

**FRUITLAND CITY COUNCIL
TUESDAY, SEPTEMBER 8, 2009
MINUTES**

The Fruitland City Council met in regular session at City Hall on Tuesday evening, September 8, 2009 at 7:30 p.m. with the following members present:

President Gregory J. Olinde, Treasurer Gloria J. Ortiz, Councilor Raymond D. Carey, Councilor Theodore O. Lokey, and Councilor 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 Amy B. Caton, Public Works Director P. Cooper Townsend, Code Enforcement Officer Daniel M. Scholl, Corporal Christopher D. Shockley and City Clerk Diane C. Nelson.

Our guests included:

Administrative Assistant Linda J. Powell, Amy Bechard and Kevin B. Oldland of AWB Engineers, Bob Marvel, Nicole and Mike Bruno, Joe Jimmerson, Jimmy and Rhoda Turner, Barb and Ray Mariner, Robert Cannon, Donald Ball, Kerry Nelson, and Wicomico County Council President John Cannon.

President Olinde called the meeting to order at 7:33 p.m. and welcomed all in attendance. Treasurer Ortiz delivered the opening prayer, and all recited the Pledge of Allegiance.

President Olinde acknowledged receipt of the minutes of the Regular Meeting of August 11, 2009, the Special Meetings of April 27, 2009, May 18, 2009, July 2, 2009, and August 18, 2009, and the Closed Meetings of August 18, 2009 and August 31, 2009, calling for additions or corrections. As there were none, **Councilor Tull moved to adopt all of the minutes as presented; Treasurer Ortiz seconded and the motion passed on a unanimous vote in favor.**

Treasurer Ortiz delivered the Treasurer's Report.

Cash on Hand 8/01/09	\$	19,093.42
Deposits		908,580.98
Transfer from Savings		<u>100,000.00</u>
Subtotal	\$	1,027,674.40
Disbursements		(440,568.13)
Transfer to Savings		<u>(500,000.00)</u>
Total Ending 8/31/09	\$	87,106.27

As there were no questions, **Councilor Carey moved to accept the Treasurer's Report as presented. Councilor Lokey seconded and the motion passed on a unanimous vote in favor.**

City Manager McDonnell reported on upcoming meetings and events during the month of September 2009, noting that the Fruitland Volunteer Fire Company will be celebrating its 100th Anniversary with a parade to be held on Saturday, September 26, 2009 at 11:00 a.m.; a celebratory dinner will be held later that evening.

Code Enforcement Officer Scholl presented his report for August 2009, stating that fourteen (14) building permits had been issued for a total value of Six Hundred Twenty-two Thousand Three Hundred sixty-one Dollars (\$622,361.00) and Four Thousand Seven Hundred Ninety-six Dollars (\$4,796.00) collected in fees; seven of the permits issued were for new townhomes in Cedar Commons.

Chief Phillips delivered his report for the month of August 2009, noting fluctuations in crime statistics and service calls from prior periods. He also noted that the Police Department currently has one officer on active military duty and one officer candidate in the Police Academy.

PUBLIC HEARING: ORDINANCE 236-PROPERTY MAINTENANCE 7:40 P.M.

At 7:40 p.m. President Olinde convened a Public Hearing to discuss Ordinance No. 236, a new property maintenance ordinance, noting Council's intent to accept comments this evening and to continue working on the ordinance in preparation for final consideration and vote at the October 13, 2009 Regular Council Meeting.

City Solicitor Mitchell then presented Ordinance No. 236 which amends portions of Ordinance Nos. 129, 155, and 160 and enacts a new property maintenance ordinance to promote the public health, safety, and general welfare of the residents and property owners of the City of Fruitland, Maryland, by the regulation, preventing, reducing, or eliminating unreasonable accumulation of weeds, litter, garbage, rubbish, refuse, abandoned and/or junk vehicles, and other causes of blight within the City, and to provide for the enforcement penalties for the violation thereof, pursuant to Sections FC3-1 and FC3-2(18) of the City Charter of the City of Fruitland, Maryland which vests authority for the City Council to enact such an ordinance.

At 7:46 p.m. President Olinde opened the floor to public comment about Ordinance 236.

Comments by **Joe Jimmerson** of Wye Oak Drive, **Rhoda Turner** of Pine Street, and **Barb and Ray Mariner** of Ridgefield Drive prompted discussion that included the manner in which the ordinance was to be enforced, whether by patrol or complaint, the manner in which code enforcement investigates violations, the public's accessibility to the ordinance and the pending codification of all City ordinances, and the City's dependence on the Wicomico County Soil Conservation Agency for use of its boom axe to trim City maintained ditches. Additional comments about specific property issues were referred to the appropriate City Department or City Personnel for follow up.

At 7:55 p.m. President Olinde closed the Public Hearing.

