



Council Meeting- Zoom

January 11, 2021 at 7:00 pm

Dial (929) 205-6099
Meeting ID 770 964 2244

Electronic Device
<https://zoom.us/j/7709642244>

The Honorable Mayor Pro Tem Ulysses J. Smallwood, Presiding

The Honorable Linda J. Davis
The Honorable Alex Heath

The Honorable Hattie Portis-Jones
The Honorable Pat Pallend

The Honorable James Whitmore

Mr. Randy Turner

City Attorney

I. Meeting Called to Order:

The Honorable Mayor Pro Tem
Ulysses J. Smallwood

II. Roll Call:

Arika Birdsong-Miller
City Clerk

III. Invocation:

Apostle Danita Jones
In His Great Name Ministries

IV. Adoption of City Council Minutes:

Councilmembers

- December 14, 2020 Council Meeting Minutes (Zoom)

V. Adoption of the City Council Agenda:

Councilmembers

VI. Agenda Items:

1. City Attorney

Attorney Randy Turner

For Mayor and Council to Approve the Ratification Settlement Agreement with Wiley & Howard Properties, LLC in the amount of \$12,442.97.

2. City Clerk

Mrs. Arika Birdsong-Miller

For Mayor and Council to Approve the Resolution to Establish Qualification Dates and Fees for the 2021 Municipal General Election.

VII. Council Comments

Councilmembers

VIII. Executive Session

None

IX. Adjournment

Councilmembers

*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- Zoom
December 14, 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 Bishop Aaron Lackey of Temple of Prayer Family Worship Cathedral.
- IV. Adoption of City Council Minutes:
Motion to Approve November 9, 2020, Council Meeting Minutes (Zoom) was made by Councilman Heath, and the second was provided by Councilman Whitmore.
Vote: 6-0: Motion Carried.

Motion to Approve November 9, 2020, Executive Session Minutes (Zoom) was made by Mayor Pro-Tem Smallwood 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. Ms. Kimberly Dove, Fulton County School Board Member, and Dr. Anthony Newbold, Principal Global Impact Academy: Fulton County Board of Education. Dr. Newbold explained that Global Impact Academy exists to cultivate a forward-thinking and community-driven learning environment where students develop a passion for STEM learning and its real-world applications. Dr. Newbold stated that Global Impact Academy offers the following academic pathways for scholars: Advanced Mathematics, Advanced Science, Energy Systems, Engineering, Healthcare Science, and Information Technology. Ms. Dove, Fulton County School Board Member, detailed the many resources available on the Fulton County School's website.

2. Budget Award: Finance Department. Mr. John Hulsey, Public Service Associate; Government Training, Education and Development, explained to Mayor and Council that based on examination of the FY2019-20 budget document by a panel of independent reviewers, that the City of Fairburn's budget document has been awarded the Distinguished Budget Presentation Award from Government Finance Officers Association (GFOA). This award is the highest form of recognition in government budgeting.

VII. Public Hearing:

1. Use Permit for Grace Baptist Church of Fayette

Motion to open the Public Hearing was made at 7:51 pm by Councilman Whitmore and the second was provided by Councilman Heath.

Planning and Zoning Director Tarika Peeks stated that it is the opinion of staff that the use permit request to allow a church at 6225 Campbellton Fairburn Road is in conformity with the Comprehensive Plan and Future Land Use Map. The Future Land Use Map designates the subject property as Office, and the Office Character Area identifies a church and other places of worship as appropriate land use.

Attorney Joe Fowler, a spokesperson for the petitioner, stated that Churches are deemed to be compatible uses under the Residential classification of the Comprehensive Plan and asked for Approval from Mayor and City Council. Attorney Fowler noted that there was no objection from neighbors and that Grace Baptist Church of Fayette accepts the two conditions from the City of Fairburn.

There were no public comments.

Motion to close the Public Hearing was made at 7:55 pm by Councilwoman Davis, and the second was provided by Councilman Heath.

Motion to Approve the Use Permit for Grace Baptist Church was made by Councilman Heath, and the second was provided by Councilwoman Davis.

Vote: 6-0: Motion Carried.

