



CITY OF FAIRBURN
City Council Meeting Minutes
City Hall
56 Malone Street
Fairburn, GA 30213
June 10, 2013
7:00 P.M.

The Honorable Mayor Mario Avery

The Honorable Ron Alderman
The Honorable Elizabeth Hurst
The Honorable Jean Barkley Russell

The Honorable Alex Heath
The Honorable Marian Johnson
The Honorable Scott Vaughan

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 with the exception of Council Member Johnson, which constituted a quorum.

III. PUBLIC COMMENTS:

1. Marnessa P. Vital, 15 Kates Bridge, Newnan, GA. 30263 Executive Director of G.R.A.S.P. Inc. spoke on behalf of the Step by Step Program. She thanked the Mayor and Council for allowing her to utilize the Fairburn Youth Center. She said they exceeded their goals in the program. They reduced the days that students are out of school and 3 of the 78 students were suspended again, while 58% were able to return back to school. She said as a part of their goals they were able to incorporate positive behavior intervention services for the students.
2. Nell Smith, 204 Fayetteville Road, Fairburn, GA. 30213 spoke about voting on amending the budget in mid-stream. She said it has been 6 years and 9 months since employees received a raise. She said she respects the elected officials and will continue to do so; however, without the employees their officiating is in vain. She said whenever a Police Officer or Fireman put on a uniform; they are putting their life on the line. She said all of the employees are valuable to this City and they need to be respected. She said if all of the employees walked off their job tomorrow, the elected officials could not do their jobs. She thanked the Street Department for doing an outstanding job maintaining the lawns and

operating the machinery. She asked who made the statement “One Fairburn One Family”.

3. Andrew Whitmore, 25 Somerset Hills, Fairburn, GA. 30213 representative of the Parks of Durham Lakes, spoke about the construction of 8 new building projects on Black Diamond, located in the Durham Lakes Subdivision. He said the builders said the project will be completed in 60 days. He said they have been in communication with a couple of investors in Durham Lakes regarding various lots in an effort to promote some growth for the Phase 5 Development.
4. Horace Cooper, 880 Buckingham Cove, Fairburn, GA. 30213 said they also are in the process of building in the Parks at Durham Lakes. He thanked Police Chief, Chip McCarthy and Sargent Bazydlo for assisting them with the issues at Herndon Woods. He said they met with someone from Fulton County and Fulton County met with someone in Herndon Woods. He said he attended the Neighborhood Watch Meeting in Herndon Woods and the area is now being monitored by Code Enforcement; and the Police Department. He thanked the Mayor, Council and the City Employees who attended their Annual Party. He said he hope those who did not attend the party this year, will be able to attend next year.
5. Annette Wynn, 7794 Ella Lane, Fairburn, GA. 30213 spoke on behalf of her new business, Capital Tax LLC. She said she wanted to come out and introduce herself and her new business.

IV. APPROVAL OF THE CONSENT AGENDA:

Council Member Vaughan made a motion to approve the Agenda placing items 7 through 19 and 22 on the Consent Agenda, items 1 through 6, 20, 21, and 23 on the Regular Agenda. Council Member Russell provided the second. **The motion carried.**

V. APPROVAL OF CONSENT ITEMS:

Council Member Alderman made a motion to approve Consent Agenda items 7 through 19 and 22 with Council Member Heath providing the second. **The motion carried.**

7. Approval of the LCI Project Framework Agreement (GDOT) with no immediate impact on the budget; however, the Agreement continues to acknowledge the City’s \$774,900.00 local match required to complete the project from design through construction, extending into Fiscal Year 2017.
8. Approval of the Construction Agreement for Classroom Building 3 with

South-Tree Enterprises, Inc. in the amount of \$3,754,694.88 at the Fairburn Education Campus to be funded with Bond Funds.