On motion made by Councilor Tull that was seconded by Treasurer Ortiz and approved by a unanimous vote in favor, Councilors moved to put the Property Maintenance Ordinance, Ordinance No. 236, on the October 13, 2009 Regular Council Meeting Agenda for final consideration for passage after any changes had been reviewed by Councilors.

PRESENTATION: RESOLUTION NO. 8-09 CITY OF FRUITLAND DEBT POLICY

Solicitor Mitchell reported that adoption of a debt policy was mandated by the State of Maryland; Resolution No. 8-09, while a good initial policy, should be reviewed periodically by Council and by the Audit and Debt Reduction Committees for amendment as deemed necessary and appropriate.

City Solicitor Mitchell then presented Resolution No. 8-09, a resolution of the City Council of City of Fruitland establishing a debt management policy to improve the quality of financial decisions, provide justification for the structure of debt issuance, identify goals, and demonstrate a commitment to long-term financial planning.

After time allowed for discussion, **Councilors adopted Resolution No. 8-09 as presented on motion made by Councilor Tull that was seconded by Treasurer Ortiz and approved by a unanimous vote in favor.**

UNFINISHED BUSINESS

1. Paid Bill Report

President Olinde acknowledged receipt of the paid bill report. As there were no questions, **on a motion made by Councilor Tull that was seconded by Councilor Carey, the paid bills were approved as listed by a unanimous vote in favor.**

2. New Police Department Building

Chief Phillips and AWB Engineers Representatives Bechard and Oldland presented the final schematic plans for the proposed New Police Building which the Planning Commission accepted and recommended to the City Council for acceptance at the September 1, 2009 Planning Commission Meeting; upon City Council acceptance of the schematic plans, the Building Committee would then authorize AWB Engineers to move forward with the Mechanical and Electrical design phase of the project.

Chief Phillips gave a project status report, summarizing all activity to date and acknowledging that plans have been drawn cognizant of accreditation compliance.

Ms. Bechard and Mr. Oldland of AWB Engineers reviewed the schematic drawings distributed to Councilors, noting AWB's ongoing efforts to incorporate energy saving technologies and sustainability measures in all their projects so that clients may take advantage of available environmental certification programs.

Discussion included storm water management, parking, storage, building elevations, floor plan details, and structural placement, safety standards, and aesthetics.

On motion made by Councilor Tull that was seconded by Councilor Carey and approved by a four to zero vote in favor, Councilors accepted the Schematic Design as presented by AWB Engineers for the New Police Building, thereby authorizing AWB to move forward with the Mechanical and Electrical design phase of the project.

President Olinde abstained from voting to eliminate any perceived conflict of interest because his employer does business with AWB Engineers.

3. Truck Traffic on South Division Street

City Manager McDonnell summarized the ongoing concerns regarding truck traffic on South Division Street that have caused the situation to be discussed in the 1990's and as recently as April of this year, but never with a motion directing the purchase and placement of signs.

Excerpt from the April 14, 2009 Regular Council Meeting Minutes

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.

Mr. McDonnell reported that generating letters to South Division Street businesses as aforementioned in the minutes excerpt, although successful for a time, had not proven to be a long-term effective solution to the problem; he requested Councilors' authorization to purchase signs and have them placed as recommended by Public Works Director Townsend to best alleviate the truck traffic concerns

on South Division Street.

Public Works Director Townsend then presented his recommendations for placement of five (5) signs that will be highlighted as *new signs*.

NO THRU TRUCKS OVER TWO AXLES

South Division at the Railroad Tracks (1)

South Division Street at Parking Lot adjacent to Concession No. 2 at the Park (1)

NO TRUCKS OVER TWO AXLES

South Division Street at Messicks *and* at City Hall (both directions of traffic) (2)

North Division at the Circle at Mrs. Black's property ((1)

Public Works Director Townsend advised City Clerk Nelson that the aforementioned recommendations have been amended since the Council Meeting to include an additional sign at Mrs. Black's property, increasing the total number of signs to be placed to six (6); the sign adjacent to Concession No. 2 has been changed to NO TRUCKS OVER TWO AXLES, leaving the only NO THRU TRUCKS OVER TWO AXLES sign at the Railroad Tracks on South Division Street.

Discussion included trucks over two axles making local deliveries, and the feasibility of duplicating the NO THRU TRUCKS OVER TWO AXLES sign on Rt.13 at the right turn lane onto East Main Street.

After discussion, **on motion made by Councilor Tull that was seconded by Treasurer Ortiz and approved by a unanimous vote in favor, Councilors authorized the purchase and placement of signs as presented by Public Works Director Townsend.**

NEW BUSINESS

1. Rose of Sharon Church – Re-subdivision (211 Leslie Street)

Linda Powell presented the re-subdivision request on behalf of Rose of Sharon Church and Mr. Robert Cannon, the adjacent property owner of 209 Leslie Street; she explained that a property dispute had evolved because there was a duplicate deed reference for two properties, specifically Mr. Cannon's Parcel 386 and Rose of Sharon's Parcel 384.

