



Special Called Council Meeting Minutes

April 30, 2024

6:00 pm

- I. Roll Call by Deputy City Clerk, Deannia Ray found the following members present:

The Honorable Mayor Pro-Tem James Whitmore
The Honorable Alex Heath

The Honorable Linda J. Davis
The Honorable Samantha Hudson

Absent: The Honorable Hattie Portis-Jones
The Honorable Ulysses J. Smallwood

- II. The meeting was called to order by the Honorable Mayor Avery.

Also present was City Administrator Tony Phillips, Assistant City Administrator Jamila Criss, Assistant City Attorney Serena Nowell, and Deputy City Clerk Deannia Ray.

- III. The invocation was provided by Tony Phillips.

- IV. Pledge of Allegiance was in Unison.

- V. Adoption of the City Council Agenda:

Mayor Pro Tem Whitmore made a motion to adopt the agenda as presented. Council Member Heath provided the second. **The motion carried unanimously.**

- VI. Regular Agenda Items:

1. Liability Insurance Renewal

Assistant City Administrator Jamila Criss introduced Matt Simmons, Senior Director for the Public Sector of Gallagher, who is the new broker for our liability insurance. Mr. Simmons introduced Scott Thomason, the Regional Practice Leader and Yvette Jones, Account Manager for the City of Fairburn. He said Gallagher is one of the largest brokers in the world and was founded in 1927. They anticipated challenges in the marketplace for the city due to an unfavorable loss history. They began to look at multiple program structure options from a guaranteed cost, which is what the city has now with low deductibles. They landed with a protected self-insurance program which is a shift for the city that will give you more control and ownership of the program and how many claims are adjudicated, after everyone declined based on the city's loss history. Mr. Thomason said there were several large claims to include auto losses,

employment practice losses, public officials losses with a zoning ordinance matter, a large property loss, and some law enforcement losses.

Jamila Criss, Assistant City Administrator provided some clarity on the 2022 claims. She said that was the year the old Campbell Courthouse caught fire. The second one was the untimely passing of Sgt. Astree, and the third claim was the lawsuit between LGI Homes and the City of Fairburn. Each one of those claims was approximately a million dollars, so these contributed to the \$3.3 million.

Council Member Davis asked what the difference was between self-insured and what we had before. Mr. Thomason said they solidified a program that will take the City to a protected self-insured program on the casualty side, which are public officials, law enforcement, general liability, and automobile coverage. Instead of claims going to Travelers Insurance Company, they will go to the Claims Administration team which is Gallagher Bassett. They are going to manage the claim, you will have a choice in Counsel, and they will oversee the litigation cost and work through staff over claims management. It's a better route to go because you can have a reduced total cost of risk in the long term, but this first year is a transitional big dollar swing. If you look at your program on the liability side, your deductibles are going to be called a self-insured retention and it goes from \$0 to \$10,000 to \$250,000 for each and every claim except for automobile, which is at \$400,000, \$25,000 for auto physical damage.

Council Member Hudson said as you talk about professional practice losses, to me that says something internal that we have to work on here in Fairburn. I am interested in hearing what Councilwoman Davis question asked about the self-insured liability insurance.

Mr. Thomason said forty-one of the top seventy cities in Georgia are in GIRMA the GMA program, twenty-nine are not in GIRMA, fourteen of them are self-insured in a protected self-insured program similar to what they are proposing. Once you go self-insured you typically don't go back because the protected self-insured model will lower the administrative cost, the reinsurance cost, and therefore, you don't pay as much for total cost of risk as you would with traditional insurance.

