



City of Fairburn
Mayor and Council Meeting- Zoom
February 28, 2022
7:00 pm

- I. The meeting was called to order at 7:00 pm by the Honorable Mayor Mario Avery.
- II. Mayor Avery took Roll Call, with the following members present:

The Honorable Mayor Mario Avery

The Honorable James Whitmore	The Honorable Pat Pallend
The Honorable Alex Heath	The Honorable Ulysses J. Smallwood
The Honorable Linda J. Davis	

Absent: Mayor Pro Tem Hattie Portis-Jones

City Attorney, Rory Starkey and City Administrator, Tony Phillips were also in attendance.

Mayor Avery announced they City Clerk is still on medical leave for a few more days, therefore, an adjustment has to made; he will do part himself and Dr, Parks will handle part.

- III. The invocation was led by Pastor Dwight Boone with Crossroads Church.
- IV. The pledge of allegiance was presented by Dr. D'Avante' Parks.
- V. Adoption of City Council Minutes:

Motion to approve the February 14, 2022, City Council Minutes was made by Councilman Smallwood and seconded by Councilwoman Davis.

Motion to approve the February 14, 2022, City Council Executive Session Minutes was made by Councilman Smallwood and seconded by Councilman Heath. **The motion carried unanimously.**

- VI. Mayor Avery asked for a motion to approve the City Council Agenda.

Motion to approve the agenda was made by Councilwoman Davis and the second was provided by Councilman Smallwood. **The motion carried unanimously.**

- VII. **Public Comments:**

Agnes Czegledi asked when City Hall would be open for the public.

Carol Ann Mackenzie also inquired about the opening of City Hall. She made an announcement on March 9, 2022, at 7:00p.m. there will be a meeting of Duncan Park in reference to A and R1R2. Mayor Avery stated there would be police presence during that meeting for the seniors.

VIII. Agenda Items

1. Office of the Mayor

Mayor Mario Avery

Councilman Pallend made a motion to appoint Brenda James as the City Clerk for the City of Fairburn. Councilwoman Davis seconded the motion. Council Member Davis asked if they could get a copy of the resume for Ms. James. Mayor Avery said he thought he had sent it, but he will make sure to get a copy to everyone. **The motion carried unanimously.**

2. Property Management

Mr. Harvey Stokes

Councilman Heath made a motion to create a Custodian position in the Property Management Department. The second was provided by Councilman Smallwood. Harvey Stokes said this would be a fulltime position to operate under the Property Management Department. He said the amount of money the city is paying for the outside contractors; we can put a full-time person on staff Monday through Friday and also work events on weekends. There was much discussion regarding previous contracts. Council Member Davis stated anything in excess of \$25,000 should come before Council for approval. **The motion carried unanimously.**

3. Community Development

Mr. Lester Thompson

Councilman Heath made a motion to approve a contract award to Southeastern Engineering, Inc. (SEI) to design the Duncan Park Roadway Extension Project not to exceed \$291,600. The second was provided by Councilwoman Davis. Lester Thompson said the budget impact for this contract will be \$291,600 and the funds would come from T SPLOST infrastructure roadway account. **The motion carried unanimously.**

4. Community Development

Mr. Lester Thompson

Councilwoman Davis made a motion to approve a Task Order with Pond & Company to design the Lightning Community Pond not to exceed \$39,000.00. The second was provided by Councilman Smallwood. **The motion carried unanimously.**

5. City Attorney

Mr. Rory Starkey

Councilman Heath made a motion to adopt the Resolution to authorize the Mayor and City Administrator to communicate City decisions with respect to the Trust by jointly executing written directions to MEAG Power and the Trustee; and the Mayor and City Administrator to execute, and the City Clerk to attest and deliver, certificates specifying the names, titles, terms of office and specimen signatures of the Mayor and City Administrator and other certificates and documents that MEAG Power may require from time to time to affect the purposes of the Trust and the Resolution. The second was provided by Councilman Smallwood.

Attorney Starkey discussed the background and stated the city is a Beneficiary of the Municipal Competitive Trust that MEAG Power that was established January 1, 1999. The City is allowed to transfer certain funds between accounts and withdraw certain funds from

accounts by written direction to MEAG Power and the Trustee. In order to improve the notification process, MEAG Power has requested that all written directions communicating city decisions with respect to the Trust be executed by two independent City officials. The city, has determined that the requested procedural changes are in the best interest of the city.

Councilwoman Davis asked if this request was made by MEAG Power and why they requested it at this point? She also stated that the city previously delegated authority to just a city official now they are asking for two city officials' signatures.

