



City of Fairburn  
Mayor and Council Meeting- Zoom  
April 11, 2022  
7:00 pm

- I. The meeting was called to order at 7:00 pm by the Honorable Mayor Mario Avery.
- II. Roll call by Brenda B. James, City Clerk, found the following members present:

The Honorable Mayor Mario Avery

The Honorable James Whitmore  
The Honorable Alex Heath  
The Honorable Linda J. Davis

The Honorable Pat Pallend  
The Honorable Ulysses J. Smallwood  
Mayor Pro Tem Hattie Portis-Jones

Also present was City Attorney, Rory Starkey, City Administrator, Tony Phillips, and City Clerk, Brenda B. James.

- III. The invocation was led by Pastor Gary Taylor with Open Word Christian Ministries.
- IV. The Pledge of Allegiance was presented by Dr. D'Avante' Parks.

Mayor Avery stated he had several items that he is looking into on the day-to day operations and wanted to give his first 90-day mark report to the public and the members of the legislative body. He stated that the assessments were being done by him and the city Administrator. Their goal is to simply improve our service levels.

- Determine efficiency and effectiveness of Leadership Team
- Assessing Public Safety for proper procurement, vehicle, and equipment for readiness
  - Purchase fire truck
  - Police Department nearly full staff
  - Reduction in crime rate
  - 8 new firefighters
  - Upgrade fire station
- Assessing procurements from 2018 to 2021 to determine if the items acquired were properly approved by City Council
- Hearing Policy to grant due process for vendors
- Acquiring and assessing facts and documentation regarding resident complaints on the homes built in Durham Lakes
- Assessing construction management services charged with ensuring efficient, effective, and quality work
- Addressing dangerously low staffing levels that have negatively impacted service levels
- Preparing scope of work/hiring Procurement Officer
- Technological Finance Budget Program
- Update travel policy

- Reopen City Hall May 2, 2022, with proper protocols in place except for Municipal Court
- First City wide Easter Egg Hunt scheduled April 12<sup>th</sup> from 6 to 8 pm
- Non-compliance status with the Federal EPD from 2020 to 2021

V. Adoption of the Agenda: Councilwoman Davis made a motion to adopt the agenda with the removal of item number 3 (Swim Lesson Services). The second was provided by Councilman Smallwood. **The motion carried unanimously.**

VI. Adoption of the Minutes:

February 28, 2022, Regular Meeting Minutes – Councilman Smallwood made a motion to approve the February 28, 2022, minutes with the second provided by Councilman Heath. Councilwoman Davis requested that discussions be summarized under each of these agenda items. Councilman Smallwood rescinded his first motion and provided a motion to hold the minutes. Councilwoman Davis provided the second. **The motion carried unanimously.**

March 28, 2022, Special Called Minutes – Item died for lack of a motion. **No Action Taken.**

March 28, 2022, Regular Meeting Minutes – Councilwoman Davis made a motion to approve the March 28<sup>th</sup> Regular Meeting Minutes with the second provided by Councilman Heath. **The motion carried unanimously.**

VII. Public Comments: No Public Comments.

VIII. Agenda Items

#### 1. **Mental Fitness, 21<sup>st</sup> Century Learning, Inc. Usage Agreement**

Chapin Payne, Director of Parks, and Recreation stated the purpose of this item is for Mayor and Council to review and approve the usage agreement for Mental Fitness, 21<sup>st</sup> Century Learning Inc., for the 2022 summer camp program. She stated since we are at the six-year mark, the plan is to prepare a request for proposal in the future to see which vendors will work best for the City of Fairburn.

Councilman Heath made a motion to approve the usage agreement for Mental Fitness, 21<sup>st</sup> Century Learning, Inc. Summer Camp Program with the second provided by Mayor Pro Tem Portis-Jones.

Councilwoman Davis wanted to know the square footage of the space they were renting.

Ms. Payne broke down the rental rates of the spaces that are included in the contract; \$1,440 for the Youth Center, \$500 for the Education Campus and \$400 for supplies. She explained that these amounts were generated by our approved fee schedule not by square footage and would need Mr. Harvey Stokes provide the square footage.

Councilman Whitmore stated in the past when a Council person had a project, the department head and now city administrator would share the things they are trying to do with



the Councilperson. He stated this vendor is a nonprofit vendor who pays the city for the use of the building and has been very proactive in keeping up with the mandates he put in place to make sure the rates were to remain low so that families that could afford to send their kids to such a high-level program.

Councilman Whitmore stated this is the only contract that the City had in place during COVID where the vendor was still paying rent but not utilizing the facility because we could not allow children to go in the facility. In June of 2021, we allowed children back in the facility at half capacity, and he still paid rent. There were grants and contributions made to this entity, so he could offer scholarships for those who could not afford to pay. He finds it offensive that rent is going from \$800 to \$2340. He stated this vendor was buying his own supplies and putting them in the building and they were being used by staff, but we are charging him \$400 for supplies. He stated when you have a program that is as important as this where parents have verbalized how great of a program this is for the city and now it looks like they are trying to push the program out of the city. He would like to see this item come back to the table for discussion and to be fair, they have been here for six years.

Mayor Pro Tem stated for the record to Councilman Whitmore and everyone, that they should stick to the facts and issues of the contract and not make comments regarding personal issues they might have.

