



**CITY OF FAIRBURN  
CITY HALL  
56 Malone Street  
Fairburn, GA 30213  
February 8, 2016  
7:00 P.M.**

The Honorable Mayor Mario Avery

The Honorable Lydia Glaize  
The Honorable Elizabeth Hurst  
The Honorable Hattie Portis-Jones

The Honorable Alex Heath  
The Honorable Pat Pallend  
The Honorable James Whitmore

Tom Barber  
Stephanie Tigner  
William Randy Turner

City Administrator  
Assistant City Clerk  
City Attorney

**I. MEETING CALLED TO ORDER: Honorable Mayor Mario Avery.**

**II. ROLL CALL:** All members were present which constituted a quorum.

**III. INVOCATION:** was provided by Pastor Gary Taylor.

**IV. PLEDGE OF ALLEGIANCE:** was recited in unison.

**V. PRESENTATION:** none.

**VI. PUBLIC COMMENTS:**

1. Marian Johnson, 363 Spence Road, said at the first meeting of the year several positive comments were made about business and development in Fairburn. She said "I anticipated the same working conditions would continue with the great staff we had in place that was making all this happen". Mrs. Johnson said she was appalled and disappointed by the decisions made at the last council meeting. She said Brenda James was one of the best City Clerks in the state and has kept things running smoothly here for the last six years. She said there were no issues with her performance that she knew of. Her dismissal sends a terrible message to the staff about how we value their hard work and dedication. She said Randy and Valerie have not done just an adequate job, but a great job for the City of Fairburn. Mrs. Johnson said the three lawyers have over 20 years of legal and zoning knowledge, but we have apparently thrown this away without purpose. She said the idea that we can hire a

single person to replace the three of them is ridiculous. Mrs. Johnson said Captain Mundy also deserved the Council's support. She said we have now sent a message to our officers that they are no longer welcomed here in Fairburn. She said with recruiting becoming increasingly difficult due to the incidents in Ferguson and Baltimore, the members of the Council should be helping our staff by making people want to work in Fairburn instead of running them away. She said we have done a great job over the last several years running the City like a business. Mrs. Johnson said the City's reserves have increased; our bond rating has improved; the workforce has increased in number and in quality. She said "If it is not broken, don't fix it", especially for personal reasons that will hurt the community in the long run.

2. James Sumners, 112 Shannon Chase Court, said I concur with everything that Mrs. Johnson stated. He said the way business was conducted two weeks ago was disgraceful.
3. Benny Davenport, 24 West Broad Street, gave his time to Rusty Todd, 300 Rivertown Road, who said he objected to how things were done with the Chief of Police, Turner and Ross and Brenda James. He said "I don't know a lot about the City Attorney, but what I do know about them, I feel as though they have done an excellent job for the City". Mr. Todd said he has not seen anything that said she did not perform properly. He said when he had people working for him he had a personnel folder and if I had a problem, I would counsel them and place a counseling statement in their records. Mr. Todd said he does not think that the staff was given the proper notice; it was like a bombshell. He said he talked to Mrs. James knew that it was not proper for her to leave, but you have to understand it was like someone had dropped a bomb right on top of her. Mr. Todd said there was no prior counseling that I know of and she said there was not. He said if she has done her job, you cannot let your personality get in to this; my interest is this City. I do think everyone that is the citizen of this town. Mr. Todd said this is our home; this is where our children are being raised. He said I have been in the City of Fairburn for 50 years. I have watched this City grow and progress, I know the heartbeat of the City. He said Randy Mundy has more qualifications to be the Chief of this City and he also knows the heartbeat. He said if we want to explore our options we may get someone in here, but they will not know the heartbeat of the City; they will not know what keeps the City moving. Mr. Todd said his interest is this City. He said "The old good ole boy is gone". If you cannot bring something to this City you do not deserve to be on the Council or deserve to be the Mayor. He thanked the City Council for doing a good job. Mr. Todd said the Council needs to join forces and come to an understanding. He said "you don't have to like him; she doesn't have to like her". "We are here to have our elected officials do a job for the City and the citizens". He asked that the City Council reconsider those three people. He said Brenda James has done a really good job. Mr. Todd said when he was in the military he was involved in military research. He said he ran background checks and performed investigations on everyone that



required secret clearance; I know how to conduct an investigation. He said he has vetted the City Council and has a good idea; same thing with Mrs. James and Captain Mundy. He said he has all the qualifications to be the Chief of Police. He asked why we should get someone that does not know the heartbeat of the City and the citizens and has no personality. He said we are not a training program; we spent a tremendous amount of money educating Captain Mundy. He said he is a professional police officer that has built his career toward becoming Chief. Mr. Todd said Randy Mundy has accolades from police schools; two national degrees; an Associate's degree and another degree and probably will soon have a Doctorate's degree. He said these are the type of people we need "that will bring it to the table and take care of business". In closing, Mr. Todd said "if the decision was made at the last meeting without being on the agenda then a decision can be made tonight to have another vote on it. I understand that people voted against it are the only ones that can put it back on the calendar; I think you should reconsider".

