

**FRUITLAND CITY COUNCIL
TUESDAY, MARCH 10, 2009
MINUTES**

The Fruitland City Council met in regular session at City Hall on Tuesday evening, March 10, 2009 at 7:30 p.m. with the following members present:

*President Gregory J. Olinde, Treasurer Gloria J. Ortiz, Councilmember Raymond D. Carey,
Councilmember Theodore O. Lokey, and Councilmember Richard F. Tull.*

Also present were:

*City Manager John F. McDonnell, City Solicitor Andrew C. Mitchell Jr., Chief of Police Michael J. Phillips, Deputy
Treasurer Polly Caton, Director of Public Utilities Joseph P. Derbyshire, Public Works Director P. Cooper
Townsend, Code Enforcement Officer Daniel M. Scholl, Administrative Assistant Linda J. Powell, and City Clerk
Diane Nelson.*

Our guests included:

*Amanda Pollack of George, Miles, and Buhr (GMB), Brock Parker of Parker & Associates, Eric Davis, Bob Marvel,
Peggy and Bill Robbins, Kerry Nelson, Joe Jimmerson, Erika Campbell, Ingrid Balea, Mable Marshall, and Rosalie
Johnson.*

President Olinde called the meeting to order at just before 7:30 p.m. and welcomed all in attendance. Treasurer Ortiz delivered the opening prayer, and all recited the Pledge of Allegiance.

Mr. Olinde acknowledged receipt of the minutes of the regular meeting of February 10, 2009 and the Special Meeting of February 23, 2009, calling for additions or corrections. As there were none, Councilmember Carey moved to adopt both sets of minutes as presented. Treasurer Ortiz seconded and the motion passed by a four to zero vote.

Reports – Treasurer, City Manager, and Department Heads

Treasurer Ortiz delivered the Treasurer's Report as follows:

Cash on Hand 2/01/09	\$ 207,552.28
Deposits	<u>554,749.90</u>
Subtotal	\$ 762,302.18
Disbursements	<u>(445,381.18)</u>
Total Ending 2/28/09	\$ 316,921.00

As there were no questions, Councilmember Tull moved to accept the Treasurer's Report as presented. Councilmember Carey seconded and the motion passed unanimously.

City Manager McDonnell reported on upcoming meetings and events.

Meetings

- Fruitland Chamber of Commerce - Wednesday, March 18, 2009 at 12:00 p.m. at Impact Church of God
- Lower Eastern Shore Mayors Association – Thursday, March 19, 2009 hosted by the City of Salisbury

- Fruitland Recreation Commission – Tuesday, March 17, 2009 at 7:00 p.m.

Events

- Water Cut-offs – Thursday, March 12, 2009 (for non-payment of water bills)
- Basket Bingo – Saturday, March 14, 2009 at the Fruitland Fire Hall – doors open at 5:30 p.m. (proceeds benefit Fruitland Chamber of Commerce Scholarship Fund)
- Easter Parade – Saturday April 4, 2009 at 10:00 a.m. (sponsored by Fruitland Chamber of Commerce)
- Little League Parade – Saturday, April 18, 2009 (Fruitland Little League Opening Day)

Chief Phillips delivered his report on behalf of the Police Department.

- Service calls for the month of February decreased by 300.
- Departmental Training continues, and should conclude prior to the beginning of summer.
- Retired Salisbury Police Officer Brian Beaver has begun training as Fruitland's first Reserve Police Officer.
- Officer Candidate Blaine Guard will graduate from the Eastern Shore Criminal Justice Academy this summer.
- A tour of the new Police Department built this past year in Thurmont, Maryland is planned for tomorrow, as a way to gather additional ideas for Fruitland's new Police Department.

Director of Public Utilities Joseph Derbyshire reported on the Water and Sewer Departments.