Council Member Heath said your company basically quotes, unquote like an insurance company that processes the data from an incident or whatever and therefore doesn't necessarily represent us like an attorney would, but you represent us as an insurance company, but we are responsible for whatever comes out, is that correct. Mr. Thomason said yes, in similar terms we are your insurance broker acting on your behalf and we have a claims administration division. There will be strategies of when should we settle claims, deny a claim, when do we need to pay out, that's what we're setting up along with authority levels for them as well as your staff. Council Member Heath asked what their fees were. Mr. Thomason said our fees are typical standard usual and customary commissions in the insurance premium, there is no additional fees for this. Your insurance cost went from \$613,000 to \$928,000. We added in the claims administration fee for our other division of \$47,000, that's what it takes to handle the claims. That puts your fixed expenses at \$975,000 compared to \$613,000. \$380,000 is a projected retain loss amount and brings our total cost of risk from \$687,000 to \$1,356,000. Mr. Thomason said all the fixed costs, the \$928,000 and \$47,000 are paid up front and you will set aside money into the self-insurance fund with Gallagher Bassett for \$44,000 and they will come back and ask for money as claims are paid.

Mayor Pro Tem Whitmore said we as a city have programs in place and we are continuously working so we are not being hit with cyber and working with our IT staff that are continuously monitoring and updating and are looking at the analytics every renewal year. Mr. Thomason said the goal is rate reductions on cyber, now from a net rate perspective if your budget grows and we have a flat renewal, that becomes a net rate reduction.

Mayor Pro Tem Whitmore asked about the terrorism/active shooter and said this city has the documentation of the active shooter drills and how we go about presenting it, what would be your explanation on reduction in that area. Mr. Simmons said this coverage is rated based off your property schedule and they look at aggregation of locations, based on your most expensive building and what is around it.

Mayor Avery asked about the cyber liability portion of it and as a result of us now having an IT Department how does that play out in this role. Mr. Thomason said the fact that you now have an IT Department helps position for the future, a lot of this is more about prevention.

Mayor Avery asked what the acronym ACV means under auto physical damage. Mr. Simmons said it means actual cash value, basically replacement cost less depreciation and said the rating on cyber liability is also based off your revenues operating expenditures.

Council Member Davis said prevention is awesome and wanted to know if that was an additional cost or is that included in what we see here. Mr. Simmons directed everyone to the last page and felt this would answer Ms. Hudson's comment earlier. They laid out this playbook for Administration in their earlier meetings. They identified areas to deliver impact immediately and everything on the chart does not happen in year one. They are prepared to implement a Fleet Safety Program that is designed to improve your auto losses. They have a game plan for service, everything listed on here and more is included.

Council Member Davis asked administration about our current losses, the situation that we're in, and the times that you've researched and met with Gallagher, what is the bottom line here and your recommendation. Mr. Tony Phillips said we received written notice from Travelers Insurance a little over 30 days ago of their decision not to renew. We brought Gallagher on in January, and that decision was because we wanted to more effectively manage our risk management overall. In the FY24 budget we moved risk management as a function from the Clerk's office where they did a good job, but they primarily focused on administrative, processing the claims, and getting them to the insurance company. Risk Management is more about safety programs, ensuring that we are lowering our risk and lowering our claims. We thought a better way to do that was to move it to where it sits today in the Building and Operations Department under Director Dana Smith, and we created a Risk Management position that Ms. Felicia Jones now occupies. There are some claims that you can manage through better practice, safety, vehicle safety, and things of that nature. Once we were notified by Travelers, we had a little over, not quite 45 days to figure out where to go and that is part of the presentation when they listed all the companies that Gallagher reached out to in an effort to simply transition us from Travelers to another insurance company. I know there was a question earlier from Council Member Hudson about the public officials category loss and that was in connection to the LGI lawsuit. Mr. Phillips said the LGI lawsuit was a property administration issue, and you may recall we had a hearing before council in 2022, it went to an administrative hearing with the city administrator, it then to Superior Court and at the end of that legal fight, the judgement favored LGI. That ended up being yet another million-dollar claim. So, we had

this public officials LGI lawsuit, the Campbell Courthouse was nearly a million-dollar claim, and a million dollar claim with a fatal car accident. So that's the basic context of how we arrived here and again we got the written notification from Travelers in March and so we have been day and night going through this and literally got the last communication last night about 8:30 p.m., less than 24 hours ago, and that is why this was the 11th hour.

Mayor Pro Tem Whitmore said what he heard was Gallagher provides claims administration and additional informational training to help us with various areas with our insurance claims. Mr. Simmons said yes and referenced page 13 in the handout. He said this is a sampling of the training and consulting that is available specific to risk and safety. You will have access to an online training platform, and they do on-site.