Utilities Director, John Martin stated since there was a change in Administration, MEAG requires this to be done to give authority to the new administration so necessary funds can be transferred when requested.

Mr. Starkey stated that this request is a change that provides additional security as well as making the process safer for the City of Fairburn and it complies with city ordinance and all applicable state laws. **The motion carried unanimously.**

6. Planning & Zoning

Ms. Tarika Peeks

Councilman Pallend made a motion to approve extending the Highway 74 moratorium to Monday, March 28, 2022. The second was provided by Councilman Smallwood.

Planning and Zoning Director, Tarika Peeks said the request tonight is to extend the highway 74 moratorium to Monday March 28, 2022. She said the extension will allow adequate time to present the proposed amendments to the Planning and Zoning Commission, as well as adhere to the public notification requirements.

Councilman Heath stated that he noticed land clearing next to Cracker Barrel and was under the impression that they wouldn't be doing anything.

Ms. Peeks that is the tractor supply site and they are exempt from this moratorium. **The motion carried unanimously.**

7. City Administrator

Mr. Tony Phillips

Councilman Heath made a motion to approve the 2022 benefits renewal to include dental, vision, and flexible spending accounts (FSA). The second was provided by Councilman Smallwood. **The motion carried unanimously.**

8. City Attorney

Mr. Rory Starkey

Councilman Heath made a motion to adopt the resolution to authorize a form to be used in connection with appeals of decisions of the Community Development Director and to establish and authorize the fee to be charged for such appeals. The second was provided by Councilwoman Davis.

Attorney Rory Starkey stated this item is for Mayor and Council to authorize a form to be used in connection with the appeals of decisions of the Community Development Director and

to authorize a fee to be charged for such appeals. The fee was recommended to be \$100 to \$250. By way of background, Section 77-194 of the Code of Ordinances provides that decisions of the Community Development Director concerning the administrative interpretation, or enforcement of regulations related to the subdivision of land within the City of Fairburn may be appealed to the City Administrator. This section also provides specifically that such appeals should be submitted on a form prescribed by the city and provides for the amount of fees or charges imposed by the city to be established by resolution of the City Council from time to time as the Council deems necessary.

City Administrator, Tony Phillips stated that the fee is determined by Council and the area fees are varied from city to city, and he recommend \$175 fee for the application and submit that for Council approval.

Councilwoman Davis asked if this had ever been exercised before. Attorney Starkey stated that there was an attempt back in October 2021, but the format was not there. The form was not prescribed, and the matter ended up in Superior Court.

Mr. Phillips asked Attorney Starkey if the absence of this form and the application fee increases the City's legal exposure of not having this in place as required by ordinance.

Attorney Starkey requested an executive session to discuss the item in litigation. **No Further Discussion.**

9. City Attorney

Mr. Rory Starkey

Councilwoman Davis made a motion to adopt the amended ordinance to accomplish the reorganization of the Municipal Court by adding new sections to be numbered 20-27 through 20-29, setting forth the positions, qualifications and duties of the Chief Judge, Court Administrator, Chief Clerk, Deputy Clerk(s), and Bailiff. The second was provided by Councilman Heath.

City Administrator, Tony Phillips stated this item was for Mayor and Council to authorize the amendment of Article II of Chapter 20 of the Code of Ordinances. This is to reorganize Fairburn Municipal Court to establish the positions of Chief Judge, Court Administrator, Chief Clerk and Bailiff. Municipal Court is already established in our Charter, as Recorders Court but did not provide for staff positions. The proposed amendment codifies all the staff positions and brings the Municipal Court structure in alignment with best practices. He discussed the amendment with the City Attorney and he confirmed that restructuring the Court by amending the existing Ordinance is legally permissible and in compliance with State and local laws.

Councilwoman Davis stated she read in the amendment, that a person shall be at least 25 years of age and a member of the State Bar of Georgia and in good standing with a minimum of 10 years' experience and stated that should nullify the 25 years of age qualification. After a brief discussion, Councilwoman Davis amended her motion to remove the age requirement in the ordinance and the second was provided by Councilman Heath. **The motion carried unanimously.**

IX. City Administrator's Update:

Mr. Tony Phillips stated our goal is to always be transparent and keep both the elected body and our citizens informed about all significant activities. He covered a couple of briefs

highlights to include:

- Reestablishing City Council work sessions
- Creating bi-weekly department directors' meetings
- Addressing pay and class equity pursuant to the cost-of-living increases
- Proactively recruiting for all open positions
- Moving forward with the renovation of Fire Station 21. We have recently purchased a much-needed fire engine to augment our fleet. The unit will cover response for fire, heavy rescue, and hazmat for South and West sides of Fairburn

Mr. Phillips provided an update on a project that received much attention. The two commercial developments that were previously proposed on Durham Lakes Parkway.