4. Jerry Williams, 333 Riverview Court, said he came before the Council in the official capacity for God. I am a minister of the Gospel and a messenger. He said he is a Pastor that has come to deliver a message and a warning. Mr. Williams said "God wants the City Council and every citizen that is sitting in here to know that he is pleased with Fairburn". He said you may have some people in the City that may be disgruntled and you may have some people that truly appreciate what you have done. He said you have done a great job in your tenure. I remember in 2008, the previous Mayor came to his home twice. He said shortly thereafter, a young man asked if he could place a flyer in his yard; for Mario Avery. He said at the time he was not the Mayor. He said he agreed and later the Mayor came to put a sign in my yard and we had an opportunity to talk for two hours at his home. He said he met with Mr. Heath and was impressed when he said that he was a former police officer. He said Mr. Heath prayed in this chamber and that is when he knew he was a man of God. He said he also met with Mrs. Jones and Glaize. He said I voted for everyone here and I thanked God that I did because God wants you to know that he is extremely pleased with what you have done in this City. Mr. Williams said unbeknownst to you; you are doing his will. He said God wants you to know the enemy "Satan" is trying to destroy the work that you have done. He said God has restored the years (inaudible) has taken in the City; he's giving it back to you. Mr. Williams said you have had progress since you have been in office. He said we have a park that we own; we have done renovations; we have several businesses; we have a senior citizens facility.
5. Shelby Phillips, John Rivers Road, yielded his time to Mr. Jerry Williams who said "God is really pleased with you" and recited scripture John 8:29. He said that God said that scripture applies to each person on the City Council tonight. He said "he that sent me is with me: the Father hath not left me alone; for I do always those things that please him". He said he would like the City Council to know why he is pleased with them. The enemy wants to destroy and take back years of (inaudible). Mr. Williams

said the enemy wants to destroy all the progress this City has made. He said this City is moving at a time when all other cities are having a lot of problems. He said some cities have members that have fraudulent charges against them, bickering, contention and strife, hatred and evil speaking. He said he was so proud of the City Council when he came to the first meeting of the year. He said he has seen characteristics in each one of the members and to let one demonstration be 10,000 words. He said everyone up here has demonstrated that they are all God's children.

6. Gordon Rolle, 7451 Spring Box Drive, said he is here with his wife Dr. Sonya Francis Rolle, his father and mother to announce his candidacy for State Representative for District 65. He said he has been in the area for 40 years and knows some of the citizens' concerns. He said he feels there are a lot of things that are going on in the area because where we are located next to Atlanta. Some of the issues that the bordering districts have to our area are similar, but we have our own particular types of issues. I am here as a person that is interested, has invested in this community to be one that would be proud to represent you. He said his platform is for more effective schools. He would like to work with the communities to produce schools that are able to work in industries like the airport and film studios. Mr. Rolle said "I would like to help put people to work that have been displaced; closer relationship with the police and help the communities work together hand in hand on those negative elements as well as community development and economic development". "We have no choice folks, we are in the rushing wave of what is going on in Atlanta; it is coming down here. Whether we had quality businesses and industries it is up to the one who leads you under the gold dome".
7. Rufus Wells, 2057 Broadmoor Way, said the Property Owners Association Board (POA) has asked him to request that the City of Fairburn take the proper steps either through Resolution or Ordinance to adopt the Durham Lakes Golf and Country Club Covenants and organizational documents, including the Builders Guidelines in order for the city to be able to enforce the requirements of the documents as they may be amended from time to time. He said the reason for this request is we have had builders circumvent our Builders Guidelines and come directly to the City for permitting without first following the Builders Guidelines to which the builders are signatory. Mr. Wells said this creates a situation where our POA must file a lawsuit to enforce State Law against the Builder to bring them into compliance with our Builders Guidelines, while seeking an injunction to stop work on their construction project. He said in the long run, this approach can be costly to the builder because it delays the construction project, and costly to the City of Fairburn because it will discourage builders from building in Durham Lakes because of the increased cost to build and the lack of an efficient method of problem resolution. He said the problem can be solved formally and locally. The City of Fairburn has honored the Builders Guidelines in the past and builders for the most part have not had any difficulty navigating the POA/City of Fairburn process. However, with an increase in building



activity, if a builder challenges the informal process we have established with the City, unless the City adopts our organizational documents the City of Fairburn would have no standing to prevail if challenged by a builder. Mr. Wells said this is why the Property Owners Association is asking the City to adopt our covenants and organizational documents to formalize the process that has been done informally up to this point. He said in the long run it's in the best interest of the City of Fairburn, the POA, and the prospective builders in the Durham Lake Subdivision. He said he would also encourage the City to adopt the organizational documents of other Property Owners Associations within the City in order to make it easier for them to enforce their covenants. He said he has confidence in the Council and the Mayor to make an informed decision. He then apologized for not coming to the meeting two weeks ago and said he is sure the Council handled their business properly.