Mayor Pro Tem Whitmore said we have a fleet of vehicles and asked what the market equivalent of managing the fleet, for example GPS on vehicles. At one point, we had that on our vehicles. Mr. Simmons said the market evaluation is driven by losses, and there are resources to see how fast people are driving and other information as well, and it starts with doing an evaluation of your Fleet Safety.

Council Member Hudson said this is for Administration and what Gallagher is offering is necessary, but we need to stop back peddling because a lot of what has happened is due to our lack of managing and is tired of hearing about the last administration and these losses could have been stopped. She said she came here today despite having to reconstruct her entire life for a special called meeting, this should have been on a regular meeting agenda. This is a lot of information to take in. Relying on this information today is not going to get me where I need to be. She came here to do business for the city and our staff, and she has not received timely information and to walk in here for a Special Called Meeting with the excuse that it missed the deadline, and our city is affording an executive assistant, and assistant administrator to get this done. On top of looking at why we are here, we have some practice issues and some decisions to make. This city, our administration, this Council have to do our due diligence to ensure we redirect the practice that our taxpayers don't have to keep suffering. You guys have been meeting with Gallagher since January, we had a retreat and that would have been the perfect opportunity to bring them in. She thanked Gallagher but she is not prepared to make a decision because she got a booklet when she walked in today and she cannot vote on this.

Mayor Pro Tem Whitmore said I can tell you what I heard. I heard Administration was communicating with Gallagher since January and less than 45 days ago, found out that we would not get reinsured and here's a list of markets that the city looked at under Gallagher and we didn't get any bites, whatsoever. He also heard at 8:30 last night, this package was finalized and the choice that we have before us as elected officials is, if we vote it down, we have no coverage. He appreciates Gallagher for the information, their honesty, and their ability to articulate but does not want to sit here and blame staff for not bringing something to a retreat when at that point and time, we weren't in a position where we knew we weren't going to have coverage. He thinks they are doing what they need to do and he's ready to vote.

Council Member Davis said to administration, under the conditions that you had to go out to market and to find the best that we could have at this last hour she appreciates their efforts and appreciates them bringing on Gallagher in January before we knew Travelers was not going to renew our insurance. She said she doesn't even know the countless number of hours that in

addition to the regular things you have to do during the day. Sometimes being in this position, you just got to do your job and sometimes it can be inconvenient, but this is the price you pay for being in this position. We cannot allow this city not to have liability insurance and will not.

Council Member Heath said his thing is that having been in the insurance business, he knows all the things they were talking about is obviously a truth that can't be denied. If the city does not have insurance and one of our vehicles hits a pedestrian or something, you're talking about multi-millions of dollars. The simple fact of the matter is we have got to keep our city covered by insurance and he's ready to vote.

Mayor Avery said the scenario where we find ourselves as it relates to some claims and talking about the last administration, as when he took over for Mayor Hannah in 2010. There were issues that roll over from a previous administration, good and bad that must be addressed. Whoever becomes mayor after him, they're going to deal with issues that come up, welcome to the real government. He commended staff and our city attorney's office as a result of dealing with as much as they could. We had two weeks upon arrival when they found out the developer told them they were due a legal hearing for due process. That was no knock-on Mayor Hursts administration, that is just the way things roll over from one administration to the next. With the conditions that we had with insurance, nobody can control a fire in a building, or someone getting killed in a car accident. He commended staff and Council that's gone beyond the call of duty and to ensure we address issues better than some of our neighboring cities that's in the news all the time because they can't even come to an agreement to bring a company like Gallagher here.

Council Member Hudson said I'm not going to defend my premise and purpose for being elected on this Council and I know what my fiduciary responsibility is. I will not be brow beat into a vote because I don't have the proper information. Let's be clear, I am here for the City of Fairburn people, the residents, and this staff. I'm here for the work, I'm here for the people, let's do the work and give me the information that I need in a timely fashion.

Council Member Davis made a motion to call for question. Mayor Pro Tem Whitmore provided the second. **The motion carried.** Council Member Hudson opposed.