Currently, there are no pending legal documents for the proposed curb cuts in Durham Lakes Parkway associated with the proposed liquor store which is Dumont Plaza and the proposed gas station St. Charles Square. No permits have been approved for either project, therefore, the applicant is not authorized to move forward with the installation of the proposed curb cuts. Neither one of these projects have resubmitted or come back to the city at any time since the June 2021, denial by the Planning and Zoning Commission.

He provided clarity to the process. He stated that staff reviews conceptual site plans. The conceptual site plans are solely reviewed to determine conformity with Fairburn's codes, ordinances, and regulations. After review of the conceptual site plans, staff prepares a report for the Planning and Zoning Commission which explains the proposed project and makes recommendations as to whether the conceptual site plan should be approved and if so, what conditions should be included. With that approval, the Planning and Zoning Commission makes the final determination. If the plans are approved by the Planning and Zoning Commission, the applicant is then authorized to prepare necessary plans and specifications for the construction of the building.

These are divided into two separate submittals. The first submittal is for the site development land disturbance permit (LDP), and the second is for the building and construction permit. They have not been resubmitted to the City, there are no pending legal documents and there are no proposed projects currently before the City Council or before the Planning and Zoning Commission or under consideration for Durham Lakes Parkway.

Mr. Phillips also mentioned the career fair on March the 8th. We have several employees as well as city departments participating in the job fair at the Fairburn Youth Center to further our recruitment efforts to fill our vacancies.

Councilman Whitmore asked the City Attorney, Rory Starkey since the applicant for Durham Lakes has not officially submitted anything in writing, they should have an expiration date. Mr. Starkey stated he would consult with the city's zoning attorney. Planning and Zoning Director, Tarika Peeks stated that there has been no legal action taken on either one of these projects. The decision of the Planning and Zoning Commission was made, and it stopped there.

Councilman Whitmore asked the mayor if he could send a letter to Durham Lakes with this information so they can send it out via their email stream to all residents of Durham Lakes.

Mayor Avery suggested submitting the minutes of this meeting to Durham Lakes so they can distribute to the HOA, that way it removes any question that's related to what was said.

Councilman Heath stated that he has noticed work going on at Hwy 74 & I-85 Interchange Project. He was concerned about raising the bridge and wanted to know when they could get started. Mr. Lester Thompson responded that 19 parcels had been acquired and they couldn't move forward with the construction until all the right of way was acquired. Once that is done, they can finalize the plans and put it out for bid.

X. Council Comments:

Councilman Smallwood had no comment.

Councilman Heath thanked the citizens for showing interest in our community and know that we are doing the best job that we can do under the circumstances.

Councilman Pallend had no comment.

Councilwoman Davis commended the administration, mayor, and staff for the tremendous amount of work that is being done.

Councilman Whitmore thanked Mr. Phillips for the report and the willingness to have an additional conversation with the President of Durham Lakes who now sits on the Planning and Zoning Board. Councilman Whitmore asked the mayor to have a conversation with the zoning attorney to discuss the zoning on these two parcels. Mayor Avery suggested starting with the HOA President.

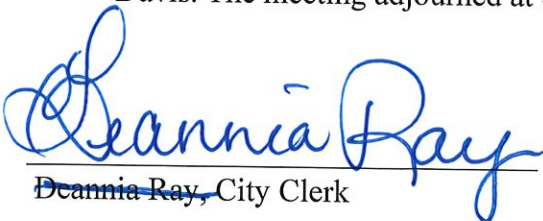
XI. Executive Session – Litigation

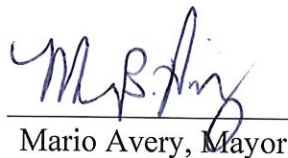
Councilwoman Davis made a motion to adjourn into executive session to discuss a litigation issue. The second was made by Councilman Heath. **The motion carried unanimously**

After Executive Session, Councilwoman Davis made a motion to authorize a form to be used in connection with appeals of decisions of the Community Development Director and to include a fee of \$175 to be charged for appeals. The second was made by Councilman Heath. **The motion carried unanimously.**

XII. Adjournment:

Councilman Heath made a motion to adjourn. A second was provided by Councilwoman Davis. The meeting adjourned at 8:22 pm. **The motion carried unanimously.**


Deannia Ray, City Clerk


Mario Avery, Mayor