- The City realized a \$3,850.00 savings in tipping fees at the Wicomico County Landfill for the month of February 2009, because of the Biosolids & Leachate Agreement with the County; duration of the agreement will be governed by continued savings to the City in conjunction with continued lack of impact in processing leachate at the Sewer Treatment Plant.
- Rehabilitation of Production Well One continues with completion expected within the next two weeks.
- Three projects have been submitted to Maryland Department of the Environment (MDE) for funding consideration under the Federal Government Stimulus and Recovery Act. MDE has indicated approximately 500 projects have been submitted statewide and should be listed and ranked on their website by March 13, 2009.
- Pipe has been brought in and stored at the Water Plant in anticipation of the onset of the Salisbury – Fruitland Intersection Project that should begin around the end of March.

Code Enforcement Officer Scholl presented his building permit report for February 2009.

- Fourteen permits were issued for a total value of \$1,285,100.00 and \$8,883.00 collected in fees.
- The permits mainly represent new construction and include 6 townhouses, 2 duplexes, 2 single family homes, and the new Sonic Restaurant.

City Solicitor Mitchell gave a status report on two former police officers that have 2-yr contract agreements to reimburse the City of Fruitland.

- Mr. Murphy is paying on schedule.
- Mr. Heath is paid current as of March 3, 2009; he advised Mr. Mitchell on February 24, 2009 that family financial issues had caused him to temporarily fall behind in payments to the City.

Resolution 01-09 – Adopt Comprehensive Plan

President Olinde proceeded to read Resolution 01-09 that adopts Fruitland's Comprehensive Plan by resolution; the Council approved the Comprehensive Plan by a 4-0 vote at the February 10, 2009 meeting.

With no questions or comments, Councilmember Tull moved to adopt Resolution 01-09 as read. Treasurer Ortiz seconded and the motion carried on a unanimous vote, becoming effective today's date, March 10, 2009. When available, the finished copy of the Comprehensive Plan will be posted on the City website.

Unfinished Business

1. Paid Bill Report

Mr. Olinde acknowledged receipt of the paid bill report. As there were no questions, on a motion made by Treasurer Ortiz that was seconded by Councilmember Lokey, the paid bills were approved as listed by a unanimous vote in favor.

2. Wicomico Housing Authority

City Solicitor Mitchell gave a status report on the Wicomico Housing Authority.

- City of Fruitland submission of the Housing Authority properties for the 2008 Tax Sale was a catalyst for forward action by the Housing Authority.
- The Housing Authority internal operations are much improved and continue to improve.
- Resolution of the one Wicomico Leased Housing Corporation property that does not fall under the auspices of the Wicomico Housing Authority is still pending; the Housing Authority is awaiting clarification of the City of Salisbury's objections to the Authority's recently submitted deed.
- The Housing Authority has presented several versions of a *payment in lieu of taxes* agreement that has yet to be finalized. Fruitland has requested that the agreement not include future projects and the Housing Authority has agreed that future projects would restart the entire agreement process.
- Upon resolution of the Leased Housing Corporation Property, the Housing Authority will be funded to continue rehabilitation on their properties.
- The Housing Authority has agreed to provide information for inclusion in Fruitland's 2009-2010 budget, since the Authority will resume payment as of July 1, 2009.
- The Housing Authority has agreed to pursue tax-exempt status for its properties, which benefits the City because the constant yield calculation will no longer be skewed.

3. Sign Ordinance

City Solicitor Mitchell reported on the need for a comprehensive sign ordinance, spearheaded by the Planning Commission.

- Discrepancies (overlapping and conflicting) exist in the Zoning Ordinance and Ordinance 164.
- Recent issues before the Planning Commission and Board of Zoning Appeals (BZA) have identified several areas that need to be addressed regarding size, setback, electronic/flashing, and imposition on other buildings.
- Issues that arise should be addressed at the Planning Commission level.

Mr. Mitchell requested permission to pursue development of a comprehensive sign ordinance, with input and guidance from the Planning Commission (which includes Code Enforcement Officer Scholl), the BZA, the citizenry of Fruitland, and those in the business; Council granted permission by consensus but without vote.