9. Approval of the Construction Agreement on John Rivers Road and Road Improvements on various roads in the amount of \$738,724.68 to be funded from a combination of General Obligation Bonds as well as the General Funds.
10. Approval of Task Order MAAI2013.00 for John Rivers Road Construction Management Services in an amount of \$29,122.00 to be funded from the project budget in the General Obligation Bond Fund.
11. Approval of the Construction Agreement for West Campbellton Drainage Repairs in the amount of \$123,389.00. This item is within the budgeted amount of \$198,103.00 for the work in the Stormwater Fund.
12. Approval of the Construction Agreement for Oakley Industrial Blvd. with Georgia Department of Transportation in the amount of \$10,000.00.
13. Approval of the Construction Agreement for Oakley Industrial Blvd. with Baldwin Paving in the amount of \$4,012,867.50.
14. Approval of the Resolution to Designate a City Police Dog as Surplus Property and to authorize a private sale of the animal to Officer Hulet in the amount of \$800.00.
15. Adoption of the Sign Permit Fees to be collected during the Sign Permit Application Process, effective June 11, 2013.
16. Approval of the designation of Council Member Alderman, Voting Delegate and Council Member Heath, Alternate for the GMA Convention in Savannah Georgia.
17. Approval of the Resolution Setting the Qualifying Dates for the 2013 General Election for Monday, Tuesday and Wednesday, August 26th through August 28th 2013.
18. Approval of the Professional Services Agreement with Arnice H. Foster to provide Zumba Classes during the summer of 2013 at the Fairburn Youth Center.
19. Approval of the Professional Services Agreement with Stephanie Paulette Jones to provide Boom Shock Classes during the summer of 2013 at the Fairburn Youth Center.
22. Approved the Authorization for the City Clerk to place an item to approve

Redevelopment Powers on the ballot for the November 5, 2013 Election.

VI. APPROVAL OF COUNCIL MINUTES: May 20, 2013 Council Meeting

Council Member Alderman made a motion to approve the Minutes of May 20, 2013 with one correction made by Council Member Hurst; change the spelling of Popular Street to Poplar Street, with Council Member Russell providing the second. **The motion carried.**

VII. PUBLIC HEARINGS:

1. Zoning Text Amendment Z2013-06 –Signs

Mayor Avery opened the Public Hearing and asked to hear from those who were in favor of the Zoning Text Amendment Z2013 for 06-Signs.

Spoke in Favor:

No one came forward.

Mayor Avery asked to hear from those who were against the Zoning Text Amendment Z2013 for 06-Signs.

Spoke Against:

Bobby Fountain thanked everyone who was involved in making the changes to the setback and distance between signs. He said they are also requesting changes to the wording on the Redline Ordinance on page 20, under billboards in Section 4-810, parking lots. He said they would also like Section 4-812 to be changed from a Construction Engineer Inspection to a License Contractor.

After hearing no further comments, Mayor Avery closed the Public Hearing.

Council Member Russell made a motion to approve the Zoning Text Amendment Z2013-06, Sign Ordinance with Council Member Heath providing the second.

Mayor Avery asked City Attorney, Valerie Ross to respond to some of the inquiries related to the Amendment of the Sign Ordinance.

Attorney Ross said they were going to explain the redline changes that were made to the ordinance. City Attorney, Meredith Germain said they made recommendations to change the definition of Fall Zone on page 5

and they removed the 40 ft. setback for the right-of-way of billboards on page 20. She also said they changed the distance between two billboards from 650 ft. to 500 ft. which is the state requirement and they changed the minimum between an electronic billboard; and a regular billboard from 1320 ft. to 1000 ft. She said they made changes on page 21, Section B-1 if an individual owns more than one billboard and they want to add an electronic billboard, they must remove two billboards owned by them within the City limits. She said on page 34, under non-grandfathered and non-conforming signs if a sign is destroyed from a tornado or some act of God, the sign would be rebuilt. She said on page 36, under variance, the existing of non-conforming sign is not a valid reason to grant the variance. Attorney Ross said they added a Tolling Section that discusses the City's obligation to respond to the Sign Permit Applications within a 30-day period, if it is not responded within the time it is being granted; the sign period is tolled, so the variance process can be navigated through a 90-day process instead of 30-days. Attorney Germain said they are going to add the definition of tolling to provide more clarification.

