

**FRUITLAND CITY COUNCIL
TUESDAY, APRIL 14, 2009
MINUTES**

The Fruitland City Council met in regular session at City Hall on Tuesday evening, April 14, 2009 at 7:30 p.m. with the following members present:

*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 , Officer Nicholas McLeod, and City Clerk Diane Nelson.

Our guests included:

*Amanda Pollack of George, Miles, and Buhr (GMB), Brian Dennis, Paul Elliott, Nicole Green,
Robert Marvel, Ronald J. Williams, James Jones, and Nancy Foster.*

Treasurer Ortiz called the meeting to order at 7:30 p.m. and delivered the opening prayer; all recited the Pledge of Allegiance.

Treasurer Ortiz acknowledged receipt of the minutes of the regular meeting of March 10, 2009, calling for additions or corrections. As there were none, Councilmember Lokey moved to adopt the minutes as presented; Councilmember Carey seconded and the motion passed by a four to zero vote.

Reports – City Manager, Treasurer, and Department Heads

City Manager McDonnell reported on upcoming meetings and events.

Meetings

- Fruitland Chamber of Commerce - Wednesday, April 15, 2009 at 12:00 p.m. at Adam's Ribs
- Lower Eastern Shore Mayors Association – Thursday, April 16, 2009 hosted by the Town of Delmar
- Fruitland Recreation Commission – Tuesday, April 21, 2009 at 7:00 p.m.

Events

- Little League Parade – Saturday, April 18, 2009 (Fruitland Little League Opening Day)

Councilmember Carey delivered the Treasurer's Report as follows:

Cash on Hand 3/01/09	\$ 316,921.00
Deposits	485,404.53
Transfer from Savings	<u>200,000.00</u>
Subtotal	\$ 1,002,325.53

Disbursements	(521,670.17)
Transfer to Savings	<u>(400,000.00)</u>
Total Ending 3/31/09	\$ 80,655.36

As there were no questions, Councilmember Tull moved to accept the Treasurer's Report as presented. Councilmember Lokey seconded and the motion passed on a four to zero vote.

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

- Drill Tech, Incorporated begins work next week on the Hydraulic Interconnection between the City of Salisbury and the City of Fruitland Potable Water Systems
- The fuel storage tank at the Clyde Avenue Pump Station has been replaced and upgraded from code standards that were current in the 1980s, with much of the work being completed by City staff
-

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

- Five permits were issued for a total value of \$10,200.00 and \$114.00 collected in fees
- There were no new dwellings among the five permits issued

Chief Phillips delivered his report on behalf of the Police Department comparing statistics for the month of March, 2008 and 2009.

- Part I & II offenses both decreased
- Overall arrests increased 83%, with *adult* arrests up 62% and *juvenile* arrests up 133%
- DWI and serious traffic arrests increased 350%
- Traffic citation warnings increased 54%

Resolution 02-09 – Supplement to Resolution 3A-08 DOOI

Solicitor Mitchell read Resolution No. 02-09, supplementing Resolution No. 3-08 and Resolution No. 3A-08 that allows the City of Fruitland to reimburse itself from bond money whenever funds are borrowed for the New City Hall Project. The supplement is necessary given the City Council's decision to change direction with the project in response to current economic conditions, scaling back to build only a new police department and refurbish the existing City Hall. The maximum project amount is reduced from Five Million One Hundred Thousand Dollars (\$5,100,000.00) to Two Million Five Hundred Thousand Dollars (\$2,500,000.00).

With no questions or comments, Councilmember Tull moved to adopt Resolution 02-09 as read. Councilmember Lokey seconded and the motion carried on a four to zero vote, becoming effective today's date, April 14, 2009.

Recognition for local Civic Organization – Officer McLeod

Officer McLeod made a presentation to the Fruitland Lions Club in appreciation of their recent \$250.00 donation to the Drug Abuse Resistance Education (D.A.R.E.) program sponsored by the Fruitland Police Department; Councilmember Richard Tull accepted as a member of the Fruitland Lions Club.

