



**CITY OF FAIRBURN
City Council Meeting Minutes
City Hall
56 Malone Street
Fairburn, GA 30213
April 14, 2014
7:00 P.M.**

The Honorable Mayor Mario Avery

The Honorable Ron Alderman
The Honorable Elizabeth Hurst
The Honorable Lydia Glaize

The Honorable Alex Heath
The Honorable Marian Johnson
The Honorable Hattie Portis-Jones

City Administrator:
City Clerk:
City Attorney:

Mr. Tom B. Barber
Mrs. Brenda B. James
Mr. Randy Turner

- I. MEETING CALLED TO ORDER: By Honorable Mario Avery.**
- II. ROLL CALL:** All Members of Council were present which constituted a quorum.
- III. INVOCATION:** Provided by Council Member Heath.
- IV. PLEDGE OF ALLEADGANCE:** Recited in Unison.
- V. PUBLIC COMMENTS:**

There were no public comments.
- VI. ADOPTION OF THE AGENDA:**

Council Member Glaize made a motion to adopt the Agenda placing items 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, and 13 on Consent Agenda with Council Member Johnson providing the second. **The motion Carried.**
- VII. APPROVAL OF CONSENT ITEMS:**

Council Member Heath made a motion to approve Consent Items:

1. Approval of the Resolution to adopt an Ordinance amending Chapter 62, Articles 1X and Chapter 62, Article X, to govern dangerous, unsafe or unfit buildings or structures, effective April 14, 2014.

2. Approval of the Resolution to Designate City Police Dog as Surplus Property and Authorize a Private Sale of the Police Dog to Officer Pridemore for \$800.00.
3. Approval of the Vehicle Purchase for Code Enforcement in the amount of \$39,181.00.
4. Approval of the Vehicle Purchase for the Police Department in the amount of \$56,951.00.
5. Approved the Purchase and Installation of Emergency Equipment for a new Ford F-250 Pickup Truck for the Fire Department from West Chatham Warning Devices for \$4,494.51.
6. Approved the Purchase of a Dump Truck for the Street Department in the amount not to exceed \$67,410.00.
7. Approval of the Change Order1-Fairburn Educational Campus Classroom Building-3 with Southtree Enterprises authorizing an additional \$22,639.09 to the contract amount and an additional 51 days to the completion date.
8. Approval of the Task Order FCD 2014.02: Downtown Plaza Construction & Project Management Services with Falcon in an amount not to exceed \$49,000.00.
10. Approval of the Truck Route Ordinance as proposed, to go into effect June 1, 2014.
11. Approval of the Development Fee Schedules as proposed, to go into effect May 1, 2014.
13. Approval of the Resolution recognizing April 13th – 19th as Georgia Cities Week in the City of Fairburn.

Council Member Alderman provided the second. **The motion carried.**

VIII. APPROVAL OF CITY COUNCIL MINUTES: City Council Meeting Minutes of March 24, 2014

Council Member Hurst made a motion to approve the Minutes of March 24, 2014 with Council Member Glaize providing the second. **The motion carried.**

IX. AGENDA ITEMS:

9. Task Order FCD 2014.03: Site Selection Services.

Council Member Glaize made a motion to approve the Task Order FCD 2014.03: Site Selection Services in the amount not to exceed \$20,000.00 pulling item B from the services requested until a full report can be made by the City Administrator with Council Member Portis-Jones providing the second.

Council Member Johnson asked about the pool site. City Administrator, Tom Barber said there are two potential sites at Duncan Park and if we build on the original site that will determine what we can build. He said if we go into the back of the park that will determine what we can afford.

Council Member Portis-Jones asked if the firm knows what we want. Mr. Barber said we are telling them what the biggest configuration would be and if we have a site that big then anything smaller can fit. Council Member Johnson said we would get the largest site and for monetary reasons, we would have to cutback.

Council Member Heath asked where the two sites are. Mr. Barber said the original pool site and a site in the back of the park above the ball field. He said there will be some strengths and weaknesses at every site.

Council Member Hurst said she thought Mayor Avery said the present site of the pool is out of the question due to health issues. Mayor Avery said what we plan to propose will create a problem in the present site. Mr. Barber said the infrastructure must be relocated and we would have to build some parking and it is not big enough. He said they looked at a lot of options. Council Member Portis- Jones asked about a secondary entrance. Mayor Avery said there is an extreme cost to cut another road. She said Rivertown Road is in the middle of a residential area this will create an increase in traffic. Council Member Alderman said the Water Parks are easy to get to. He said it will be difficult to find an excellent location and add all the amenities to it. **After discussion, the motion carried.**

12. Construction Agreement- Roadway Improvements with ER Snell

Council Member Johnson made a motion to approve the Construction Agreement with ER Snell in the amount of \$215,527.45 for the LMIG Roadway Improvements. Council Member Alderman provided the second.