VIII. Agenda Items:

1. Office of the Mayor

Mayor Elizabeth Carr-Hurst

For Mayor and Council to Approve the Public Relations Contract Renewal with Dickerson Communication in the amount of \$50,000. Mayor Carr-Hurst explained that Mr. Jeff Dickerson was appointed as the Communications Specialist and Public Advocate for the City of Fairburn on June 8, 2020. The contract renewal will cover the period of December 1, 2020 - September 30, 2020. Mayor Carr-Hurst stated the funding was approved during the adoption of the FY2020-2021 budget. Councilwoman Davis stated that the contract expired on November 30, 2020, and asked if we could sign a contract that already began. Attorney Turner stated that Mayor and Council could date a contract for December 1, 2020, if approved. Councilwoman Davis recommended that Mr. Dickerson provide detailed monthly reports be added to the contract if approved.

Motion to add detailed monthly reports to the Agreement was made by Councilwoman Davis, and the second was provided by Councilwoman Portis-Jones.

Vote: 6-0: Motion Carried.

Motion to Call for the Vote was made by Councilman Heath, and the second was provided by Mayor Pro-Tem Smallwood.

Motion to Approve the Public Relations Contract Renewal with Dickerson Communication in the amount of \$50,000 was made by Councilman Heath, and the second was provided by Mayor Pro-Tem Smallwood.

Vote: 4-3: Motion Carried.

Councilwoman Davis, Councilwoman Portis-Jones, and Councilman Pallend voted in Opposition of the Motion.

2. Fire Department

Chief Cornelius Robinson

For Mayor and Council to Approve the Purchase of a 2020 Fire Engine in the amount of \$375,000. Chief Robinson explained that the Assistance Firefighter Grant (AFG) was approved in the amount of \$357,142 in federal funding with a required contribution of non-federal funds in the amount of \$17,857.14. Chief Robinson stated that this unit would replace our 28-year-old E-One Fire Engine. Councilwoman Davis congratulated Chief Robinson and the Fire Department on receiving the grant. Councilman Heath asked why we choose not to get a 2021 model. Chief Robinson stated that the 2021 models are a lot more expensive. Motion to Approve the Purchase of a 2020 Fire Engine in the of \$375,000 was made by Councilwoman Davis, and the second was provided by Councilman Heath.

Vote: 6-0: Motion Carried.

3. Engineering

Mr. Lester Thompson

For Mayor and Council to Approve Task Order #11 in the amount of \$25,000 with Pond and Company for Professional Engineering and Landscape Architectural Services. Mr. Thompson explained that the City of Fairburn entered into a Master Service Agreement with Pond & Company on July 22, 2019, for On-Call Professional Engineering and Landscape Architectural Services. Motion to Approve Task Order #11 in the amount of \$25,000 with Pond & Company for Professional Engineering and Landscape Architectural Services was made by Mayor Pro-Tem Smallwood, and the second was provided by Councilwoman Davis.

Vote: 6-0: Motion Carried.

4. Parks and Recreation

Mr. John Culbreth

For Mayor and Council to Approve the Usage Agreement with the Department of Natural Resources for Kids Fishing Event. Mr. Culbreth explained that the Georgia Department of Natural Resources wishes to provide an opportunity for children under the age of sixteen to have successful fishing trips and thereby recruit them as anglers and conservationists. The Georgia Department of Natural Resources agrees to provide fish for stocking the pond, transport the fish to the pond, provide technical advice on how the pond should be stocked, and provide instructions on how the fish should be fed and the care they should receive. Mr. Culbreth stated that this would take place at Duncan Park. Councilwoman Portis-Jones asked the plan re-opening Duncan Park for citizens to walk around the lake. Mayor Carr-Hurst stated that the discussion would take place at the

beginning of 2021. Motion to Approve the Usage Agreement with the Department of Natural Resources for Kids Fishing Event was made by Councilman Heath, and the second was provided by Councilwoman Davis.

Vote: 6-0: Motion Carried.

5. Property Management

Mr. Harvey Stokes

For Mayor and Council to Approve the Purchase of a 2021 Ford F-150 in the amount of \$28,029 for Gale Higgs, Deputy Director of Property Management. Mr. Stokes explained that the approval of a new position created the necessity for additional transportation within the department. Mr. Stokes furthered explained that this vehicle will be purchased from Allan Vigil Ford-Lincoln Government Sales. Motion to Approve the Purchase of a 2021 Ford F-150 in the amount of \$28,029 for Gale Higgs was made by Councilman Whitmore and the second was provided by Mayor Pro-Tem Smallwood.