Ms. Payne stated this is the reason we want to do a RFP. When Mental Fitness first started, the rates were \$90 a week and now this summer the rates are \$150 per week. This is a \$3,600 increase. Typically, for recreation departments and partnerships with vendors, there is a percentage split of either 70/30, 80/20 or 60/40. Right now, we are receiving 6.5%.

City Administrator, Tony Phillips stated as it relates to how this item ended up on tonight's agenda, this item was routed to the City Attorney prior to getting on the agenda. He didn't approach operational items as belonging to one Councilmember or another. If it is a city agreement, he would forward it to Council for their direction to approve or not, but he did not know this was Councilman Whitmore's program and did not approach it that way. He has managed Parks and Recreation for a number of years and the standard is referenced about 80/20 normally being best practice and is consistent across most agencies.

Mr. Phillips recognized the room for negotiations since we are only receiving 6% of the revenue being generated by this program. He stated they have done a good job and may be the best fit, but it is also a due diligence practice to periodically conduct a RFP. There are many programs in the metro Atlanta area, so we want to make sure that we are providing the best services for the residents of Fairburn and if Mental Fitness is that option, we certainly, want to continue that. But we also need to see what other programs are available and what other options we may need to consider.

Mr. Phillips stated he would have recommended amending those agreements if we were ever shut down and shelter in place. He would not suggest having a vendor pay for a space they were not occupying. He was not sure how they unfolded this with the prior administration. The Mental Fitness Usage Agreement is well within best practices for Parks and Recreation agencies. He stated he would be happy to take Council's direction if they need to have more negotiation.

Councilman Whitmore stated that he brought the STEAM Program to the City and when Mayor Pro Tem Portis-Jones had her program, she stayed in touch with it. We are not talking operational; we are talking about consideration when you are looking at doing something different. It took a lot of time inventing this nonprofit organization and he just wants to be fair and equitable and present an argument to show that he appreciates everything that has been done on this vendor's part to keep the pricing low so that we can have our students, citizens, kids come and participate in the program

Mayor Avery stated the intent is not to second guess Mr. Childs; he does a great job And he will attest to that. Being in professional procurement, he is a firm believer that periodically, somewhere between 5 to 7 years, the competition has too at least be given an opportunity to bid, they cannot corner the market. This is a procurement policy and believes that opens the door of fairness.

Mayor Avery stated why Mr. Childs was paying rent in the middle of a pandemic is a question Councilman Whitmore should be asking Mayor Hurst. He would have never had a person paying for services they were not using, that is a disservice to him as a business owner.

Mayor Pro Tem Portis-Jones stated that best practices also states that performance evaluations should be part of contracts and she would like that put in place.

Councilman Whitmore made a substitute motion to bring this item back for further discussion and the second was made by Councilman Smallwood. Councilmembers Heath, Whitmore, Smallwood, and Portis-Jones voted yes. Councilmembers Davis and Pallend voted no. **Motion Passed.**

## **2. Usage Agreement for Youth Center Parking**

Councilwoman Davis made a motion to approve the Usage Agreement for Youth Center Parking and the second was provided by Councilman Heath. **The motion carried unanimously.**

Mayor Pro Tem Portis-Jones asked for more clarification on overnight parking. She also asked if Fairburn was subcontracting for overnight parking.

Ms. Payne stated the only vehicles parked overnight are two mental fitness vans which are used for transportation for after school and summer camp as well as Fulton County School Police vehicles, because there was an overflow at the Police Department building. It has been an issue clearing out the parking lot when we have noticed cars parked there overnight or for a substantial amount of time, and the Police Department is helping us with this.

## **IX. City Administrator's Update:**

Mr. Tony Phillips provided the City Administrators report advising Council as well as the citizens who are viewing this evening's meeting, that the Mayor has requested the City Attorney conduct a comprehensive review of the concerns of homeowners related to various properties built by Marmos Properties in the Durham Lakes community. To conduct a complete and thorough investigation, the City Attorney is reviewing voluminous documents and all related City Ordinances and Georgia Laws related to the building process for the subject homes. Once



those files have been reviewed and analyzed, the City Attorney will interview homeowners, City staff, and any building professionals involved in the construction of the subject homes.

A legal opinion will be delivered to the governing body for purposes of advising the City on the path forward to help the homeowners address these critical concerns. The health and safety of our residents is a top priority of Mayor and Council. Please be assured that we are working diligently to facilitate a resolution of these issues at the earliest opportunity and will provide an update as soon as one is available.

**X. Council Comments:**

Councilman Whitmore had no comments.

Mayor Pro-Tem Portis Jones had no comments.

Councilman Smallwood had no comments.

Councilman Heath had no comments.

Councilwoman Davis had no comments.

Councilman Pallend had no comments.

**XI. Executive Session**

Councilman Heath made a motion to go into executive session at 8:02 pm to discuss litigation, the second was provided by Councilman Whitmore. **The motion carried unanimously.**

**XII. Adjournment:**

After Executive Session, Councilwoman Davis made a motion to adjourn with Mayor Pro Tem Portis-Jones providing the second. The meeting adjourned at 8:54 pm. **The motion carried unanimously.**

  
Brenda B. James, City Clerk

  
Mario Avery, Mayor