[Mr. Mitchell was granted similar permission by the Planning Commission at their March 3, 2009 meeting]

4. Bennett Middle School / Southwest Interceptor

City Solicitor Mitchell reported on recent communication with Board of Education Engineers Becker Morgan.

- Issues still exist with the source and amount of Equivalent Dwelling Units (EDUs) for the school, whether or not Fruitland has sufficient allocation of capacity to furnish the Maryland Department of the Environment (MDE) required EDUs (even though the school projected EDUS are significantly less) without utilizing some of the allocation of capacity reserved for Wicomico County as part of the Urban Services Agreement; Mr. Mitchell advised Becker Morgan that Fruitland would request the EDUs be taken out of the County designated allocation of capacity.
- The Southwest Interceptor still represents a significant cost to the Board of Education; Mr. Mitchell advised Becker Morgan that at present, no other developers were prepared to participate financially in the project.
- Mr. Mitchell verified for Becker Morgan that the Board of Education would not be subject to Fruitland's zoning; the Board of Education must consult with Fruitland, but Fruitland has no authority to enforce zoning issues.

Mr. Mitchell advised that although no decision has been made regarding the placement of the new middle school, traffic would be an issue should the school be built in Fruitland given the present condition of South Division Street and the increased traffic at the Route 13 and South Division Street Crossover.

Mr. Mitchell reported on a related issue that came to light as a result of discussions regarding the new middle school, and that was developer reimbursement of costs that the developer paid to run water/sewer lines past other vacant lots to the developer's property. The developer would be entitled to City reimbursement over a ten-year period at no interest once the other vacant lot property owners began paying front foot assessments.

5. Codification Project Update

City Manager McDonnell reported that American Legal was on point with Fruitland's Ordinance Codification Project.

- A draft has been received for review; there are two additional ordinances to be added.
- An editorial report containing suggestions for verbiage changes for specific ordinances is expected within 60 days for review by Messrs. Mitchell and McDonnell.
- Payments for the project have begun.

6. Squires Court

Two female residents voiced safety concerns on behalf of many of the widowed residents at Squires Court, citing specific objectionable activity in their neighborhood. Chief Phillips will coordinate follow up with Captain Bradley, who has received preliminary information as the initial police department contact.

New Business

1. Final Plat Approval – West Cedar Lane Commercial Shops

Brock Parker of Parker and Associates, along with Eric Davis, presented the final plat submission for the West Cedar Lane Commercial Shops that the Planning Commission approved on a unanimous vote at the March 3, 2009 Planning Commission Meeting.

- The final re-subdivision plat is for the commercial property that fronts on Cedar Lane across from Big Lots.
- Coordination of the Storm Water Management between the two developments, Camden East and the Commercial Shops, provides not only adequate storm water outfall for both projects, but drainage for those commercial parcels that were otherwise hydraulically landlocked. Parcel B (in Camden East) is dedicated to Storm Water Management Facilities for both Camden East (Kenny Mills) and West Cedar Lane Commercial Shops (Eric Davis); catch basin locations were noted in conjunction with Storm Water flow.
- This plat eliminates an interior lot line and formally adds the portion of Warrior Avenue that had been formerly closed; it consolidates the tract into one large contiguous block of land.

After discussion, Treasurer Ortiz moved to adopt the final West Cedar Lane Commercial Shops plat as submitted; Councilmember Carey seconded and the motion passed on a unanimous vote.

2. Fruitland Falcon Football Request

Kerry Nelson presented the football team's request to improve their leased field on Brown Street in Fruitland that the Recreation Commission approved at the February 17, 2009 Recreation Commission Meeting; the \$50,000.00 improvement project includes installation of lights, a flagpole, a scoreboard, two goalposts, and 12,000 linear feet of galvanized fence to match the softball field fence. The City will not incur any expense.

After discussion, Councilmember Lokey moved to grant the football team's request; Councilmember Tull seconded and the motion passed unanimously.