Vote: 6-0: Motion Carried.

6. Utilities Department

Mr. John Martin

For Mayor and Council to Approve the Tree Trimmer Contract with Kendall Vegetation Services not to exceed the amount of \$60,000. Mr. Martin explained that this contract will include trimming and clearing of trees/vegetation from around the overhead circuits exiting both Substation 1- Spence Road and Substation 2- Hwy 29/NW Broad Street. Councilwoman Davis asked how the work was done previously and is this the first time the work has been contracted out. Mr. Martin stated in the past, staff has been doing the trimming and clearing of trees, but the workload is too much for staff to handle along with other daily assignments. Mr. Martin also stated this is the first time for this type of contract. Councilwoman Davis asked was the contract put out for bid and the terms of the Agreement. Mr. Martin specified that the work was put out for bid and awarded to the most experienced contractor. Lastly, Mr. Martin detailed that this contract was for \$60,000, and once the contractor reached that limit, they would need to come before Mayor and Council before any other work will be approved. Motion to Approve the Tree Trimmer Contract with Kendall Vegetation Services not to exceed the amount of \$60,000 was made by Councilman Pallend, and the second was provided by Councilwoman Portis-Jones.

Vote: 6-0: Motion Carried.

7. Planning and Zoning

Ms. Tarika Peek

For Mayor and Council to Approve the Resolution to Establish and Authorize the City of Fairburn Main Street Board. Ms. Peek explained to Mayor and Council that as an Affiliate of the Georgia Main Street Program, the City is required by the Georgia Downtown Affiliate Network MOU (Memorandum of Understanding), which is renewed annually, to establish a Main Street Board. The Fairburn Main Street Board's mission is to promote historic preservation in downtown Fairburn, showcasing traditional assets of the community, while also incorporating the Four-Point Approach of design, organization, promotions, and economic development to recruit and retain new businesses. The Main Street Board will be managed by a seven (7) member Board of Directors, to include downtown business owners, commercial real estate professionals, corporate project managers, and Downtown Development Authority [DDA] Board Members. For the first year of the "Boards" establishment, the Board of Directors will serve a one (1) year term. Councilwoman Davis asked what the selection procedures were to select members for the Main Street Board. Ms. Peek stated that a complete advertisement was posted to recruit volunteers. Motion to Approve the Resolution to

Establish and Authorize the City of Fairburn Main Street Board was made by Councilman Heath, and the second was provided by Mayor Pro-Tem Smallwood.

Vote: 6-0: Motion Carried.

8. City Attorney

Attorney Randy Turner

For Mayor and Council to Approve the Resolution to Formally Accept the Dedication of Land for Public Improvements for Harris Road. Attorney Turner explained that the Georgia Department of Transportation has requested that the Mayor and City Council approve this Resolution formally accepting the dedication of land for public improvements. Motion to Approve the Resolution to Formally Accept the Dedication of Land for Public Improvements for Harris Road was made by Councilman Heath, and the second was provided by Councilman Whitmore.

Vote: 6-0: Motion Carried.

9. City Attorney

Attorney Randy Turner

For Mayor and Council to Approve the MEAG Proposed Power Sale Agreement with the City of Norcross. Mr. Martin explained that the Agreement is to purchase 4,691 kW of Excess Capacity for \$28,146 and purchase 2,813kW of Excess Reserve Capacity for \$16,878 for this fiscal year. Mr. Martin stated that this would also accommodate any extended wintry months as well as upcoming developments. Motion to Approve the MEAG Proposed Sale Agreement with the City of Norcross was made by Councilman Whitmore, and the second was provided by Councilman Heath.

Vote: 6-0: Motion Carried.

IX. Council Comments:

Councilwoman Davis wished everyone a Merry Christmas.

Councilman Heath wished everyone a Merry Christmas and a Happy New Year.

Councilman Pallend hopes to be back to face to face meetings in 2021.

Councilwoman Whitmore wished all the citizens and staff a Merry Christmas and a prosperous New Year.