Council Member Heath asked about the Cloverleaf Interchange on Hwy 74 and what would happen if there was a request for a billboard; and they are asked to remove some of the signs. Attorney Ross said billboards are not allowed under this proposed ordinance and they are not allowed to build a billboard on that corridor; however, they are allowed to build along the I-85 Interstate. She said if a sign is removed from Hwy 74, they would not be able to replace it. City Administrator, Tom Barber said the ordinance allows billboards only on the interstate.

Council Member Alderman asked if there is footage from Hwy 74 to I-85. City Attorney, Meredith Germain said it is not determined by the distance from Hwy 74 it is determined by the billboard.

Council Member Russell asked how many billboards will be affected by the Cloverleaf Interchange. Mr. Bobby Fountain said there are approximately 3 billboards that would be affected.

Mayor Avery said City Attorney, Valerie Ross answered some of his questions; however, he would like to know about page 36, creation of an Architectural Advisory Board. She said this would consist of one City Building Official, which is the Property Manager, Harvey Stokes. He asked about one architect appointed by City Council. He said they need clarity unless the City Engineer is making a recommendation. He asked if an individual could be appointed by the Planning and Zoning Commission and would a Chairperson be able to serve if they chose themselves. The City Attorney said the answer is yes. He said the Prohibited Signs on page 33; item # 6, Bench Signs are listed as a prohibited use. He said item 14; Sidewalk Sandwich Signs can be included everywhere with the exception

of Hwy 29 Overlay District. He asked about item 22; Swinging Signs. Attorney Ross said a Swinging Sign hangs on a bar at a store front and swings back and forth. Mayor Avery asked if there were any other signs outside of the Commercial and Industrial District. Attorney Germain asked Code Enforcement Manager, Rita Fernandes and the answer was no. Council Member Russell asked if they could come back and revisit the Sign Ordinance if there is a significant impact on the lack of signage.

Council Member Vaughan asked if the inspection question was answered as it relates to the Structural Engineer or Licensed Contractor. City Administrator, Tom Barber said they have not addressed this concern. City Engineer, Troy Besseche said if they have reason to believe there is damage to the sign they would consider a Structural Engineer; however, if there is no damage they should leave as is.

Council Member Alderman asked if item # 33, on page 22 is a Swinging Legal Non-Conforming Sign. Mr. Baber said if it is outside Hwy 29 it is non-conforming. Attorney Germain said if it is downtown it is allowed with certain standards. Attorney Ross said the new sign ordinance will address the deficiencies that were not in the existing ordinance that addresses legal issues.

City Clerk, Brenda James asked if the motion should be made to adopt the ordinance for the red text of the ordinance.

Council Member Russell amended her motion to adopt the Redline Text and add Tolling in the Ordinance, with Council Member Heath providing the second. **The motion carried.**

2. Zoning Text Amendment Z2013-07- Mobile Food Trucks

Mayor Avery opened the Public Hearing and asked to hear from those who were in favor of the Zoning Text Amendment Z2013-07 for Mobile Food Trucks.

Spoke in Favor:

No one came forward.

Mayor Avery asked to hear from those who were against the Zoning Text Amendment Z2013-07 for Mobile Food Trucks.

Spoke Against:

No one came forward.

After hearing no comments, Mayor Avery closed the Public Hearing.

Council Member Vaughan made a motion to approve the Zoning Text Amendment Z2013-07 for Mobile Food Truck, with Council Member Hurst providing the second. **The motion carried.**

3. Zoning Text Amendment Z2013-08 - Special Events

Mayor Avery opened the Public Hearing and asked to hear from those who were in favor of the Zoning Text Amendment Z2013-08 for Special Events.

Spoke in Favor:

No one came forward.

Mayor Avery asked to hear from those who were against the Zoning Text Amendment Z2013-08 for Special Events.

Council Member Russell asked if they have a meter to register the sound. City Administrator, Tom Barber said yes, they can get a vendor to register the sound.