8. Mr. Green, 2047 Broadmoor Way, said he will refer his comments back to the meeting held on January 11<sup>th</sup> about the appearance of Fairburn and the area around the Food Depot parking lot issue. He said he was told that the issue would be handled and he has not received a response. Mr. Green said it has been a month later and hasn't heard a word. He said his request again is to take a look at the appearance of our City. He said there are a lot of new people coming in. He said "I live in the Durham Lakes subdivision and there is growth going on over there. He said it is not an attractive look. Mr. Green wanted to know the process as he awaits a solution; I have not heard anything".
9. Bobby Fountain, Shugart Farms, said we built the million square footer and now we are building the 875,000 sq. ft. on Bohannon Road. He said 1M sq. ft. will be occupied by the end of the month and will bring in close to 400 jobs. He said the 875,000 sq. ft. does not have a tenant, but hopefully will soon. He said I am here because of what happened. Mr. Fountain said you have the best Mayor, City Manager and team they have put together is a well-oiled machine. He said the building was built in less than a year; we started to break ground in March. He said they will occupy it in February. He said there is not a city in the state that has received this type of cooperation. Mr. Fountain said the City Manager had to fight with three different utilities that could have powered that building. He said one was Greystone, Georgia Power and the City of Fairburn. Mr. Fountain said it is his understanding that Google was the same way. He said your City Manager fought and went back and forth and won over those two empires to get the power with the City of Fairburn. He said those two buildings alone will bring a couple of \$100K in power usage alone. He said there was one time when Niagara water wanted to build on the property. Mr. Fountain said his family has been here for 40 years; we have been partners with the City on many, many things. He said when they wanted to start the CSI Fulton we had to get the City of South Fulton and make the decision to annex our 2,600 acres into Palmetto or Fairburn. He said we still have about 800 acres in Fairburn and plan on building another 6 or 7 million sq. ft. if the economy continues to go like it is. He said this is

not in the City area, this is outside. He urged the Council to not mess up the integrity or tax dollars revenue, everything that you want. Mr. Fountain said he is upset about what happened last week and hopes it is not a pattern because you have the best team in the State. He said we go to logistic meetings all the time and Fairburn is where it is happening.

10. Everett Parrott, 51 Smith Street, said he has a small business a couple of blocks away. He said he appreciates Mayor and Council hearing us tonight. He said his family goes back to the time the City of Fairburn was started back in the 1850's and 1860's. He said he attended school here, mother and father attended school here and I have put in a few years here with my business. He said he tries to be a servant to the community. He said when he heard about what happened last Monday night he was blind-sided and I was not even here; I was surprised. He said he has been extremely pleased with what is happening in Fairburn. There is no City that has had the tremendous growth; this is what happened. In five years, I understand that we have gone from minus \$400K to approximately \$3.2M in surplus.
11. Christopher Vance, 369 Champions Drive, said he is a new resident in the Durham Lake Subdivision as well as a potential new owner of the golf course. He said he has reached out to the City to collaborate on programming, a restaurant, youth programs and the First Tee program. Mr. Vance said he has attempted many times to contact Mr. Barber, but he has not received a response. He said the main goal is to bring a golf course to the City.
12. Debbie Mullis, 61 Strickland Street, invited everyone to the Atlanta Science Festival beginning March 19-26. She said it is a weeklong exploration of science with over 100 events in and around the metro Atlanta area to include an Expo at Centennial Olympic Park on the last Saturday. She said she would like to see the City of Fairburn get involved in this next year. Ms. Mullis said events will be in Alpharetta and Coweta County. However, Fairburn is not represented. Ms. Mullis said this will bring some exposure to the City. She encouraged everyone to get involved.

## **VII. ADOPTION OF THE COUNCIL AGENDA:**

Council Member Glaize made a motion to adopt the Council Agenda with Council Member Whitmore provided the second. **The motion carried.**

## **VIII. APPROVAL OF CITY COUNCIL MINUTES:** City Council Minutes of January 25, 2016.

Council Member Glaize made a motion to approve the City Council Minutes of January 25, 2016 with Council Member Portis-Jones provided the second.



Council Member Glaize said between each vote there was information given about the processes that the Council would like to see in place and in our Charter. She said we are giving information and giving the opportunity to appoint we also get the opportunity to engage in that information. So, I would like to make sure that it is clear that what was said was “we wanted to make sure that Council had input and there was not a system in place”. Council Member Glaize said that information is not in the minutes and she would like for the minutes to reflect that the votes were in relationship to process.

Council Member Hurst stated there is a correction on page 4, number 8. She said Council Member Frankie’s last name is Arnold.

Mayor Avery said “Councilwoman Glaize brought up the situation with processes as it relates to the Charter, if I remember correctly. I wanted to make sure it is clear is you are referring to the Charter”.

Council Member Glaize said she would like the minutes to reflect actually what was said. So, I do not think we need to go back and forth I do not think we need to do that. I do not want to be in anyway disrespectful. She said we have the meeting minutes and all of that was stated in there: process, input and equity. Council Member Glaize said that is, what we wanted to come back to the table with. She said I would like that to be reflected in the minutes.

Mayor Avery said “I think that is fair enough, but for clarity purposes I think what we are ultimately going to have is a conversation with this body as it relates to processes and the Charter; a Charter review or Charter upgrade”. He said this will convert this government from this current mode of operation to what this Council desires; this will be done at a later date. **The motion carried.**

## **IX. PUBLIC HEARING:**

1. Text Amendments: 15TA-013 Chapters 80, Article VI Appeals and 80-287 Planning and Zoning Commission Powers and Duties

Linda Abaray provided the Mayor and Council with an overview of Text Amendments: 15TA-013 Chapters 80, Article VI Appeals and 80-287 Planning and Zoning Commission Powers and Duties.

Mayor Avery opened the Public Hearing on the Ordinance: Text Amendments: 15TA-013 Chapters 80, Article VI Appeals and 80-287 Planning and Zoning Commission Powers and Duties.

There were no speakers for or against.