Councilwoman Portis-Jones wished everyone Happy Holidays and reminded everyone to be safe so the numbers can decline in regards to the COVID-19 Pandemic.

Mayor Pro-Tem Smallwood wished everyone a Merry Christmas and congratulated Officer Lynch on his accomplishment.

Mayor Carr-Hurst asked for prayers for her family because 2020 has been a challenging year after losing an Aunt to COVID-19 and the sickness of her daughter. Mayor Carr-Hurst proclaimed that she is honored to serve as Mayor and is looking for all the great things happening in the City of Fairburn.

X. Adjournment: At 9:18 pm, with no further business of the City of Fairburn, the Motion to Adjourn was made by Councilwoman Davis, and the second was provided by Councilman Heath.

Vote: 6-0: Motion Carried.

Arika Birdsong-Miller, City Clerk

Elizabeth Carr-Hurst, Mayor



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: FOR MAYOR AND COUNCIL TP APPROVE THE RATIFICATION SETTLEMENT AGREEMENT WITH WILEY & HOWARD PROPERTIES, LLC IN THE AMOUNT OF \$12,442.97.

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

Submitted: 01/06/2021 Work Session: N/A Council Meeting: 01/11/2021

DEPARTMENT: City Attorney

BUDGET IMPACT: \$12,442.97-budget line 250-4203-54-1403 (Grants Fund)

PUBLIC HEARING? () Yes (X) No

PURPOSE: For Mayor and Council to Ratify and Approve the Settlement and Release Agreement.

HISTORY: In connection with the downtown improvement project, a certain area of sidewalk and packed earth in front of the Oz Pizza building was removed and replaced. The removed earth and sidewalk was immediately adjacent to the commercial structure which is owned Wiley & Howard Properties, LLC. Chris Wiley is the Managing Member and Owner of the LLC. During the construction activities, the structure experienced flooding. This flooding resulted in a loss to the owner in the amount of \$12,442.97 as follows: \$8,592.97 for repairs (which have been completed by the owner) and \$3,850.00 in lost rental income due to that portion of the structure not being available to the owner's lessee during the repair period.

Mr. Wiley sought compensation from the City in the total amount of \$12,442.97.

The foundation of the involved structure is more than 100 years old and, as such, it is extremely difficult, if not impossible, to identify the exact reason for the flooding. Nevertheless, it appears that but for the construction activity the flooding would not have occurred. For this reason, and after much discussion with Mr. Wiley, Lester Thompson and Mayor Carr-Hurst, the Mayor, Mr. Thompson and the City Attorney recommended that the City settle and compromise Mr. Wiley's claim in accordance with the attached Settlement and Release Agreement. Under this Agreement (i) Wiley & Howard Properties, LLC would be paid \$12,442.97; (ii) the City would admit no liability; and (iii) Wiley & Howard Properties, LLC would provide a complete release of the City for any and all claims in connection with the construction activities.

RECOMMENDED ACTION: For Mayor and Council to Approve the Ratification Settlement Agreement with Wiley & Howard Properties, LLC in the amount of \$12,442.97.


Elizabeth Carr-Hurst, Mayor

SETTLEMENT AND RELEASE AGREEMENT

This **Settlement and Release Agreement** is entered into by and between the City of Fairburn, Georgia ("the City") and Wiley & Howard Properties LLC ("Claimant"), whose property is located at 4 West Broad Street, Fairburn, Georgia.

Whereas, In connection with certain construction activities procured by the City of Fairburn upon public property immediately adjacent to a commercial structure owned and operated by Claimant, located at 4 West Broad Street, Fairburn, Georgia 30213, Claimant experienced damage from interior flooding and loss of rental income in the total amount of \$12,442.97; and

Whereas, Claimant is seeking reimbursement from the City in the amount of \$12,442.97; and

Whereas, The City's liability to Claimant is disputed, but for the City's construction activities immediately adjacent to Claimant's structure, is it highly unlikely that Claimant would have experienced the damages for which Claimant is seeking compensation; and

Whereas, The City has determined that it is in the best interests of the City to settle and compromise Claimant's claim as provided in this Settlement and Release Agreement to avoid further and unnecessary trouble and expense by both the City and Claimant.

