

**FRUITLAND CITY COUNCIL
TUESDAY, JULY 8, 2008
MINUTES**

The Fruitland City Council met in regular session at Fruitland City Hall on Tuesday, July 8, 2008.

MEMBERS PRESENT

President Gregory J. Olinde, Councilman Raymond D. Carey, Councilman Theodore O. Lokey, and Councilman Richard F. Tull. Treasurer Gloria J. Ortiz was absent.

IN ATTENDANCE

Staff present were City Manager John F. McDonnell, Assistant City Manager/Clerk Joyce E. Crouch, City Solicitor Andrew C. Mitchell, Deputy Treasurer Amy B. Caton, Chief of Police Mike Phillips, Director of Utilities Joseph P. Derbyshire, Public Works Director Cooper Townsend, and Code Enforcement Officer Daniel M. Scholl, Jr. Guests included Steve Fuller, of Fuller Hall & Associates, Michael Hickson and Stephen Capelli, of the Rotary Club of Salisbury, Jim Hughes, and other interested citizens and member of the press.

CALL TO ORDER/OPENING

President Olinde called the meeting to order at 7:32 p.m. and welcomed all in attendance. He then asked for 60 seconds of silence to honor our military service personnel, past and present, to coincide with our celebrating Independence Day on Friday, July 4. All recited the Lord's Prayer and Pledge of Allegiance.

ADOPTION OF THE MINUTES

President Olinde acknowledged receipt of the minutes of the regular meeting of June 10, 2008, and asked for comments or corrections. There being none, Councilman Tull moved to approve the minutes as written. Councilman Carey seconded and the motion was approved by vote of four in favor and none opposed.

TREASURER/STAFF REPORTS

In the absence of Treasurer Ortiz, Deputy Treasurer Polly Caton presented the Financial Report for June 2008 as follows:

Cash on Hand 6/1/08	\$141,255.58
Deposits	<u>535,071.27</u>
<i>Subtotal</i>	<i>\$676,326.85</i>
Disbursements	(314,326.85)
<i>Total Ending 6/30/08</i>	<i>\$362,303.60</i>

As there were no questions or comments, Councilman Carey moved to approve the Financial Report for June 2008. Councilman Lokey seconded, all were in favor, and the motion was approved by vote of four in favor and zero opposed.

City Manager McDonnell reported that Mike Phillips assumed the duties of Chief of Police on July 1, 2008, the St. Luke's Road paving project has been completed, the Board of Zoning Appeals will meet on Wednesday, July 16, 2008, at 6:30 p.m. to hear a variance request from Southtowne Commons Shopping Center, upcoming meeting of the Lower Eastern Shore

Mayors Association, hosted by the Town of Berlin, no Chamber of Commerce general membership meetings in July or August, and the National Night Out celebration scheduled for Tuesday, August 5, from 5:00 to 8:00 p.m. at the Fruitland Little League complex.

Chief Phillips reported that Joseph Kerr and James Jackson entered the Police Academy on July 7, 2008, the Department began the Smooth Operator traffic enforcement wave on July 6, 2008, during which officers will be taking additional enforcement measures to reduce accidents and heighten safety on Fruitland roadways, the retirement of Chief Paul Jackson after more than 15 years of service to the City, and that he would further report on his request that capital equipment be declared surplus later in the meeting.

Utilities Director Derbyshire reported that our Water and Wastewater Treatment Plant Superintendent George Calloway successfully completed his certification and received a license for water and sewer plant operations from MDE. Derbyshire also expressed thanks and appreciation to the City Council for his employees' salary increases during this difficult budget year, expressing their appreciation for the concept of a larger percentage increase given to employees at the lower end of the pay scale.

Code Enforcement Officer Scholl reported that 20 permits were issued in June 2008, with a total value of \$853,901 and \$5,708 collected in fees. He also reported six deed transfers of new house sales in June, with a total value of \$2,158,000.

There were no reports from Legal, Finance, or Public Works Departments.

UNFINISHED BUSINESS

1. ***Paid Bill Report.*** Councilman Tull moved to approve the Paid Bill Report as presented. Councilman Lokey seconded and the motion was approved four in favor and zero opposed.
2. ***New City Hall Project:***
 - a. *Letter of Engagement for Funk & Bolton to be Bond Counsel* – City Solicitor Mitchell reported that Funk & Bolton had submitted a proposal to act as the City's bond counsel in regard to the New City Hall project (March 10, 2008). He pointed out that although the City has been acting upon the proposal, there was a need to formally adopt the proposal and to send a Letter of Engagement to evidence that adoption. Councilman Lokey moved that a Letter of Engagement so signifying the adoption of the proposal be sent to Funk & Bolton. Councilman Tull seconded the motion, which was approved on a vote of four in favor and zero opposed.
 - b. *Authorize George, Miles & Buhr to prepare a survey and an environmental study and meet with City Council and Staff to choose footprint for new City Hall* - Councilman Tull moved to authorize GMB to prepare an Environmental Study and Survey and meet with City Council and Staff to discuss and choose a footprint for the new City Hall building. Councilman Carey seconded and the motion was approved four in favor and zero opposed.