Mayor Avery closed the Public Hearing on the Text Amendment: 15TA-013 Chapter 80, Article VI Appeals and 80-287 Planning and Zoning Commission Powers and Duties.

Council Member Heath made a motion to approve the Ordinance for Text Amendment 15TA-013 Chapter 80, Article VI Appeals and 80-287 Planning and Zoning Commission Powers and Duties with Council Member Hurst providing the second.

Council Member Glaize made a substitute motion to hold the Ordinance for Text Amendment 15TA-013 Chapter 80, Article VI Appeals and 80-287 Planning and Zoning Commission Powers and Duties with Council Member Portis-Jones provided the second. Council Members Heath and Pallend voting “No”. **The motion carried.**

#### **X. AGENDA ITEMS:**

2. Text Amendment: 15TA-014 Chapter 65 Article V- Stream Buffer Protection

Council Member Glaize made a motion to hold with Council Member Hurst providing the second. **The motion carried** with Council Members Heath and Pallend voting “No”.

3. Text Amendment: 15TA-015 Chapter 68, Flood, Article I. In General

Council Member Portis-Jones made a motion to hold with Council Member Glaize providing the second. **The motion carried** with Council Members Heath and Pallend voting “No”.

4. Text Amendment: 15TA-016 Chapter 74, Article II. - Tree Protection, Landscaping and Maintenance

Council Member Heath made a motion to approve the Text Amendment: 15TA-016 Chapter 74, Article II. - Tree Protection, Landscaping and Maintenance with Council Member Pallend providing the second.

Council Member Glaize made a substitute motion to hold until clarification is received by the City Attorney with Council Member Portis-Jones providing the second. **The motion carried** with Council Members Heath and Pallend voting “No”.

5. Group Health Insurance Contract with United Healthcare

Human Resources Director David Johnson provided an overview of the Group Health Insurance Contract with United Healthcare. He said staff is recommending the



Mayor to execute a contract for all required documents with United Health Care for a 12 month period effective April 1, 2016 for their Z1-R with Rx Plan.

Council Member Heath made a motion to approve the Group Health Insurance Contract with United Healthcare with Council Member Glaize providing the second. **The motion carried.**

6. Health Insurance Deductible Reimbursement for the 2016-17 Plan Year

Human Resources Director David Johnson provided an overview of the Health Insurance Deductible Reimbursement for the 2016-17 Plan Year. He said the purpose is for Mayor and Council to approve a 100% reimbursement of in-network deductible expense incurred for medical claims and zero percent for out-of-network deductible expenses. Staff recommends the City Council authorize 100% reimbursement of the participant's in-network deductible expense incurred for medical claims, and zero percent for out-of-network medical claims.

Council Member Hurst made a motion to approve the Health Insurance Deductible Reimbursement for the 2016-17 Plan Year with Council Member Portis-Jones providing the second. **The motion carried.**

7. Group Dental and Vision Insurance and FSA Contracts

Human Resources Director David Johnson provided an overview of the Group Dental and Vision Insurance and FSA Contracts. He said this is For the Mayor and Council to approve continuation of Ameritas as the City's sole 2016 Dental/Vision insurance offering, and Admin America as the Flexible Spending Account (FSA) Administrator. Mr. Johnson said staff is requesting for the City Council to authorize the Mayor to execute a contract and all other required documents with Ameritas for a 12-month period effective April 1, 2016 for the Dental and Vision Insurance Coverage, and with Admin America for FSA administration for the same period.

Council Member Whitmore made a motion to approve the Group Dental and Vision Insurance and FSA Contracts with Council Member Heath providing the second. **The motion carried.**

8. Employee Insurance Contributions and Conditions for the 2016-17 Plan Year

Human Resources Director David Johnson provided an overview of the Employee Insurance Contributions and Conditions for the 2016-17 Plan Year. He said this is for Mayor and Council to establish the employee contribution rates and conditions for plan year 2016-17 for health, vision and dental insurance. Mr. Johnson said staff is recommending for the City Council to approve the attached employee contribution

rates and conditions for the 12-month period beginning April 1, 2016. Mr. Johnson made a clarification. He said the list that was placed in Dropbox was updated. The new item was placed on the table for approval.

Council Member Portis-Jones made a motion to approve the Employee Insurance Contributions and Conditions for the 2016-17 Plan Year with Council Member Glaize providing the second.

Council Member Glaize thanked Karen Larkin and her group for bringing us back a vetted program that keeps us within a fiscally responsible place where we can offer our employee's good insurance. **The motion carried.**

9. Approve Contract for Malone Circle Sewer Rehabilitation

Utilities Director Tom Ridgway provided an overview of the request to Approve Contract for Malone Circle Sewer Rehabilitation. He said the request is for Mayor and Council to approve a contract with RDJE, Inc., the lowest and most responsive bidder in the amount of \$306,728 for the refurbishment of sewer mains on Malone Circle and one block on Mullis Street and the separation of sewer laterals at 58 Mullis Street. He said the separation of the sewer laterals was approved by the Council at a previous meeting and these sections of the sewer are in very poor condition and need to be refurbished.

Council Member Heath made a motion to approve the Contract for Malone Circle Sewer Rehabilitation with RDJE, Inc. in the amount of \$306,728 with Council Member Glaize providing the second.

Council Member Heath asked what the cost would be to the City for 58 Mullis Street.