A motion was made by Mayor Pro Tem Whitmore to approve the recommended Liability Insurance renewal plan which includes a transition to a self-insured Liability Insurance renewal for the FY24-FY25 renewal period and to authorize the Mayor to execute the Third Party Claims Administration Agreement with Gallagher Bassett Services related to the renewal. Council Member Heath provided the second. **The motion carried.** Council member Hudson abstained for lack of knowledge.

2. Fiscal Year 2023 – 2024 Mid-Year Budget Amendment

Finance Director Bryan Stephens presented this item and said this is the midyear budget amendment for this fiscal year. He received the audit this morning and it is posted on our website. He said our general fund balance as of September 30, 2022, was \$20,978,203.00. Since this audit is now complete, our fund balance grew over \$3 million last year which is a testimony to our directors and for managing of the budget throughout the year. Our fund balance policy states that we have three months of

restricted funds in our fund balance. The restricted funds are \$11,260,544.00, and the unrestricted fund balance is \$12,803,747.00. When we passed the FY23-24 budget, we decided to use \$2,068,360.00 of fund balance to cover capital projects, this mid-year amendment is \$3,005,894.00, and the projection at the end of this fiscal year for our unrestricted fund balance would be \$7,729,493.00. He said the department directors are here to answer any questions.

Council Member Davis said she wanted to hear the presentations on the new positions that are being requested.

Chief Police Anthony Bazydlo said there are two positions that the police department is requesting. A training Lieutenant and a Corporal to fall underneath that position. He said the training duties are currently split between three different people and would like to have one person dedicated full-time to do the training. The unit is intended to be a hybrid traffic unit, right now the patrol division handles all calls for services including car accidents and they want a dedicated traffic unit to be able to work those accidents. Council Member Davis asked the difference between lieutenant and corporal. Chief Bazydlo said it is just a matter of rank, they are a paramilitary structure. Lieutenant falls underneath a captain, and a corporal will fall underneath a sergeant. These new positions will be shifted from existing people and that domino effect will lead to the hire of two new officers. Council Member Davis asked if these positions could not be funded right now but could be funded in six more months, what challenges would that present in your department. Chief Bazydlo said they are working through a lot of change in terms of centralizing different roles within the department and the three different people doing the training has been an issue. It wouldn't be the end of the world, but these positions would be very helpful.

Mayor Pro Tem Whitmore said with these two new positions, even though they are training, they'll also be utilized in other official police capacities. Chief Bazydlo said yes, and there will also be a permanent traffic unit, specifically for car accidents. Every time an officer has to handle a car accident who is assigned to uniform patrol division, he's not patrolling our neighborhoods, or checking on our businesses. Mayor Pro Tem Whitmore asked if they were at the correct ratio per officer per citizen in the city. Chief Bazydlo said they are preparing a document, the International Association of Chiefs of Police (IACP) has a formula they use for size of your population and the recommended number of officers. Once he gets the document finalized, he would like to see growth in the Police Department.

Council Member Heath asked what happened to their FTO program and how many officers do you have. Chief Bazydlo said they still have that, and every new hire goes through the Field Training Officer program (FTO). He said the FTO program will not change, in terms of field training officers who train recruits. There's also a rotation process, so every officer trains with three different police officers during their training program. The training he is talking about is the use of force training, firearms training, annual taser recertification training, active shooting training, and different things like that.

Fire Chief Cornelius Robinson said he wanted to brief them on the nine positions that were already approved in the previous budget for the new station and the temporary station. We have grown tremendously with the call volume, this is going to double their coverage for the growth.

Mayor Pro Tem Whitmore asked for an update on the temporary fire station and the new fire station. Building Operations Manager Dana Smith said the temporary fire station has made some progress. They are installing the water meters and the vaults in May and will run water and sewer lines in the next 30 days or thereafter. The fire station is making good progress, the footings have been poured and some masonry block going up and is still on pace to open by the end of the year.