Mr. Barber said they need to add a Fee Schedule to the Zoning Text Amendment Z2013-08 for Special Events. City Engineer, Troy Besseche said our fee currently identifies two use permits, one is for a full use Application Permit and the second one is for an Administrative Use Permit; and the cost is \$500.00 for a full Use Permit Application; and \$250.00 for an Administrative Permit Application. He said because of the nature of the type of special event, they want to look at characterizing a Special Use Permit at a much lower fee for someone who might come in more than once a year. So he recommended a fee of \$35.00 for Special Events as identified in the Zoning Ordinance.

Council Member Russell asked if there is a certain size tent and would they need a fee for inspection based on the square footage. Mr. Barber said they would come back to Council with more information on this issue.

After hearing no further comments, Mayor Avery closed the Public Hearing.

Council Member Russell made a motion to approve the Zoning Text Amendment Z2013-08 for Special Events and include the \$35.00 Special Events Fee with Council Member Heath providing the second. **The**

motion carried.

4. Annexation and Zoning Z2013-11- 7685 Fayetteville Road

Mayor Avery opened the Public Hearing and asked to hear from those who were in favor of the Annexation and Zoning Z2013-11-7685 on Fayetteville Road.

Spoke in Favor:

No one came forward.

Mayor Avery asked to hear from those who were against the Annexation and Zoning Z2013-11- 7685 on Fayetteville Road.

Spoke Against:

No one came forward.

After hearing no comments, Mayor Avery closed the Public Hearing.

Council Member Vaughan made a motion to approve the Annexation Z2013-11- 7685 on Fayetteville Road with Council Member Russell providing the second. **The motion carried.**

Council Member Hurst made a motion to approve the Zoning of Z2013-11- 7685 on Fayetteville Road to M-1 with Council Member Vaughan providing the second. **The motion carried.**

5. Annexation and Zoning Z2013-12: 0.951 Acres on Fayetteville Road

Mayor Avery opened the Public Hearing and asked to hear from those who were in favor of the Annexation and Zoning Z2013-12: 0.951 Acres on Fayetteville Road.

Spoke in Favor:

No one came forward.

Mayor Avery asked to hear from those who were against the Annexation and Zoning Z2013-12: 0.951 Acres on Fayetteville Road.

Spoke Against:

No one came forward

After hearing no comments, Mayor Avery closed the Public Hearing.

Council Member Heath made a motion to approve the Annexation Z2013-12: 0.951 Acres on Fayetteville Road with Council Member Russell providing the second. **The motion carried.**

Council Member Vaughan made a motion to approve the Zoning Z2013-12: 0.951 Acres on Fayetteville Road to M-1 with Council Member Alderman providing the second. **The motion carried.**

6. Americans With Disabilities Act (ADA) Transition Plan

Mayor Avery opened the Public Hearing and asked to hear from those who were in favor of the Americans With Disabilities Act (ADA) Transition Plan.

Spoke in Favor:

No one came forward.

Mayor Avery asked to hear from those who were against the Americans With Disabilities Act (ADA) Transition Plan.

Spoke against:

No one came forward.

After hearing no comments Mayor Avery closed the Public Hearing.

This item was for a Public Hearing only. There was no action required for this item.

VIII. AGENDA ITEMS:

20. Lease Agreement with Kevin & Sharia West on behalf of Charis Fellowship Church

Council Member Russell made a motion to approve the 6 month Lease Agreement with Kevin & Sharia West on behalf of Charis Fellowship Church, adding the text; personal guarantors, Kevin & Sharia West in the amount of \$700.00 per month, effective July 1, 2013 with Council Member Alderman providing the second. **The motion carried.**

21. Lease Agreement with GRASP, Inc. and Marnessa Vital for the Youth Center for the Fall Semester of the 2013-2014 Academic School Year

Council Member Alderman made a motion to approve the Lease Agreement with GRASP, Inc. and Marnessa Vital for the Youth Center for the Fall Semester of the 2013-2014, Academic School Year, effective August 1, for 5 months at \$1200.00 per month, Monday through Friday from 7:30 am until 3:30 pm with Council Member Heath providing the second.

