



City of Fairburn  
Mayor and Council Meeting- Zoom  
November 9, 2020  
7:00 pm

- I. The meeting was called to order at 7:00 pm by the Honorable Mayor Carr-Hurst.
- II. Roll Call was taken by City Clerk, Arika Birdsong-Miller with the following members present:

Mayor Elizabeth Carr-Hurst

The Honorable Mayor Pro-Tem Ulysses J. Smallwood  
The Honorable Linda J. Davis  
The Honorable Alex Heath

The Honorable Pat Pallend  
The Honorable Hattie Portis-Jones  
The Honorable James Whitmore

*The attendance of Council constituted a quorum and the meeting proceeded.*

City Attorney Randy Turner was also present.

- III. The invocation was led by Mayor Pro-Tem Ulysses Smallwood.
- IV. Adoption of City Council Minutes:  
Motion to Approve October 26, 2020, Council Meeting Minutes (Zoom) was made by Councilman Whitmore and the second was provided by Councilman Heath.  
Vote: 6-0: Motion Carried.  
  
Motion to Approve October 26, 2020, Executive Session Minutes (Zoom) was made by Councilman Whitmore and the second was provided by Councilwoman Davis.  
Vote: 6-0: Motion Carried.
- V. Adoption of the Council Agenda:  
Motion to Approve the Council Agenda was made by Mayor Pro-Tem Smallwood and the second was provided by Councilman Whitmore.  
Vote: 6-0: Motion Carried.
- VI. Presentation:
  1. Commissioner Joe Carn, Fulton County District 6, informed Mayor and Council that the City of Fairburn are the new owners of the Old Campbell County Courthouse after the deed was filed today. Commissioner Carn also presented the City of Fairburn with an automated external defibrillator as an early Christmas gift. Mayor Carr-Hurst and Council thanked Commissioner Carn for a job well done as a Fulton County Commissioner.
- VII. Public Hearing:
  1. **Use Permit 2020083 Safeguard Landfill with Two Concurrent Variances (2020135, 2020136).**  
  
Motion to open the Public Hearing was made at 7:21pm by Councilwoman Davis and the

second was provided by Councilman Whitmore.

Planning and Zoning Director Tarika Peek stated that it is the opinion of staff that the current use permit standards prohibit expanded landfills located within a one-mile radius of residentially zoned or used properties, as referenced in Section 80-220(b)(11), and expanded landfills that include an expanded use within the boundaries of an existing site or location, as referenced in Section 80-220(b)(12), serves the intent and purpose of this provision of the City's Zoning Ordinance, which is to mitigate the negative impacts of landfills on surrounding residential areas as well as protect the public health, safety and welfare of the City's residents. In addition, the applicant has not clearly demonstrated any extraordinary and exceptional conditions exist that would cause an unnecessary hardship due to the size, shape and/or topography of the subject property. Therefore, staff is recommending:

DENIAL of the use permit request from Section 80-220 Landfill, solid waste disposal, to allow the expansion of the existing Safeguard Landfill onto an additional +/-28.17 acres.

DENIAL of the concurrent variance request to provide relief from Section 80-220(b)(11) - No portion of a new or expanded landfill shall be located within a one-mile radius of the property line of a residentially zoned or used property.

DENIAL of the concurrent variance request to provide relief from Section 80-220(b)(12) - An expanded landfill shall not include any expanded use within the parcel boundaries of an existing site or location.

Attorney Dillard, a spokesperson for the petitioner, stated that the expansion that is being requested is located along Roosevelt Hwy/Hwy 29; the expansion will not occur in the direction of the neighborhoods.

**Public Comments:**

1. Ms. Shantell Gordon stated that the odor in the areas surrounding the landfill is bad and when it rains the smell is even worse.
2. Dacia Gilkey, resident at 9 Strandhill Court, stated that she recently purchased a home in the Durham Lake subdivision and feels like her property value will decrease if the landfill is expanded. Ms. Gilkey urged Council to vote against the expansion of the landfill.
3. Samaria McFears, 6063 Autumn Green Drive, has children that attend schools near the landfill and opposes the expansion of the landfill.
4. Ms. Alex, 245 Palm Springs Circle, has 2 children that attend Creekside High School and stated that if she knew about the landfill expansion project, she wouldn't have moved to the City of Fairburn.

There were 23 emails in opposition received by the City of Fairburn from citizens in opposition of the expansion of the landfill.

Attorney Dillard spoke in rebuttal and stated that Durham Lakes is the closest neighborhood to the landfill and there is no negative impact. Attorney Dillard stated that the landfill is an asset and by not allowing the landfill to expand the City of Fairburn is in violation of the 14<sup>th</sup> Amendment of the United States Constitution.

Councilman Whitmore asked if the gases coming from the landfill contained methane. Mr. Jeff Browne stated that it is possible although the landfill is inspected by the EPD and the gases has no adverse impact. Councilman Whitmore asked were there four stages to break down landfill debris that causes gas release. Mr. Browne informed Councilman Whitmore that the information is correct, but the gases that come from the landfill are in small quantities. Mr. Brown also stated that one of the gases released is sodium sulfur dioxide. Councilman Whitmore further stated that he is a resident of Durham Lake and was not aware that there was a landfill when he purchased his home.

