- + No Tap fees, Permits, or Impact fees included.
- + No Stabilization Stone included.
- + No Special Licenses included.
- + Lanscaping not included.
- + Concrete paving not included.
- + Mass rock excavation/blasting not included
- + Trench rock excavation/blasting not included.
- + Extra fee charged for Repair of Damages by others.
- + Extra fee charged for Locating Lines following installation.

- + Removal of Unsuitable Materials not included.
- + Removal of Hazardous Materials not included.
- + Additional Stone Bedding, if required, will be added at \$40.00 per ton.
- + All permits and easements shall be obtained by others.
- + This quote is based upon one mobilization and the continuous uninterrupted progress for each utility. Should work be interrupted by the actions or inactions of others, additional costs for delays will be invoiced at the Crew Cost rate given below.
- + This quote is based upon Crew Cost of \$3500.00 per day. Any work outside the scope of work listed on the attached estimate sheets will be performed at this rate for the crew cost plus a time extension for the number of days required for the additional work.
- + All work performed under this agreement and any additions, deletions, or repairs of damages shall be performed by RDJE for the addressee only. No third-party negotiations, payables, or receivables will be accepted by RDJE.
- + This quote is based upon knowledge of conditions existing at the time of the estimate.
- + Periodic pay applications based on work completed and materials stored will be submitted as the work progresses. Payments shall be due within ten days of submittal date.
- + Final payment and release of any retainage shall be made within 60 days of work completion. Payments not made when due shall accrue interest at rate of 1-1/2% per month.
- + Other item, not listed, are not included. Pricing for additional items are furnished upon request.
- + Any additional work must be mutually agreed upon in writing prior to the work being performed.
- + Because of the uncertainty of supply and the rapid increase of prices, Material Suppliers will hold quoted prices for no more than 30 days; therefore, this quote shall remain in effect for 30 days only, then shall be subject to re-evaluation.

This document along with the referenced documents can serve as our contract upon your approval and authorization as indicated by your signature in the space provided.

Accepted \_\_\_\_\_  
 For: \_\_\_\_\_  
 By: \_\_\_\_\_  
 Date: \_\_\_\_\_

For: RDJE, Inc.  
 By:   
 Date: 11/14/17



November 14, 2017

Tom Ridgway  
 Utility Director  
 City of Fairburn  
 106 Howell Ave  
 Fairburn, GA 30213

RE: RFQ Sewer Repair in St. John's Crossing Subdivision (Pipe Bursting)

Dear Mr. Ridgway,

Strack, Inc. is pleased to provide the following proposal to replace a section of 8-Inch sewer line and one manhole in the St. John's Crossing Subdivision, adjacent to 1975 Winding Crossing Trail. A more detailed scope of work is below. No allowance is made for any scope of work that is not listed below.

Description	Quantity	U/M	Unit Price	Extension
Provide a bypass while the work is in progress	1	L.S.	\$15,000.00	\$15,000.00
Demolition and removal of existing materials as necessary	1	L.S.	\$10,000.00	\$10,000.00
Remove and replace fence sections as necessary	1	L.S.	\$4,000.00	\$4,000.00
Pipe Burst 8-inch concrete pipe between manholes MH1 and MH2 with 10-inch HDPE pipe (8" I.D.)	1	L.S.	\$34,000.00	\$34,000.00
Replace MH2 with a new manhole	1	L.S.	\$5,000.00	\$5,000.00
Replace the 8-inch ductile pipe crossing the stream with 10-inch DIP Pipe within a steel casing	1	L.S.	\$18,000.00	\$18,000.00
Repairing all streets, driveways, and disturbed areas to as found conditions (paving, sodding, etc.)	1	L.S.	\$12,000.00	\$12,000.00
Total Sewer Repair				\$98,000.00

30,000  
9,450

Respectfully,

Jason H. Rainwater  
 Chief Estimator  
 404-427-0126



OFFICE OF THE FULTON COUNTY MANAGER  
Fulton County Government Center  
Dick Anderson  
County Manager

Todd Long  
Chief Operating Officer

Anna Roach  
Chief Strategy Officer

Sharon Whitmore  
Chief Financial Officer

November 15, 2017

Stephen Hood  
City Administrator Fairburn  
56 Malone St, Box 145  
Fairburn, GA 30213

Dear City Administrator:

The current Intergovernmental Agreement (IGA) for providing Animal Services by Fulton County for your City ends on December 31, 2017. In an effort to continue to provide your City with uninterrupted animal services, we have attached an IGA that temporarily extends the service until April 30, 2018. This extension will provide us the opportunity to negotiate a new contract with the selected vendor and discuss any changes in service and cost with your chief elected official. It is our desire to have a new contract completed and activated no later than May 1, 2018.

The Original Agreement, as modified by the First Extension, shall be governed in all respects as to the validity, construction, capacity performance, or otherwise by the laws of the State of Georgia.