Unfinished Business

1. **Paid Bill Report**

Treasurer Ortiz acknowledged receipt of the paid bill report. As there were no questions, on a motion made by Councilmember Carey that was seconded by Councilmember Tull, the paid bills were approved as listed by a four to zero vote in favor.

2. **Drug Policy**

City Manager McDonnell acknowledged that he had re-distributed to Council members a copy of the City's proposed Drug Policy, originally circulated by Councilmember Lokey in December 2008; any comments or questions should now be directed to Mr. McDonnell. Mr. Lokey requested City Manager McDonnell solicit non-binding bids for review in preparation for a May 2009 first reading and a June 2009 Public Hearing.

3. **Bennett Middle School – Brian Foret**

City Manager McDonnell reported that due to time constraints, Brian Foret had requested to be re-scheduled for the May 2009 City Council Agenda.

New Business

1. **Fruitland Little League request**

Manager McDonnell reported that the Fruitland Little League was requesting permission to install a lighting system on the major league field once they have raised funds to pay for the installation; the Fruitland Recreation Commission recommended approval of the request to the City Council. On a motion by Councilmember Lokey, seconded by Councilmember Tull and approved by a four to zero vote, Fruitland Little League's request was granted as submitted.

2. **New Administrative Position**

City Manager McDonnell reported that the City Council had recognized the need for the newly established position of *Special Projects Coordinator ~ Assistant to the City Manager* to relieve the burden of implementing approved projects and coordinating their introduction into the existing work flow. The position was filled last week and President Olinde plans to introduce the new employee at the May 2009 Council Meeting.

3. **New Committees**

Solicitor Mitchell summarized how discussion at a recent Council Work Session, held to review the most recent audit and prepare for the upcoming budget cycle, yielded the desire to establish two new committees.

It was suggested that an Audit Committee be established to work with the Auditor to better understand the accounting procedures, controls, and reconciliations necessary to produce a timely audit and to shift higher level accounting procedures from the Accounting Firm that does the audit to the City Finance Department. The Committee should recommend accounting procedures for adoption.

It was further suggested that the Debt Reduction Committee be established to look at refinancing old debt, restructuring debt term to increase cash flow and improve liquidity, and/or

reducing interest expense by lowering rates and maintaining terms.

After researching the most expedient way to establish the committees, absent a charter amendment, Solicitor Mitchell determined that under the auspices of the City Treasurer, Ms. Ortiz could request the committees be established to assist and report back to her. The Council could then approve her request. A brief overview of the procedure was given.

Treasurer Ortiz then requested that the City Council establish both committees as follows:

Audit Committee

Treasurer Ortiz
Councilmember Carey
City Manager McDonnell
Deputy Treasurer Caton

Debt Reduction Committee

President Olinde
Councilmember Tull
City Manager McDonnell
Deputy Treasurer Caton

Both City Auditor Layton and City Solicitor Mitchell will be available to both committees in advisory capacities as the committees assist Treasurer Ortiz.

Councilmember Tull moved to establish the committees as requested, Councilmember Lokey seconded, and the motion carried on a four to zero vote.

4. BJAG Grant

Chief Phillips reported that the Fruitland Police Department has the opportunity to apply for the Edward Byrne Memorial Justice Assistance (BJAG) Grant, as part of a stimulus package, to fund a brand new marked police vehicle. He summarized the process and requested Council permission to apply for the grant.

Councilmember Tull moved to authorize Chief Phillips to apply for the BJAG Grant to fund the marked police vehicle. Councilmember Carey seconded and the motion carried on a four to zero vote.

5. Cimmaron Acres Issue

City Solicitor Mitchell reported on the Cimmaron Acres Issue, referring to his chronological outline of events from the outset in 1993 of Mr. Elliott's development of the property. Mr. Mitchell summarized and highlighted Mr. Elliott's recent requests to the Planning Commission on April 7, 2009, the original components of the public works agreement, and the shift in Fruitland's growth patterns since the inception of the public works agreement.