Mayor Avery said he spoke with the Fulton County Transportation Director about some of the roads in the city like Hwy 74 that are owned by GDOT. He said we should not fix them because we will acquire the liability that

goes with the roads. Mayor Avery asked how we can get GDOT to help us. City Engineer, Troy Besseche said Fairburn has always used State money to repair roadways and Hwy 74 is scheduled to be repaired in 2015.

Council Member Glaize asked if White Bird Way was going to be taken out. Mr. Besseche said the reason he took it out is because he did not want to tear it up again and this was to reduce the cost. Mr. Barber said this program is just the top coating. **After discussion, the motion carried.**

14. Personnel Policy Update

Council Member Alderman made a motion to approve the Personnel Policy Update with Council Member Glaize providing the second.

Council Member Hurst asked about the timeframe on the complaint procedure for the EEOC. Mr. Johnson said this plan is geared toward the city and the previous plan is geared toward the employee. Attorney Turner said there were a number of people who reviewed the policy. He said the lack of a timetable was based on the recommendation of our employment practice experts. He said from the city's standpoint, it is better not to because it creates potential procedural challenges that can be used against the city.

Council Member Hurst asked about the performance evaluation which is located on page 16 in the Personnel Policy. She said she recommends there be a performance evaluation put in place within the next 18 months on the employees so employees will know where they stand. She said she does not want it done to some employees and not done to all employees. Human Resource Director David Johnson said the overwhelming majority of the employees receive evaluation reports especially Public Safety Employees. He said in most cases some of the Department Heads are providing evaluations. He said this was a problem he identified when he came onboard. He said he was in total agreement with her regarding this issue and he is confident by year's end this will be in place.

She said she recommends an exit interview and she think it is a good thing. She said we need to look at these forms because some people will not tell you what they feel until they are ready to leave and if it is something negative we should not take it in that manner but maybe consider if there is some validity in what they said and maybe we can do something about it. She said there are employees who have been here for a long time and they need the exit interview. She commended the city on the exit interview form and she said it was well done.

Council Member Heath asked if Public Safety was already set up on annual performance evaluations. Chief McCarthy said the Police Department

performs annual evaluations. Chief Weller said the Fire Department allows their employees to go through a 3, 6 and 9 month evaluation until they reach their twelve month probationary period. He said once they reach their twelve month probation, they receive an annual evaluation. Council Member Heath said he thinks the evaluation should be done in all departments. He said he knows there are situations where the employees' personality may conflict with their supervisor and they may take out vendettas on their employees, however; this give the employee the opportunity to know where they stand.

Mayor Avery asked about the qualification for FMLA. Mr. Johnson said FMLA is 12 weeks and once that time is exhausted, the employee can request additional time in an unpaid status, however; this provides job security. Mayor Avery asked what the employee status is after the 13th week timeframe. Mr. Johnson said the employee will be without pay.

Council Member Portis-Jones said FMLA is the timeframe of which an employee's job is protected. She said during the 13th week it is at the discretion of the employer, however; it is not an obligation. Mr. Johnson said that is not accurate because once the FMLA time is exhausted, the employee has ADA. So if the employee has a qualifying medical situation they are protected and fall under the ADA status. Council Member Portis-Jones asked if there is a timeframe for ADA. Mr. Johnson said no. He said the circumstance has to be reviewed and the employee is granted time in 30 day increments. He said the law does not specify a timeframe for ADA. She asked if the 30 day increments of ADA are at the discretion of the law or the employer. Mr. Johnson said it is at the discretion of the employer. She asked if the employer can grant 60 or 90 days to review. He said they could, however; there is a 30 day practice. She asked how the city and employees are protected. Attorney Turner said there is job protection with FMLA and after the exhaustion of this leave the employee can be placed under ADA. This is when the city has allowed the employee to go under unpaid medical leave. He said ADA is determined when the employee demonstrate their ability to come back to work, however; the problem with ADA is that it works better in a larger organization. He said what happens is the city believes they are going to return back to work. She asked if they are required to report back to work after the 12 week medical leave. Attorney Turner said there is an approval process and there is an end date of the employee's condition. Council Member Portis-Jones said she is concerned about ADA and the long-term illness that an employee has and the city's liability.

Mayor Avery said for clarity purpose to refer to page 28 in the Personnel Policy concerning employee rights and responsibilities. Mr. Johnson said the way the law is written there are no defined gates in terms of protection. Council Member Portis-Jones asked if she could be provided with that

information. Mr. Johnson said yes.

Council Member Hurst asked about page 22, under Jury Court and Witness Leave. She asked if an employee is called to jury duty as a witness for a certain amount of time and the employee for example makes forty dollars a day and they are given a check for twenty five dollars a day; does the city pay the difference. Mr. Johnson said the policy allows them to keep what they receive. Attorney Turner said the city pays them their salary less than what they receive. Mr. Johnson said yes, the city will provide pay for each day the employee is called to duty, however; if the court gives five days off the employees leave time would be limited and the city would have to receive it back.