Council Member Vaughan asked why half of the students are coming from the Renaissance Middle School and Langston Hughes High School. Ms. Vital said the students are being referred at a higher rate from these schools. City Administrator, Tom Barber asked Ms. Vital where she previously worked. She said Renaissance Middle School. Council Member Vaughan asked if that is a reflection to the number of suspensions. Mr. Barber said he believe she had a better connection at Renaissance Middle School.

Council Member Hurst asked about the summary of services provided in the lease agreement. She asked Ms. Vital if they are using the internet and computers that belong to the City. Ms. Vital said yes, but they have their own copier and no fax. She said they also use the City's telephone. Council Member Hurst said she has an issue with them using Fairburn's computers, internet and phone and asked who they plan to call to fix the equipment. Council Member Hurst said the contract should reflect that the program is using City equipment in the event the equipment is damaged. Ms. Vital said they have an additional 1 million dollar insurance policy. Council Member Hurst said she has a problem with employees repairing the computers. She said they should not have to fix the computers for the program. She said she has a problem with all of this.

Mr. Barber said his understanding as it relates to the contract is that the City maintains everything in the facility. He said this is the way it has been done in the past. Council Member Hurst said some of the things done in the past were not correct and this administration needs to do things right. Mayor Avery asked for a substitute motion to include the corrective action needed for this item. Council Member Hurst said she could not vote for this item tonight. Council Member Vaughan asked what if a child destroys the computer, who is responsible. He asked about specific programs and said if there is damaged property the issue needs to be addressed. He said not many sites have computers. Ms. Vital said she would check her insurance policy. Council Member Russell said they need to look at the maintenance for the premises. Attorney Ross said they can make an amendment to include the equipment. Ms. Vital asked if the Church would have the same requirements as her program. Mr. Barber said yes. Attorney Ross recommended they should pull the lease agreement to make the

amendments and to review the insurance policy to make sure the equipment is covered. Council Member Russell asked about the agreement for the church because it is time sensitive. The City Attorney said the lease for the church has already passed but they can address additional changes at the next Council Meeting. Council Member Alderman asked if the church use the computer lab. Mr. Barber said no.

Council Member Russell made a substitute motion to hold the G.R. A. S. P. Agreement until the July 08, 2013, City Council Meeting with Council Member Alderman providing the second. **The motion carried.**

23. Resolution to Adopt Fiscal Year 2013 Budget Amendments

Mr. Barber said there are 22 items in the budget summary that highlight the major changes that was given to Mayor and Council for review; and 5 of those items must be discussed in Executive Session. He said the two major changes made was the creation of two new funds, one is to capture grant information like CDBG, LCI, Police, Fire and the Capital Projects Fund. He said this would capture the revenue expenses from the Oakley Project. He said the reason for that is to provide a comparability standpoint. He said 2006 through 2011 cannot be compared to the General Fund when there is 3.8 million dollars of a wash in an 11 million dollar budget compared to a 15 million dollar budget (revenue and expense) from the General Fund. He said the last insurance renewal was based on the General Fund Expenditure number. He said they were paying a premium on the Oakley CID, which had to be changed. He said there are revenue changes and corrections for FICA and revenue numbers. He said he would like a full time assistant to the City Administrator with a Master's in Public Administration to assist with group of projects. He said they have 8 part-time Firefighters. He said they have never budgeted the money allocated back and forth for stormwater. He said they are budgeting a negative expense in the department where the labor is recorded and they are budgeting the revenue to balance in the Stormwater Fund. He recommended more funds for street repairs, sidewalk repairs, special events and temporary people for recreation. He recommended hiring a Senior Planner at \$65,000.00. He said they are working on getting an Urban Redevelopment Plan and an Opportunity Zone and they are looking for a planner or graduate to assist with these projects. Mayor Avery asked about item 16 and said if they are able to get a Planning Manager for \$65,000.00, would that person be able to address the projects. Mr. Barber said these projects needs to be someone's first priority because the window of opportunity is available for those companies who are competing for businesses. Council Member Russell asked if this position is project work and once it is done a staff person can maintain it. Mr. Barber yes.