NEW BUSINESS

1. *Board of Supervisors of Elections Reappointment* – Councilman Lokey moved to reappoint Frances Mezick to a new six-year term on the Board of Supervisors of

Elections. Councilman Tull seconded and the motion was approved four in favor and zero opposed.

2. *Recreation Commission Appointment* – Councilman Tull moved to appoint Kerry Nelson to a new three-year term on the Recreation Commission. Councilman Lokey seconded and the motion was approved on a vote of four in favor and zero opposed.
3. *Declaration of Surplus Property from Police Department* - Chief Phillips reviewed the list of items to be declared surplus for disposal through bids and those recommended items to be destroyed. Motion to declare the inventory items and authorization for disposal was made by Councilman Carey. Councilman Tull seconded and the motion was approved by vote of four in favor and zero opposed.
4. *E.S. Adkins & Co. Boundary Line Adjustment: Sharps Point Road* – Steve Fuller presented a plat and described the boundary line adjustment made for Parcels 2118 and 2119 on Sharps Point Road. Mentioned was that the Planning Commission reviewed the changes and recommended approving the resubdivision. With no questions or comments, Councilman Lokey moved to approve the boundary line adjustment for E.S. Adkins & Company's Parcels 2118 and 2119 on Sharps Point Road and authorize the Council President's signature on the plat. Councilman Tull seconded and the motion was approved on a vote of four in favor and zero opposed.
5. *Colonial Village Townhouse Plan Change*: Steve Fuller presented and described the eleven townhouse units on South Brown Street, with the change to eliminate an ingress/egress easement in the rear of the lots and minimize the driveways on Brown Street by providing six shared access points for the units. Discussion followed regarding vehicles backing out onto Brown Street but it was mentioned that the Planning Commission had already scrutinized the request and made a favorable recommendation. Councilman Lokey moved to approve eliminating the ingress/egress easements behind lots 1—7 and 64—67, allow for six driveways on the South Brown Street parcels of Colonial Village. Councilman Tull seconded and the motion was approved by vote of four in favor and zero opposed.
6. *Recreation Commission Request for Hotel Tax Revenues from Hampton Inn*: Manager McDonnell explained that the Fruitland Recreation Commission would like for the City Council to consider seeking 1% of our hotel tax from Wicomico County with ½ of 1% going into the Commission's building fund. Councilman Tull advised that Wicomico and Worcester Counties share a percentage of their hotel taxes with their municipalities. Tull suggested tabling discussion of the matter until after the hotel opens and see what amount should be requested. President Olinde agreed we should pursue the matter and make the proper contacts to see if we can be a beneficiary of the tax as Salisbury is. Councilman Tull added that the City is planning a new park building for activities which will benefit County residents as well as City residents. President Olinde recommended that Manager McDonnell contact County Executive Rick Pollitt to make the request. Consensus of the Council was to table the discussion and include as an unfinished business item at their August meeting and include any action of needed documentation.
7. *Petition for Property Annexation Resolution 1-2008 (Rotary Scout House @ 1715 Riverside Drive)*: Following the reading of the amended Petition for Annexation for the Rotary Club of Salisbury Foundation, Inc., Solicitor Mitchell advised that the attachments to the Petition, including the legal description of the Annexation Land, a Plat of the Annexation Land, and the draft Annexation Agreement were on the table

for review. He also stated this is the same request for land annexation as made in 2006, with the only changes being that the Applicant is asking to come in and be governed by the City's existing zoning laws and policing powers and be recognized specifically as a non-profit/patriotic club, not the other uses permitted in the R1-C zoning district. In answer to a question regarding annexing the roadbed, Solicitor Mitchell advised that the County owns the roadbed and signed off on the previous annexation plat and so he saw no reason for the County not to approve annexing the roadbed again. He also stated that it is not necessary to have that agreement.