Utilities Director Tom Ridgway said we do not know at this point. He said it depends on how many laterals we have connected; we won't know until we get into it.

Council Member Heath said it is his understanding that you used a camera to discover the laterals.

Utilities Director Tom Ridgway said "yes". He said it may be a third lateral that is connected, but we don't know.

Council Member Hurst requested that 58 Mullis Street be the first project that we do in the contract since it is so serious.

Council Member Whitmore asked since the last meeting, have we had any communication with the other entity.



Utilities Director Tom Ridgway said I have made several calls and I have not heard back. We also have an offer from a private corporation that is willing to pay up to \$3,000 to help with the project.

Council Member Whitmore asked if the people that you called were above the people you identified at the last meeting.

Utilities Director Tom Ridgway said “yes”.

Council Member Whitmore asked the City Attorney at what point since they are not responding to us are we going to send some correspondence up the chain to get someone’s attention; so, we can address this matter and bring it to some closure.

Utilities Director Tom Ridgway said the original construction was done by Habitat for Humanity South Fulton; it’s no longer incorporated.

Council Member Whitmore said I understand that, but we still have another entity that is within Georgia. I think that if we approached them the correct way we will get a favorable response. But, for us not to attempt to go beyond your level, no disrespect but send something official from the City Attorney to address these issues to see if we can have some remedy; I don’t think this is something that we should just let go.

City Attorney Randy Turner said the City really does not have a legal claim against the entity. We are literally asking them to participate in this settlement. So, if Mayor and Council want me to initiate contact with Habitat for Humanity realizing that this is not a legal claim. We are literally asking them to describe the error in the construction project done by their successor. I would be happy to get involved in that, but I want to make sure that everyone understands that I do not believe we have a legal claim against them that necessarily needs the city attorney’s intervention.

Mayor Avery said I don’t think that it is a bad idea. **The motion carried.**

#### 10. Staffing and Operation of the Aquatics Facility

City Administrator Tom Barber provided Mayor and Council with an overview of the Staffing and Operation of the Aquatics Facility. He said item #10 is a recommendation from staff for you to approve a staffing plan for the new Aquatics Facility at Duncan Park. He said we are asking for authorization to create a series of part time positions that would be effective for a short period of time before operating season begins through the operating period of at least 10 weeks that would include a Facilities Manager, Assistant Manager with a Supervisor and (7) lifeguards. Mr. Barber stated that he would also like to request the Council to authorize the creation

of a new full time permanent Recreation Director position. He said if the positions are approved we do know that in the Mid-Year Review we will have to find the money. He said we do anticipate that we can cover the payroll of the part-time people with the revenue from the operation of the facility in the first couple of years. In the proposal we estimated we will spend \$100K one-time to equip the inside of the facility with computer software, handle processing, attendance, money and life guard stands etc. The recommendation is to approve the one-time expense.

Council Member Glaize made a motion to approve the Staffing and Operation of the Aquatics Facility with Council Member Heath providing the second.

Council Member Portis-Jones asked City Administrator Tom Barber about his plan. She said last year we approved the position for a second Planner that was going to work half-time, 50% in Parks & Recreation. In fact, she was supposed to become the Parks & Recreation Director. Council Member Portis-Jones said this is a part of her title since she has been here. She asked Mr. Barber to share the vision, plan and the staffing model; with the existing staff and proposed staff.

City Administrator Tom Barber said these are all new positions.

Council Member Portis-Jones requested for Mr. Barber to respond to the question about the existing Parks & Recreation Part-time Director.

City Administrator Tom Barber said when that came up last time what we'd discussed with the level of commercial development that we had both Planners have been busy executing their jobs and that will continue into the foreseeable future.

Mayor Avery asked if Council Member Portis-Jones would be willing to yield to allow him to address her concerns. Mayor Avery said due to the massive Economic Development when we hired Ms. Abaray it was the impression that she would be in recreation; unknowing to staff or myself, the massive amount of construction that took place required two; the expertise of both Ms. Peeks and Ms. Abaray. He said there was no way we could have facilitated what we were able to do and do it again this year without two Planners. He said he spoke with the City Manager and stated despite what the plans were, as it relates to the Parks & Recreation, I am convinced we are going to ask Council to create a position. I cannot remove this young lady out of the Planning & Zoning department. Mayor Avery said the Council approved this on the basis of her background. He said his concern in which he spoke with the City Manager about it and that was not to move the young lady with the massive amount of Economic Development going on. He said this is why there is another request in this case to facilitate the recreation/swimming pool. He said it was not intended, we hired Ms. Abaray, but no one knew that 2015 was going to have an explosion of Economic Development. Mayor Avery apologized.



Council Member Portis-Jones said she appreciated the clarification. She said she wanted to understand the direction that we are going and applauded the fact that we are looking for a full-time Director as well as operational staff for Duncan Park. She said she is overwhelmed. She asked Mr. Barber if he has explored the budget in terms of how the City will support the positions.

City Administrator Tom Barber said no, we will not review until the Mid-Year Review.

Council Member Glaize said she just returned from GMA and one of the classes was on Outdoors Recreation. She said the five year plan from the State is being updated which means that there is more money going into recreation. She said when the job is posted and I hope we are posting it for the managerial and supervisory capabilities with long term experience with municipalities at least the size of Fairburn. She also requested that the person has experience with grants and connecting with our local Police Department so that we have programming that engages our youth of all ages. She wanted to know how we would get the lifeguards together if there is testing that needs to go on. She wanted to know if we were going to use another facility or will we bring someone in prior to this so that we can get them on board and get the rest of the staff ready for the pool opening.