He said they have not budgeted the transfer of the General Fund, which

was \$159,000.00 last year to the campus and is an estimate of \$202,000.00 for this year. He said funds for the LCI were moved to the Grant Fund and was not balanced between revenue and expense because they have the 20% match, which is the \$90,000.00. He said Electric Revenue has increased. He said the Bucket Truck was budgeted in the previous year in an amount of \$160,000.00. He said the Mayor recommended incentive checks in June to those employees who are permanent employees, prior to January 1, 2013. He said the incentive checks would total \$75,000.00.

Council Member Hurst asked about item # 5; add a new assistant position to the City Administrator for 3 months in an amount of \$12,000.00 for the remainder of the fiscal year, which is a total of \$48,000.00 per year. Mr. Barber said yes, and this position will also include benefits. Council Member Hurst asked what the individual would be doing. Mr. Barber said the individual will be taking on projects that he cannot get too. He said he would like to have an individual who has a Master's in Public Administration. Mayor Avery said his assistant works for both the City Administrator and him. He said he recommended the City Administrator get an assistant that works for him because the duties of the assistant are completely different. He said the Assistant to the City Administrator should have a Public Administration background. He said one of the issues they had in the City Engineers Department was the administrative skills needed to do the work. Council Member Hurst asked if this assistant will be doing city administrator work or city administrative work. Mr. Barber said the assistant will be doing projects.

City Administrator, Tom Barber spoke about the project work and temporary project work. Council Member Russell said they do not have any more staff than they did in year, 2000 when there was less than 5000 people. She said they need more staff to get the work done so the City does not lose opportunities. She said this shows the City is growing. Mayor Avery asked the Human Resources Director, David Johnson to come forth and provide clarification of the City's growth. Mr. Johnson said there were 88 employees in 2003 and there are 158 employees today. Mayor Avery said as a point of clarity, he manages a staff at Fulton County and he is fully aware of the type of man power needed. He said there are a lot of amendments expected by staff with the new sign ordinance and as he examined the prior government in 2010. He felt they did not have what was needed as a professional skill set to get the things done at the City. He said he made it very clear that he was going to come to the top and go to the bottom as it relates to City's personnel and now they are in the same situation as they were in 2010.

He said as they go through the different areas in the City they have moved some of their management team to provide the professionalism to get the job done. He said the Street Department is an example. He said he regrets

not being able to offer the lady that worked for Mike Hightower a job because of the qualified work she did for this City. He said they are going to have to reexamine all of their positions and this is done behind the scene. He said he never intend to compare his administration to the old administration. He said the level of professionalism has increased 180% since 2010. He said the money that is being spent is done efficiently as well as effectively. Mayor Avery asked Mr. Barber how he wants to handle this item. Mr. Barber said it would be a single up or down vote. Council Member Hurst said she was confused and asked if they are going into Executive Session to discuss some personnel issues that have to do with salaries; and would this have an effect on budget. Mayor Avery asked Attorney Ross what would be the best course of action. Attorney Ross said it is at the discretion of the Council. Mayor Avery said they would make the motion after executive session.

IX. COUNCIL COMMENTS:

Council Member Vaughan had no comments.

Council Member Russell had no comments.

Council Member Hurst said she would like to wait to give her comments after they vote on budget.

Council Member Heath had no comments.

Council Member Alderman had no comments.

Mayor Avery thanked the Street Department for the fine job they did in the Lightnin Community.

Council Member Vaughan made a motion to go into Executive Session at 8:45 p.m. with Council Member Russell providing the second. **The motion carried.**

Council Member Russell made a motion to go back into the Regular Council Meeting with Council Member Alderman providing the second. **The motion carried.**

Council Member Vaughan made a motion to approve the Mid-Year Budget Amendment for 2013 with Council Member Russell providing the second. **The motion carried with Council Member Hurst voting “no”.**

X. ADJOURN COUNCIL MEETING:

Council Member Russell made a motion to adjourn the meeting at 9:26 p.m. with Council Member Alderman providing the second. **The motion carried.**

Brenda B. James City Clerk

Mario Avery, Mayor