During the extended period of the IGA, the estimated share of the total cost to your City will be increased by 12 percent. This cost was based on the classification (rabies related or not) and location of calls received by the animal control services vendor during the previous year. As a point of reference, the cost calculation was based on the same formula which was used in the original IGA between Fulton County and your City. However, the five year capital improvement investment, as well as the vehicle lease investment have been removed from the cost model.

We are requesting that you sign and return three (3) original copies by December 27, 2017 to the following address:

Fulton County Animal Services  
Attn: Matthew Kallmyer  
130 Peachtree Street SW  
Suite G-157  
Atlanta, Georgia 30303

If you have any questions or concerns regarding this matter, please feel free to contact me at 404-612-8763 or [todd.long@fultoncountyga.gov](mailto:todd.long@fultoncountyga.gov).

Sincerely,

Todd I. Long, P.E.  
Chief Operating Officer  
Office of the County Manager

Attachments: Fairburn IGA

**SECOND EXTENSION OF THE INTERGOVERNMENTAL AGREEMENT FOR  
THE PROVISION OF ANIMAL CONTROL SERVICES BETWEEN FULTON  
COUNTY, GEORGIA AND FAIRBURN, GEORGIA**

**This Second Extension to the Intergovernmental Agreement (“Second Extension”)** is made and entered this \_\_\_ day of \_\_\_\_\_, 2017, by and between the City of Fairburn, Georgia (“**Fairburn**”), a municipal corporation, and Fulton County, Georgia (“**County**”), herein after collectively referred to as the “**Parties**”.

**WHEREAS**, pursuant to the Georgia Constitution, Article IX, Section II, Paragraph I, cities and counties are prohibited from exercising governmental authority within each other’s boundaries except by Intergovernmental Agreement, or as otherwise provided by law; and

**WHEREAS**, Fairburn and the County entered into that certain Intergovernmental Agreement on or about July 1, 2014 as Fulton County Board of Commissioners Agenda Item #14-0641 (“Original Agreement”), for the purpose of authorizing Fulton County to provide animal control services to the City, by way of a contract with an animal control services vendor; and

**WHEREAS**, the term of the First Extension is set to expire on December 31, 2017 and the County and City desire to maintain the same level of services for an additional period beyond this set date so that the parties can evaluate the scope and manner of deliver of these services moving forward; and

**WHEREAS**, the Parties desire, through this Second Extension, to extend the Term (Article 2) of the Original Agreement under the same terms and conditions set forth in the Original Agreement for an additional period of one hundred twenty (120) days, up to and including April 30, 2018.

**NOW THEREFORE**, Fairburn and the County, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, do hereby agree as follows:

**Section 1.** Fairburn and Fulton County do hereby agree that Article 2 (Term of Agreement) of the Original Agreement is hereby amended by this Second Extension for an additional period of one hundred twenty (120) days, commencing on January 1 and up to and including April 30, 2018.

**Section 2.** The Parties further agree that all the terms and conditions, including, but not limited to, Article 3 (Compensation and Consideration), that are set out in the Original Agreement, as modified by this Second Extension, will continue to be enforceable during the Second Extension.

**Section 3.** The Original Agreement, as modified by the Second Extension, contains the entire agreement between the Parties, and no modification shall be binding upon the Parties unless evidenced by a subsequent written agreement signed by Fulton County acting by and through the Fulton County Board of Commissioners, and Fairburn, acting by and through its duly authorized officers.



**Section 4.** In the event any one or more of the provisions contained herein shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of the Original Agreement, as modified by the Second Extension.

**Section 5.** The Original Agreement, as modified by the Second Extension, shall be governed in all respects as to the validity, construction, capacity performance, or otherwise by the laws of the State of Georgia.

**Section 6.** Nothing contained in the Original Agreement, as modified by the Second Extension, shall be construed to be a waiver of any of the Parties' sovereign immunity, any individual's qualified immunity, or any other immunity or exemption from liability provided for by law.

**Section 7.** The Original Agreement, as modified by the Second Extension, shall not be construed as, or deemed to be, an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action hereunder for any cause whatsoever.

**Section 8.** Except as modified by this Second Extension, all terms and conditions of the Original Agreement remain in full force and effect.

(SIGNATURES ON NEXT PAGE)

IN WITNESS WHEREOF, the parties have hereunto set their hands and affixed their seals the day and year first above written.

**FAIRBURN, GEORGIA**

\_\_\_\_\_  
Mario Avery  
Mayor

Date: \_\_\_\_\_

(SEAL)

Attest: \_\_\_\_\_  
Clerk

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney's Office

Date: \_\_\_\_\_

**FULTON COUNTY, GEORGIA**

\_\_\_\_\_  
By: Bob Ellis, Commission Vice-Chair  
Board of Commissioners

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
By: Tonya R. Grier  
Interim Clerk to the Commission

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
By: Patrise Perkins-Hooker  
Fulton County Attorney

Date: \_\_\_\_\_

P:\CAContracts\Animal\Extensions of IGA\3.27.17.Second Extension of the Animal Control Services Agreement  
(Fairburn).doc