City Administrator Tom Barber said if this is approved, we will get started on the Recreation Director position immediately. He said we will also require that they are a lifeguard trainer.

Council Member Glaize asked if we are still moving forward with the trails in the park. She wanted to know if this was still included in the budget or did we receive a grant.

City Administrator Tom Barber said that we do not have a grant application for trails at this point. He said there are at least two opportunities to build a trail.

Council Member Portis-Jones made a substitute motion to approve the Staffing and Operation of the Aquatics Facility to include the Georgia State Parks and Recreation standard job description details with Council Member Glaize providing the second.

Mayor Avery asked Human Resources Director David Johnson asked if he had input because this will fall within your purview.

Human Resources Director David Johnson said we have worked on the job description, but he does not have any difficulty taking a look at what you have to make sure we have not missed anything. **The motion carried.**

11. Change Order No. 1-Waterworks Atlanta, Inc.

City Administrator Tom Barber provided Mayor and Council with an overview of the item. He said we have a \$2M contract and that was based on a \$1.9M bid and \$100K that we added to it for contingency. We were doing a design build and knew that there may be some unforeseen issues. Mr. Barber said in addition we are building the facility with a view to one day be able to enclose it. So, we have also had to modify the design to accommodate a building that would cover the pool and make it a year round facility. He said we have allocated the \$100K to all of the changes that we thought were the most critical. We have modified the size and shape to get the size down to a reasonable level to stay under the \$100K that was allocated and also to have the ability to handle the stormwater on site without further modification.

Council Member Heath made a motion to approve the Change Order No.1-Waterworks Atlanta in the amount of \$99,769.16 with Council Member Glaize providing the second. **The motion carried.**

12. Approve Contract for Bohannon Road Fire Hydrant

Utilities Director Tom Ridgway provided the Mayor and Council with an overview of the Contract for Bohannon Road Fire Hydrant. He said the request is to approve the contract with Action Underground for the relocation of fire hydrants on Bohannon Road project and resurfacing in the amount of \$53,200. He said the initial tally was completed during the bid opening in the amount was \$53,500. He said after going through the tally there were some errors and their letter of recommendation brings the amount to \$53,200.

Council Member Heath made a motion to approve the Contract for Bohannon Road Fire Hydrant to Action Underground in the amount of \$53,200 with Council Member Whitmore providing the second. **The motion carried.**

13. Agreement with Atlanta Food Service Expo for Exhibit Space

City Administrator Tom Barber provided an overview of the agreement with Atlanta Food Service Expo Exhibit Space. He said this is a tradeshow that we have attended a few times in 2013 and 2014. Mr. Barber said we did not attend in 2015 because we did not have the personnel. The show will be moving to the Galleria in Cobb County and we are recommending approval of \$3,000 for a booth. He said Al Lane from the Collaborative Firm will be on board shortly to work with us. Mr. Barber said within 7 months we will have Mr. Lane up to speed on Fairburn to highlight what Fairburn has to offer and attract business downtown.

Council Member Pallend made a motion to approve with Council Member Heath



providing the second.

Council Member Portis-Jones asked Council Member Pallend to share the benefit of exhibiting.

Council Member Pallend said this will allow us to present Fairburn as a viable location to thousands of people in the restaurant business and those that supply restaurants as well. He said US Food Services one of our largest businesses participates in the event. He said he has talked to large distributors about the possibility of coming here; its gets us in front of those people. He said whether it is a restaurant downtown, 74 or Oakley Industrial Blvd.

Council Member Portis-Jones asked how we measure our success in participating in exhibiting.

Council Member Pallend said we would measure our success by what occurs. He said the business of Economic Development does not start tomorrow; it takes a long time. He said when Cracker Barrel came here from start to finish it took 2 ½ years. He said if we attend the show in September that does not mean that we will get someone here in October.

Council Member Portis-Jones said if we were there the past two years prior and you made connections with the individuals and companies; is there a report. She wanted to know if there was a report.

Council Member Pallend said this is how you get the business.

Council Member Portis-Jones said at the last meeting we talked about the need for an Economic Development Plan. She said the scope of work would be added to the Collaborative Firm. She said we do not have an Economic Development Plan vision. She asked how you would communicate to the industries the vision when you do not have a plan. Council Member Portis-Jones said the message should be carried by the decision of this body as to the Economic Plan or vision. She said I asked that we suspend exhibiting at the Tradeshow this year. She asked to have the Collaborative Firm come back before the Council and present an Economic Development Plan at the first meeting in March.

Council Member Portis-Jones made a substitute motion to suspend the request to exhibit at the Atlanta Food Service Expo in 2016 for review and consideration in 2017 and to have the Collaborative Firm present to Mayor and Council with the Economic Development Plan at the March 14, 2016 meeting with Council Member Hurst providing the second.

Council Member Hurst said it was stated that we did exhibit in 2013 and 2014. She said she does not remember this coming before the Council. Council Member Hurst said she did not see anything on the agenda for this in 2013 and 2014.

Mayor Avery said the spending authority for the City Administrator is \$5,000. As long as the spending is under \$5,000 it does not require legislative approval. **The motion carried** with Council Members Whitmore, Hurst and Portis-Jones voted “yes” Council Members Heath and Pallend voted “no”; Council Member Glaize abstained.