Councilwoman Portis-Jones asked when zoning was approved that allowed the landfill. Ms. Peeks stated that in 2004, Safeguard Landfill original tract was annexed into the City of Fairburn and zones M-2 (Heavy Industrial). In 2008, landfills were added to the list of permitted uses in the M-2 (Heavy Industrial) zoning district. In 2012, the Zoning Ordinance was amended to remove landfills as a permitted use for M-2 (Heavy Industrial) zoned properties. The current zoning regulations now require a use permit for landfills and included separate use permit standards.

Motion to close Public Hearing was made at 8:12pm by Councilman Whitmore and the second was provided by Councilwoman Portis-Jones.

Motion to Deny the Use Permit 2020083 Safeguard Landfill with Two Concurrent Variances (2020135, 2020136) was made by Councilman Whitmore and the second was provided by Councilwoman Davis.

Vote: 6-0: Motion Carried.

## VIII. Agenda Items:

### **1. Police Department**

**Chief Stoney Mathis**

For Mayor and Council to Approve an Extension for the Court Services/ Municipal Court City Ordinance Update to April 30, 2021. Chief Mathis stated that the Ordinance was tabled for 90 days on August 24, 2020, but more time is required to ensure the Ordinance covers all Court Services/ Municipal Court functions. Motion to Approve an Extension for the Court Services/ Municipal Court City Ordinance to April 30, 2021 was made by Councilman Heath and the second was provided by Councilwoman Davis.

Vote: 6-0: Motion Carried.

### **2. Engineering**

**Mr. Lester Thompson**

For Mayor and Council to Approve the Proposal for Envirorisk Consultants to Conduct Follow-Up Soil and Groundwater Investigations on Downtown LCI Streetscape Project in the amount of \$7,750. Mr. Thompson stated the purpose of the proposed testing is to establish that the petroleum release has not migrated vertically into the deeper soil/bedrock

or groundwater. Target depths for soil or groundwater sample collection are expected to range from 20-30 feet, depending on drilling refusal depths and groundwater depth. Provided the results of either a groundwater sample or two soil samples are below the threshold limits, EPD can grant a "No Further Action" (NFA) release and no further environmental investigations would be required. Motion to Approve the Proposal for Envirorisk Consultants to Conduct Follow-Up Soil and Groundwater Investigations on Downtown LCI Streetscape Project in the amount of \$7,750 was made by Councilman Pallend and the second was provided by Mayor Pro-Tem Smallwood.

Vote: 6-0: Motion Carried.

### **3. Parks and Recreation**

#### **Mr. John Culbreth**

For Mayor and Council to Approve the Installation of the Dog Fountain in Honor of Debbie Mullis at Duncan Park in the amount of \$13,392. Mr. Culbreth stated Ms. Debbie Mullis, a resident of Fairburn, donated \$10,000 for a dog fountain in Duncan Park. Mr. Culbreth informed Mayor and Council that this fountain will be utilized by individuals using Duncan Park while walking their dogs in the park. The Utilities Department will assist in the connection to the water main, the copper pipe layout, hookup the fountain, and the landscaping. Councilwoman Portis-Jones stated that the contract supplied did not provide a clear scope of work that will be performed. Motion to Approve the Installation of the Dog Fountain in Honor of Debbie Mullis at Duncan Park in the amount of \$13,392 was made by Councilman Pallend and the second was provided by Councilman Heath.

Vote: 6-0: Motion Carried.

Mr. Culbreth informed Mayor and Council that the City of Fairburn received \$79,000 in reimbursement for the docks at Duncan Park from the Department of Natural Resources.

### **IX. Council Comments:**

Mayor Pro-Tem Smallwood had no comment.

Councilman Heath thanked John Culbreth and John Martin for all their hard work on creating the dog fountain in Duncan Park Honoring Debbie Mullis.

Councilwoman Davis had no comment.

Councilman Pallend had no comment.

Councilman Whitmore had no comment.

Councilwoman Portis-Jones had no comment.

Mayor Carr-Hurst wished everyone a happy and safe Thanksgiving holiday.

At 8:44 pm a Motion to enter Executive Session for Litigation from Regular Meeting was made by Councilman Heath and the second was provided by Councilman Whitmore.


Vote: 6-0: Motion Carried.

Motion to enter Open Session at 9:17 pm was made by Councilwoman Davis and the second was provided by Mayor Pro-Tem Smallwood.

Vote: 6-0: Motion Carried.

- X. Adjournment: At 9:20 pm, with no further business of the City of Fairburn, the Motion to Adjourn was made by Councilman Whitmore and the second was provided by Councilman Heath.

Vote: 6-0: Motion Carried.

  
Arika Birdsong-Miller, City Clerk

  
Elizabeth Carr-Hurst, Mayor