3. Planning Commission Request – Windmill Ordinance

City Solicitor Mitchell reported that the Planning Commission had directed him at the March 3, 2009 meeting, on a recommendation by Commission Member Bland, to look into establishing a Windmill Ordinance. Mr. Bland referred Solicitor Mitchell to the MDE *Draft Model Small Wind Ordinance*, a six page document that could prove helpful in considering this topic and how it might affect Fruitland. Mr. Mitchell summarized several issues to consider regarding windmills and how these issues should be discussed at the Planning Commission level, much the same way as the Sign Ordinance issues will be taken up by the Planning Commission.

4. Declare Surplus Property – 208 S. Division Street and all contents

City Manager McDonnell reported on the property City Hall purchased on 208 S. Division Street, in anticipation of building a new City Hall/Police Department.

- Salvage bid inspections have taken place on all interior property.
- One Fruitland resident is exploring the possibility of moving the entire structure to another Fruitland location.
- Prior to any action being taken with the house or its contents, the property and all contents must be declared surplus.

Councilmember Tull moved to declare 208 S. Division Street and all contents surplus property; Councilmember Lokey seconded and the motion passed unanimously.

5. Transfer Development Rights

City Solicitor Mitchell gave a brief synopsis of Transfer Development Rights (TDRs), what they are and how they work; Montgomery County, Maryland is held up as a model of a successful TDR Program.

- TDRs allow for the preservation of open spaces, farmland, and historic or environmentally sensitive areas for a valid public purpose, while obtaining density in other designated areas to allow for expansion and continued growth.
- The area to be protected is the “sending” property; TDRs allow property owners to sever the development rights from a “sending” piece of property and sell them to property owners wishing to increase the density of their development rights on their “receiving” property. Property owners may purchase TDRs even if they have no specific plans to develop their property; they could hold the TDRs for resale at a later time.
- TDRs can be easier to implement than zoning; developer requests for rezoning or a variance would likely decrease, as would zoning disputes.
- TDRs are less flexible than zoning because they are more permanent; while this permanency does not allow for a community’s land use needs changing over time, it is however a more permanent protection of the “sending” property using private funds to accomplish a public purpose.
- TDR banks, usually government run, could be established as a means to record the TDRs; TDRs would be “withdrawn” and “deposited” much like currency.

Wicomico County has initiated discussion about TDRs and it is likely that Fruitland will be hearing more about them in the near future. TDRs should be given careful consideration since it is conceivable that a Fruitland developer could purchase TDRs in another part of Wicomico County, and the “sending” (protected) property would have no benefit to Fruitland.

PUBLIC COMMENT/GENERAL DISCUSSION

Fruitland resident Peggy Robbins voiced concerns about the unkempt condition of a neighbor’s property; she expressed her dissatisfaction with Fruitland’s efforts in addressing and enforcing property upkeep issues in a timely manner; after discussion, Council consensus was that Code Enforcement Officer Scholl and City Manager McDonnell would follow up with Ms. Robbins as they investigate her concerns and attempt resolution of the property upkeep issues.

Fruitland resident Joe Jimmerson reported that last year’s successful Arbor Day Tree Planting in his neighborhood of Cedar Commons has led to another tree planting being scheduled for this year; he offered his services in organizing such an event for other interested communities as well as the City of Fruitland.

Mr. Jimmerson also brought up the need for a sidewalk along St. Luke’s Road and Brown Streets that would provide safer pedestrian passage to and from Fruitland’s recreational park, citing increased vehicular traffic on both roads as a growing safety concern; Council so noted Mr. Jimmerson’s comments and request for a sidewalk, but could offer no finite time commitment.

A Fruitland resident voiced concerns about the pedestrian crosswalk and signs at Mt. Calvary Church; after discussion, Council consensus was that Chief Phillips would coordinate the Police Department’s Sunday monitoring of the signs and subsequent enforcement of traffic related laws.

With no further business to discuss, Councilmember Carey moved to adjourn. Councilmember Lokey seconded, and with a unanimous vote in favor, the meeting adjourned at 8:43 p.m.

Diane C. Nelson
Diane C. Nelson, City Clerk
Approved, April 14, 2009 dcn