#### 14. Text Amendment: 16TA-002 Section 56-140 Traffic and Vehicles

City Administrator Tom Barber provided an overview of the Text Amendment: 16TA-002 Section 56-140 Traffic and Vehicles.

Council Member Glaize made a motion to approve with Council Member Heath providing the second.

Council Member Hurst wanted to know how the Police Department will enforce. She asked will they issue citations to CSX.

Police Chief McCarthy said that is a great question, but if they are in another jurisdiction we don’t have the authority.

City Administrator Tom Barber said we have six crossings that start at Owens Corning that continue to the downtown area. He said the most frequent blockage is the northbound train entering at CSX at Gulatt. Mr. Barber said we also have blockages northbound coming out of CSX at Bohannon and McClaren. He said it is a regular occurrence and most of the time the train is in Fairburn.

Council Member Glaize asked if we can enter into an intergovernmental agreement with Union City to see if they may have something on their books or willing to adopt this so that Union City can assist.

City Attorney Randy Turner said this is possible. He said I would like to look at this more thoroughly.

Council Member Heath said when he worked at Union City this ordinance was on the books. He said when trains would speed through they would be given tickets. Mr. Heath said they would often pay the fine instead of coming to court.

Council Member Whitmore wanted to know if the train tracks are regulated by the Federal government. He said federal laws trump local laws.



City Attorney Randy Turner said there will be challenges because of interstate commerce. If there are any tickets written we will have to prosecute through the courts.

Council Member Portis-Jones said the documentation refers to an ordinance of the section of the Charter that does not exist.

City Attorney Valerie Ross said the property was annexed and rezoned in 2006. The Conceptual Site Plan to be approved was brought to the Council in 2007. She said The condition for approval was the existing ordinance be complied with in which they were referring to the Railroad Ordinance. **The motion carried.**

#### 15. Purchase of a 2016 John Deere 8251 Utility Vehicle

Harvey Stokes provided Mayor and Council with an overview of the 2016 John Deere 8251 Utility Vehicle.

Council Member Heath made a motion to approve the purchase of a 2016 John Deere 8251 Utility Vehicle in the amount of \$11,930.52 with Council Member Glaize providing the second.

Council Member Hurst wanted to know how the vehicle would transport people.

Harvey Stokes said the vehicle will haul (2) people and has a cargo rack.

Council Member Heath wanted to know the budget amount?

Harvey Stokes said the budget amount was \$20,000. **The motion carried.**

#### 16. Purchase of a Cargo Van for the Facilities Crew

Utility Director Tom Ridgway provided an overview.

Council Member Glaize made a motion to approve the purchase of a Cargo Van for the Facilities Crew in the amount of \$27,050.00 with Council Member Heath providing the second. **The motion carried.**

### XI. COMMENTS FROM COUNCIL:

Council Member Whitmore said from January to now he has been on a fast paced learning curve. He thanked his colleagues for sharing information. He said he looks forward to working with staff. Council Member Whitmore said he had an opportunity to speak with the Human Resources Director on a few issues and the Finance Director. He said he is anxious to speak with the Fire Department's full and part-time personnel.

Council Member Whitmore said it is good to hear some of the things that were said by the staff. He said he is looking forward to Mayor and Council fast tracking as much as we can; within our budgetary constraints.

Council Member Heath had no comment.

Council Member Hurst had no comment.

Council Member Glaize said she heard the concerns and have taken them all in. She thanked those who contacted her prior to tonight's meeting to share their concerns. She said her personal vote was based off what was happening with the Charter. Council Member Glaize said the Charter is 154 years old. She said we have had several ordinance changes and as you see tonight we are going to have to add a text amendment for an ordinance that should have been there. Council Member Glaize said I have mentioned to Mr. Turner and to his staff that we need to overhaul the Charter and City Code of Ordinances. She requested Council to make this a primary focus for 2016. She said we are the only government that started out with Mayor and Council and an Administrator. Council Member Glaize said we put on top of that in 1998 a CEO provision; it's not clear. She said more importantly she wanted to look at the P.I.E. effect where there are processes. She addressed her concerns with the citizen concerns about receiving responses to their questions. She said in the process we must have inclusion, we are looking for equity. Council Member Glaize said we are going back to the table to address the Mayor's nominations so that the Council will support them. She said our legal expenses are outside of the normal legal cost for a city our size. Council Member Glaize said \$1.2M annually was spent on a project that never took place. She said we are paying a \$40M note without a project. We have to have processes and procedures. She said it is an honor to serve and look forward to working with her colleagues. Council Member Glaize thanked everyone for coming out.

Council Member Pallend thanked everyone for coming out to the meeting. He encouraged everyone to continue to pay close attention to what is going on to make sure we run the City like a business.