Council Member Johnson said if the employee is paid, they would return the check to the city. Mr. Johnson said he has never had a situation like that, however; if the net amount of the check is not equal to that of the employee's salary, he has no problem with paying the difference.

Council Member Portis-Jones asked if the court gives the employee a break in jury duty is that when the employee returns to work. Mr. Johnson said yes, that is his understanding in terms of limiting leave. Attorney Turner said if the court gives the employee a break in jury duty, they are to return to work because they will only get paid for the time they are actually serving on jury duty. **After discussion, the motion carried.**

X. MAYOR AND COUNCIL COMMENTS:

Council Member Portis-Jones thanked St. John AME Church for hosting the Political Forum held a week and a half ago. She said it was a very effective forum and it allowed the citizens of Fairburn an opportunity to hear from the Commissioner Candidates who want to represent us at Fulton County. She also commended Ellen Samuels who developed a proclamation for St. John AME Church in honor of Reverend Dr. Warnock for their Men's Day Program. She congratulated St. Mark Church for their 131st Year Anniversary which is quite an accomplishment for any institution. She thanked Troy Besseche, Harvey Stokes and the crew from the Street Department for the removal of the debris at Duncan Park.

Council Member Johnson announced there will be a comedy show at the Southside Theater Guild, opening May 1, 2014 and continues for three weekends. She also invited everyone to come by her home to see her tulips.

Council Member Glaize said if she could sing like Pharrell she would sing the Happy Song but since she cannot sing, she wished Fairburn a happy birthday of 160 years old. She said Fairburn is still on the road of progress and success. She also wished Fairburn United Methodist Church a happy birthday which is

also 160 years old. She invited everyone to come out and attend National Cities Week on Friday morning April 18, 2014. She said the upcoming projects will be put on display and the tour will start at the Education Center located at Georgia Military College. She said refreshments will be served and the tour will begin from 11:00am until 1:00pm. She announced that Senator Donzella James lost her husband this morning and our heartfelt condolences go out to her. She said it is very exciting to learn and a pleasure to serve this city.

Council Member Hurst said her condolence goes out to Harvey Stokes and his family. She said Mr. Stokes lost his brother last week and she was not aware of the Funeral Service until the day of the funeral. She announced that Fulton County will be hosting another Heating Assistance Program Friday April 25, 2014 from 9:00am until 2:00 pm located at the Fairburn Annex Building. She said if we know anyone who has a high utility bill to please encourage them to come out and participate in the program. She said this will be the last Heating Assistance Program for this year and she encourage those who need assistance to please apply. She said this event will be listed on the Fairburn website.

Council Member Heath had no comment.

Council Member Alderman spoke about the wellness event scheduled for April 12, 2014 between the hours of 8:00 am and 12:00 noon. He asked about the employee work schedule and asked Mr. Johnson to explain the process of the Wellness Program. Mr. Johnson said you would need to arrive early and you must fast. He said you will receive a biometric screening and meet with a coach, which should take about an hour. Council Member Alderman announced that this week is Holy Week at his church, which is the First Baptist Church and they are having a Sunrise Service at 7:00 am next Sunday and breakfast will be served shortly after service. He invited everyone to come out and attend service.

Mayor Avery thanked the staff, City Manager and Pat Pallend for putting together the tour at the City of Smyrna. He also thanked Valerie Ross and Andrew Whitmore for attending the tour along with several other members of Planning and Zoning and the Downtown Development Authority. He commended the City of Smyrna for allowing them to come and see what they have done in the last 20 plus years, in turning their city around. He said the tour was very productive and educational. He announced Georgia Cities Week and wished Fairburn a happy 160th birthday. He thanked the Finance Department and the City Manager for another great audit. He said there is an event "The Dress Rehearsal with the Nerd" scheduled for April 29th at the Southside Theater Guild. He said his condolences go out to Harvey Stokes and Donzella James for their loss.

Council Member Glaize made a motion to recess and go into Executive Session at 8:55 pm for pending and threatening litigation items with Council

Member Heath providing the second. **The motion carried.**

Council Member Glaize made a motion to adjourn out of Executive Session and reconvene to the Regular Council Meeting with Council Member Heath providing the second. **The motion carried.**

Council Member Glaize made a motion to ratify and approve an agreement with the following individuals in the City of Fairburn 2013 Fire Department Paramedic Course:

Jacinta Jacks
Benjamin Lee Benjamin
Charles Livingston
Ronald Lundy
Barry Owens
Arrion Rackley
Carlotta Wilkinson

Council Member Heath provided the second. **The motion carried.**

XI. ADJOURN COUNCIL MEETING:

Council Member Johnson made a motion to adjourn the Council Meeting at 9:05 pm with Council Member Glaize providing the second. **The motion carried.**

Brenda B. James City Clerk

Mario Avery, Mayor