Mike Hickson, member and attorney in this project for the Rotary Club of Salisbury, and Steve Capelli, President of the Club, then came forward to describe their annexation request. Mr. Hickson described the property requested for annexation as being the same as in January 2006 and with the R1-C zone designation as previously approved. Further offered was that the annexation of the Rotary property would be consistent with the City's Comprehensive Plan and the Rotary Club would offer the City of Fruitland an easement for a future lift station when needed. Additional testimony included the benefit of using their property and facilities for police or other municipal training purposes.

Councilman Lokey asked about a portion of the property being used for a public recreation area. Mr. Hickson expressed concern for insurance liability but suggested the Rotary could lease the property to the City for liability to be included on the City's insurance policy.

Further testimony included mentioning other similar uses which exist throughout the City, no complaints over the past two years of operations at the facility, the facility is not to be used for special events such as wedding receptions, and the laws of the City of Fruitland would be applied to visitors of the facility and property owner.

Councilman Carey advised he had toured the site and was impressed with the facility. He also commented that he visited the site a second time at night and found there to be more lighting in the residential community behind the Rotary Scout House than on the Rotary property. Carey also mentioned he had received no complaints concerning the Rotary facility.

Mr. Hickson advised that the Club has invested much time and money in the property and it would be foolish to rent the building without a Rotary Club member there to ensure their investment is protected. He added that the property has been well maintained and described the problem with providing a buffer of shrubs and the risk that some trees pose to the property.

President Olinde commented that he was in favor of the annexation two years ago and neighbors along West Main Street indicated to him they did not feel they would be adversely affected by the annexation.

Solicitor Mitchell clarified that no one else is involved in the annexation as the City is not interested in annexing unwilling residents.

Under questioning from Councilman Tull, Mr. Hickson advised that the weddings are not a function of a non-profit organization and that kitchen use is limited at the site.

Further discussion included usual cut-off times for meetings and events at the Rotary facility, usually being between 7:30 to 8:00 p.m., and the necessity to remove some trees in order to grow a buffer.

Councilman Tull asked if the Rotary has obtained a copy of the City's Noise Ordinance. Mr. Hickson replied that he had received copies of the City's ordinances six months ago which would apply to their property.

Following the testimony, Solicitor Mitchell then read aloud Annexation Resolution No. 1-2008 for First Reading. Mitchell added that the Annexation Agreement will require the R1-C Zoning designation, which will provide the Rotary the right to go before the Planning Commission to request approval of their designation as a non-profit civic or patriotic club, donate land for a future lift station, and discuss with the City a portion of their property for use as a recreational facility. Additionally, Mitchell described other standard information included in a typical annexation request.

Solicitor Mitchell suggested the public hearing be scheduled for September 9, 2008, explaining the timing involved in supplying information to various agencies.

Councilman Tull asked about County approval for the Shad Point Road section of the annexation. Solicitor Mitchell advised we have never sought County approval before and mentioned examples of annexing streets and creeks without the County's approval.

President Olinde noted for the record that the Petitioner bears all legal and advertising costs associated with the Annexation.

President Olinde then asked for any further comments. There being none, Councilman Tull moved to accept the Petition for Annexation as presented by the Rotary Club of Salisbury Foundation, Inc. Councilman Carey seconded and the motion was approved by vote of four in favor and zero opposed.

Next, President Olinde requested a motion to approve Annexation Resolution No. 1-2008 for First Reading and set a public hearing date for September 9, 2008 at 7:40 p.m. Councilman Tull so moved, Councilman Carey seconded and the motion was approved on a vote of four in favor and zero opposed.

Public Comment/General Discussion

President Olinde called for any public comments or general discussion.

Jim Hughes, owner of Restaurant 213, came forward and discussed at length his disapproval of the billboard sign proposed to be installed next to his restaurant, claiming he did not receive a notice from the City advising of the public hearing before the Board of Zoning Appeals nor the decision letter giving him 30 days to appeal the Board's decision. Solicitor Mitchell stated that the City's Zoning Ordinance does not require the property to be posted but a public notice sign was posted further away from his restaurant. Mitchell added that a notice was published in the newspaper and that he was told that someone from the City attempted to contact him. Mitchell finally advised Mr. Hughes to speak with the adjoining property owner, Pete Roskovich, Clear Channel Outdoor, and an attorney to see if something can be done to satisfy all parties.

Paul Morris, of 1410 Camden Avenue, Salisbury, commented on the need to change existing laws to require notification to neighbors of important issues affecting them, such as the billboard sign case previously discussed.

President Olinde thanked the public for their remarks and asked for additional comments. There being none, Councilman Lokey moved to adjourn. Councilman Tull seconded, all were in favor, and the meeting adjourned at 9:18 p.m.

Respectfully submitted,

Joyce E. Crouch
Asst. City Manager/Clerk