Council Member Portis-Jones thanked everyone for coming out to the meeting. She said being present at the meeting you will hear firsthand surrounding the decisions we make. She addressed her concerns with the lack of processes. She said she has asked various questions about the issues that come before the Council that did not have context. Council Member Portis-Jones said she requested information and an opportunity to vet the decisions. "I am a firm believer in giving us time to explore more than one opportunity". She said the no votes on the nominations forced us to go back and review the Charter. She said there are positions that this body is supposed to approve, but they are under the authority of the Administrator. Council Member Glaize said there are a lot of inconsistencies in the Charter. We should not have to operate this City from someone's



institutional memory; that is not running a business. She said it was never about the individuals and apologized that this was misinterpreted. It was about the process of vetting. The Charter said "the Council is to approve the nominations brought forth by the Mayor". She thanked her colleagues that agreed to update the Charter; it is well overdue. Council Member Portis-Jones closed by congratulating Eric Berry for receiving the "Come Back Player of the Year Award". She said he overcame the odds by beating cancer and working his way back to the safety position with the Kansas City Chiefs. She congratulated the Berry Family and the City of Fairburn.

Mayor Avery announced the Black History Museum is now open. He urged everyone to visit the Youth Center. He also announced the Valentine's Day Dance will be held on Saturday, February 13, 2016 beginning at 8pm to 10pm. Mayor Avery read into the record a statement regarding the January 25, 2016 City Council Meeting.

This is my official position on the impact due to the City Council's refusal on January 25, 2016, to approve Captain Mundy as Chief of Police, and refusal to approve the reappointments of Brenda James as the City Clerk and the law firm of Turner & Ross as City Attorney.

Pursuant to the City Charter, Fairburn has a "Strong Mayor" form of government, meaning that the Mayor is responsible for nominating candidates for the key positions in question, and then he presents City Council a recommendation for approval. I believe that City Council's refusal to approve the nominated individuals for Police Chief, City Clerk and City Attorney is unjustified and should be reconsidered for the good of the city. Especially as it pertains to future businesses desiring to locate in Fairburn, residential confidence that we operate fairly and equitable at all times, and finally to ensure the morale compass of our employees remain high, meaning they feel we will always make professional decisions that's fair to all employees (classified and professional contract employees) despite personal beliefs. It is my further opinion that City Council should reconsider these appointments for the good of the City and reestablish our good name for all concern parties.

During the last six years, as a result of having sound legal representation (City Attorney), an unprecedented adherence to proper public documents protocols, the proper administration of the City's EEO program (City Clerk), as well as a dramatic reduction in City crime (Police Dept.), the City has been on the right path. This pathway has been greatly threatened by the decisions made by City Council on January 25. Remarkably, no concrete data has been received to date, that clearly validates any performance based reasons for these actions.

In October 2015, Council approved a rate increase for the City Attorney. This action was approved in an effort to bring their rate within standard market conditions. This rate increase is the minimum we could do when you consider that Randy Turner negotiated,

on my behalf and with your endorsement additional yearly revenue of \$350,000 / yearly for a 10 year period in 2012. That is \$3.5M that Fairburn gets because of this man's professional skills as a lawyer.

In October 2015, Council approved a rate increase for the City Attorney. This action was approved in an effort to bring their rate within standard market conditions. It's alarming that Council granted the rate increase only to terminate the City Attorney without presenting any substantive reason for doing so. This unanticipated loss of the firm leaves this government temporarily paralyzed from a legal representation perspective in three critical areas: City Court - Prosecutor required by state law, Planning & Zoning Board legal representative, and the City Council's legal representative. If his firm was to depart tonight, which is in his right to do so, the City will be without legal representation effective immediately, and simultaneously be in violation of state law in our City Court due to the lack of a prosecutor. The loss of the City Attorney also places the City in a very vulnerable position due to the ongoing annual financial audit. The City Attorney is required to issue a letter concerning all outstanding litigation, by state law. The State Certified Auditor can't issue an opinion letter or complete the audit without this imperative data from the City Attorney. A new attorney would have to familiarize himself with the City for several months prior to the auditor accepting their report.

The Police Department has seen a drop in crime by more than 50% since 2010. The management branch of this department is comprised of three members directly responsible for this success: Captain Mundy, Captain Sutherland and Chief McCarthy. Captain Sutherland did not apply for the position, only Captain Mundy. His credentials and scoring by the Human Resources Director and the Chief of Police, clearly reflect that he is a highly qualified applicant. The majority of Council acknowledged that Captain Mundy is highly qualified. This begs to question the Council's need to vet other candidates when the City has a highly qualified and demonstrated fully capable individual on staff?

Council never stated their reason for Mrs. James' removal as City Clerk. Again, the lack of respect Mrs. James clearly demonstrated an effort to override the Mayor of his authorized appointment authority per the City Charter. Mrs. James was sought by another government that night upon notification of her termination. Her professional skill set in the industry has been recognized on numerous levels, but her commitment to this city can't be questioned or replaced.

Because of the tactics used by Council to terminate the City Attorney and the City Clerk: No written warnings concerning performance; no oral communication that performance was an issue; outright disrespect for them as professionals, the morale of our employees overall has been greatly diminished as a result of these executed terminations. The commitment to this government has been partly due to the belief that the Legislative branch would always operate in the spirit of fairness and professionalism.



Never have I been so embarrassed with the effort to destroy employees or contract personnel professionally, to simply make a point to the Mayor. Your legislative authority has never been question by me, our success as a government. The last six years is a direct result of this body being professional regardless of the subject matter or our disagreement.

**XII. ADJOURN:**

Council Member Heath made a motion to adjourn the meeting with Council Member Whitmore providing the second. **The motion carried.** The meeting adjourned at 9:20pm.

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Assistant City Clerk, Stephanie Tigner

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Mayor, Mario Avery