Therefore, The City and Claimant now agree as follows:

Section 1. The City, without admitting liability to Claimant for any reason, agrees to pay Claimant the sum of \$12,442.97 as full and complete satisfaction of Claimant's claim.

Section 2. In consideration of the amount paid pursuant to Section 1 of this Agreement, the Claimant and the City agree that the City shall be released from any and all claims arising out of the event or events referenced above, and the City shall be held harmless regarding same, and that this Release shall extend to all City elected and appointed officials, employees, officers, agents, successors and assigns; provided, further, that Claimant's successors and assigns, if any, shall be notified of same and shall be bound by this Settlement and Release Agreement in just the same manner as Claimant.

Section 3. Claimant understands and agrees that an adequate opportunity has been given for Claimant's review and understanding of this Settlement and Release, and that Claimant has had an adequate time to seek legal advice, if so desired.

Section 4. This Settlement and Release shall be governed by the laws of the State of Georgia.

So Ratified and Approved:
This 11th day of January, 2020

City of Fairburn, Georgia

Wiley & Howard Properties, LLC

Elizabeth Carr-Hurst, Mayor

**Chris Wiley, Managing Member
and Owner**

Date

Attest:

Arika Birdsong-Miller, City Clerk

Approved:

William R. Turner, City Attorney



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: FOR MAYOR AND COUNCIL TO APPROVE THE RESOLUTION TO ESTABLISH QUALIFICATION DATES AND FEES FOR THE 2021 MUNICIPAL GENERAL ELECTION.

☐ AGREEMENT ☐ POLICY / DISCUSSION ☐ CONTRACT
☐ ORDINANCE ☒ RESOLUTION ☐ OTHER

Submitted: 01/04/2021 Workshop: N/A Council Meeting: 01/11/2021

DEPARTMENT: City Clerk

BUDGET IMPACT: N/A

PUBLIC HEARING? ☐ Yes ☒ No

PURPOSE: For Mayor and Council to Approve the Resolution to Establish Qualification Dates for the 2021 Municipal Election that will be held on Tuesday, November 2, 2021.

HISTORY: Pursuant to O.C.G.A. 21-2-132 (d)(4) each municipal superintendent shall designate the days of the qualifying period, which shall be no less than three days and no more than five days and the days must be consecutive.

FACTS AND ISSUES: The qualifying dates shall begin on Monday, August 16, 2021 and end on Wednesday August 18, 2021 between the hours of 8:30am – 4:30pm. The office will close from 1pm – 2pm for lunch.

RECOMMENDED ACTION: For Mayor and Council Approve the Resolution to Establish Qualifying Dates for the 2021 Municipal Election.


Elizabeth Carr-Hurst, Mayor

RESOLUTION

WHEREAS, the City of Fairburn is a Georgia Municipal Corporation; and

WHEREAS, the City of Fairburn will hold the General Election for the Offices of Mayor and three Council Members on Tuesday, November 2, 2021;

WHEREAS, pursuant to O.C.G.A.21-2-132, (d) (4) each municipal superintendent shall designate the days of the qualifying period, which shall be no less than three days and no more than five days and the days must be consecutive.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of Fairburn designates, Monday, August 16, 2021 through Wednesday, August 18, 2021 beginning at 8:30 am and ending at 4:30 pm as the dates for qualifying in the City of Fairburn for the 2021 General Election. The office will close from 1 pm to 2 pm for lunch.

Approved this 11th day of January 2021.

Elizabeth Carr-Hurst, Mayor

Arika Birdsong-Miller, City Clerk

Randy Turner, City Attorney

Public Notice

Pursuant to O.C.G.A. 21-2-131(1)(A), the following qualifying fees were set by the City of Fairburn Council during the regular City Council meeting of January 11th, 2021.

Municipal Office	Qualifying Fee
Mayor	\$540
Three (3) Council Members (at large)	\$270

Qualifying will be held at City Hall, 56 Malone Street SW, Fairburn, GA 30213, beginning on Monday, August 16, 2021 and will end on Wednesday, August 18, 2021 between the hours of 8:30am – 4:30pm. The office will close from 1pm - 2pm for lunch. The General Election will be held on Tuesday, November 2, 2021.

Publish Notice January 20, 2021

Publish in the Legal Ads