Solicitor Mitchell stated that the Planning Commission had approved removing the temporary cul-de-sac and creating the actual permanent boundary lines that would separate Parcel 2143 from the Cimmaron Court roadbed as requested by Mr. Elliott at the April 7, 2009 meeting. [Note that Parcel 2143 has never been subdivided as permitted in the Public Works agreement because water and sewer have yet to be available in Cimmaron Acres]

Solicitor Mitchell further reported that although the Planning Commission had no jurisdiction to rule on the existing Public Works agreement and Mr. Elliott's request of forbearance from that agreement that would allow him to sell the house that has been built on Parcel 2143, the Planning Commission recommended that the City Council support the project moving forward.

Solicitor Mitchell stated that the Council could address Mr. Elliott's requests this evening while still deferring their decision on the general issue of requiring property owners to hook up should water and sewer become available on Cimmaron Court.

Councilmember Lokey moved to create the actual permanent boundary lines separating Parcel 2143 from the Cimmaron Court Roadbed as requested; Mr. Lokey further moved to grant Mr. Elliott forbearance from the Public Works agreement that would allow him to proceed with the sale of Parcel 2143, with the understanding that both Mr. Elliott and the City would execute documents necessary to make that come about and that Mr. Elliott would underwrite any expenses associated with this endeavor. Councilmember Carey seconded and the motion was approved by a four to zero vote.

6. Malone Street

Solicitor Mitchell requested the Council consider the development of Malone Street as discussions and deliberations continue regarding the construction of the new Bennett Middle School on property within Fruitland City limits. He suggested it may be wise to consider requiring up front, that the Board of Education develop that street, at the very minimum, as an access to the back of the school that empties onto Camden Avenue as a means to alleviate the anticipated increase in traffic related to the school.

7. Impact Fee Ordinance amendment

City Solicitor Mitchell proceeded to read Ordinance No. 240 that amends Ordinance No. 197, that was passed October 9, 2001 to establish development sewer/water impact fees, by deleting portions of Sec. 7-C that allow a water user to pay a lesser impact fee if it can be satisfactorily proven to the City Council that the particular use intended for the water user will not utilize the standard number of Equivalent Dwelling Units (EDUs) set forth for the use intended.

Solicitor Mitchell explained that the City would continue to be whipsawed if impact fees are allowed to be collected based on *satisfactorily proven* versus *standard* EDU usage, yet capacity must be allocated according to *standard* EDU usage for use intended.

Solicitor Mitchell continued to discuss other areas that should be considered and possibly amended or updated prior to the final adoption of Ordinance No. 240; the Council could accept tonight as a first reading and continue to work on the ordinance in preparation for a second reading at a later date.

Councilmember Carey moved to accept the first reading of Ordinance No. 240, Councilmember Tull seconded and the motion carried on a four to zero vote.

8. Truck Traffic on South Division

Councilmember Lokey summarized growing concerns regarding through truck traffic causing significant road deterioration on South Division Street from East Main Street to Route 13, highlighting previous discussions and limitations that resulted in only allowing truck traffic on South Division Street from Route 13 to Center Street.

At the April 7, 2009 Planning Commission Meeting, Commission Members recommended to the City Council that truck traffic over two axles be limited on South Division Street, with no dual

axles from Center Street to Cedar Lane; at that same meeting, Public Works Director Townsend discussed both existing and potential sites for placement of signs designating “NO THROUGH TRUCKS” and “NO TRUCKS GREATER THAN TWO AXLES.”

After discussion, it was decided by consensus but without vote, that the City Manager would generate a letter to be sent to all businesses on South Division Street regarding the City’s concerns about the truck traffic and road deterioration on that section of road between Center Street and Route 13. Included in the letter would be the City’s intentions for dealing with this situation and the City’s request for business owners to assist in the endeavor.

PUBLIC COMMENT/GENERAL DISCUSSION

Ronald Williams, a former resident of Fruitland whose mother still owns property on Camden Avenue Extended, voiced his concerns and generated discussion regarding crime, economic development, and capital improvement (sidewalks) in Fruitland.

With no further business to discuss, Councilmember Lokey moved to adjourn. Councilmember Tull seconded, and with a unanimous vote in favor, the meeting adjourned at 8:52 p.m.

Diane C. Nelson

Diane C. Nelson, City Clerk

Approved, May 12, 2009 dcn