Mr. Smith said there is a new position for Building Operations for a senior building and maintenance technician. They have two building and maintenance technicians and on an industry basis, the city has over 160,000 square feet of building square footage. They have over 130,000 square feet of active space with only two building technicians. He would like to keep that ratio in the industry at 30 square feet per technician and this position would help bring them in alignment with industry standard to provide the service we need to the city and to the staff also the infrastructure issues we have with our current assets that require more effort and work.

Council Member Davis asked if it would pose a great challenge if this was delayed until our new budget. Mr. Smith said yes, we will make it work, but to be honest, he saw the strain put on his staff doing the renovations and trying to fulfill requests for his fellow colleagues and it took them some time to fill the position that was budgeted for this year. Mayor Avery asked him why it took so long, was it basically the quality of personnel that applied. Mr. Smith said yes, it was a combination of some of the personnel that applied and the various job boards they had to reach out to.

Council Member Heath asked where the retention wall for \$150,000 was located. General Services Director Gale Higgs said the retention wall is located at NE Broad and Fayetteville Road. Erosion is happening in that area, so we had to install a retention wall up to keep it from continuing to erode. Community Development Director Lester Thompson said there was an erosion issue with the embankment and the right-of-way on Fayetteville Road and we had Pond & Company and Atlas come out and do some research and found that the retaining wall was the best option, and some structural engineers designed the wall. The owner reached out because he was afraid of his house slipping off the side of the slope, it was a risk aversion issue that we needed to take care of. Mr. Phillips said it was in the city's right-of-way, so it was our responsibility to address but it had the potential to affect a private homeowner.

Mr. Stephens asked if anyone else had questions regarding the budget amendment and said the public safety design is a little different than what was discussed at the retreat.

Building Operations Director Dana Smith said the public safety design we discussed at the retreat provided you with context that we would be looking for additional funds in the mid-year budget. That estimate was based on their initial budget for the cost of the complex and what the design consultant provided them with based on the drawdowns for the design, which at the original time was around \$15 million. After they went through the programming phase, the cost grew based on their programming to what is now \$19 million. Mayor Avery asked him to explain the procurement mechanism that will be used in the design build. Mr. Smith said they are recommending using a CM at Risk process, the design team is on board through an RFP process that was completed. The Construction Manager at Risk process is similar to design build and the one difference is that in the design build, you may hire one entity like an architect, or a construction company and they may hire the other one or they may come together as a joint venture. In the CM at Risk model, they have a design team that has a direct contract with the city, and they will have a Construction Manager that has a direct contract with the city but will be brought on earlier in the design process to be able to contribute to the design and to provide more realistic estimated costs and go immediately into construction. Also, the CM at Risk means that this Construction Manager will provide the city with a maximum price estimate for the project.

Mayor Pro Tem Whitmore said he appreciates staff listening during the retreat, listening to the economy of scale and doing everything at one time versus different phases, but to add on \$4 million versus another \$15 million is a big significant savings.

Council Member Heath made a motion to approve the proposed FY 2023-2024 mid-year budget amendment as presented. Mayor Pro Tem Whitmore provided the second.

Council Member Davis asked about the \$100,000 increase for infrastructure in the Electric department budget. Electric Superintendent Tom Banks said the \$100,000 has been allotted for the public road safety and security project on John's River Road and the additional money was needed to give to Greystone Power to upgrade their power poles to make room for the lighting and the transformation to keep the project in line.

The motion carried. Council member Hudson abstained and asked the following statement to be read for the record. Today, I am abstaining from the vote on the midyear budget amendment due to the city administrator and legal counsel under the direction of the Mayor to withhold financial information that allows me to serve as their trustee. Voting uninformed is a breach to my duty as an elected member of this governing body. These actions by the city's administrator and legal counsel under the direction of the Mayor does not disenfranchise me as council member, it disenfranchises the voters who elected me. Furthermore, these actions obstruct my role as a council member, which obstructs voting informed. I respectfully renew my request for records. Thank you.

VII. Adjournment:

Mayor Pro Tem Whitmore made a motion to adjourn the meeting at 7:35 p.m. Council Member Davis provided the second. **The motion carried unanimously.**


Brenda James, City Clerk


Mario Avery, Mayor