Excerpt from the September 1, 2009 Planning Commission Minutes:

Mrs. Powell credited Mr. Cannon with finding a win-win solution to the problem that involved Rose of Sharon re-subdividing 211 Leslie Street adjacent to Mr. Cannon's 209 Leslie Street, in effect providing a driveway for Mr. Cannon's property in between 211 and 209 Leslie Street; Mr. Cannon in return would relinquish all rights and claims to the duplicate referenced property at the rear of his 209 Leslie Street Property.

Mrs. Powell also acknowledged that approval of their re-subdivision request would allow the Church to move forward with its proposed project to build a multipurpose facility with the requisite parking on a five parcel piece of property that they had originally brought to the Planning Commission for a feasibility discussion at the December 2, 2008 meeting.

Excerpt from the December 2, 2008 Planning Commission Minutes:

Pastor Lilton Powell and his wife Linda Powell presented their proposed project of building a multipurpose facility with the requisite parking on a five parcel piece of property; the church presently owns three of the parcels and is prepared to purchase the other two parcels if the Planning Commission concedes to the feasibility of the proposal. Pastor Powell explained how the new facility would expand the church's outreach ministry and benefit the local community. Mrs. Powell explained how the property met the R1-C zoning requirements for similar use as opposed to the one and one half acre land requirement for a new church facility. Discussion continued regarding the best use of the five parcels, four adjacent parcels in the shape of a backward "L" and the one other parcel separated by Seabrook Avenue (unimproved). The Planning Commission ultimately reached consensus that it was feasible to

erect a multi-purpose facility on three adjacent parcels (383,384,388) while using the remaining two parcels (387,379) for parking. Pastor and Mrs. Powell were encouraged to before the Commission at a later time with a more formal proposal.

Mr. Bland moved to approve and recommend to the City Council for approval the re-subdivision of 211 Leslie Street as requested, abandoning the disputed section of the property for Parcels 384 and 386 and allowing it to become part of Parcel 384, and then allocating approximately five (5) feet along the northern property line of Parcel 387 to Parcel 386; Mr. Lokey seconded and the motion carried on a five to zero vote in favor.

After discussion, and on recommendation for approval from the Planning Commission, **on motion made by Councilor Lokey that was seconded by Councilor Tull and approved by a unanimous vote in favor, Councilors approved the re-subdivision of 211 Leslie Street as requested, abandoning the disputed section of the property for Parcels 384 and 386 and allowing it to become part of Parcel 384, and then allocating approximately five (5) feet along the northern property line of Parcel 387 to Parcel 386.**

2. Take Home Vehicles

Chief Phillips presented his request to modify the current take home vehicle policy established by the Council with his predecessor Chief Jackson that only allowed an officer to take a vehicle home during the course of his continuous days of work rotation.

The policy modification would be enacted by a change in general orders that would allow an officer to be assigned a specific vehicle (according to seniority) for his or her daily use back and forth to work without regard to a work rotation. The vehicle would be “stored” at the officer’s residence as opposed to the City Yard when the officer is off duty; personal use of the vehicle when off duty is not being requested.

Chief Phillips indicated that the modification to the take home vehicle policy will ensure enhanced accountability for use of the vehicle, shift the cosmetic care of the vehicle from the City to the officer, and be more convenient for the officer since the vehicle functions like an individual office.

Although no costs are anticipated as a result of the requested modification, Chief Phillips will monitor the program and report back to Council should unanticipated costs arise; Councilors will have the opportunity to review the cost impact on the budget and whether or not to continue with the modified policy.

After discussion, **on motion made by Councilor Carey that was seconded by Councilor Tull and approved by a unanimous vote in favor, Council approved the modification of the take home vehicle policy as requested.**

3. Other

City Manager McDonnell acknowledged Fruitland Police Department’s participation in memorial services for slain Police Officer Chad Spicer of Georgetown, Delaware.

President Olinde recognized Wicomico County Council President John Cannon as a guest at the meeting, inviting Mr. Cannon to address the audience. Mr. Cannon acknowledged that the County was dealing with many of the same issues plaguing local municipalities such as Fruitland; he underscored the good working relationship that exists between Fruitland and Wicomico County.

President Olinde recognized Coach Kerry Nelson of the Fruitland Falcons Football League as a guest at the meeting, complementing the resounding success of the season's opening weekend as well as all the hard work that goes into the program.

PUBLIC COMMENT/GENERAL DISCUSSION

Rhoda Turner of Pine Street expressed her appreciation for the Fruitland Police Department, and for the new property maintenance ordinance that will upgrade the community; her concerns about storm drainage in her yard were referred to Utilities Director Derbyshire and Public Works Director Townsend for further investigation and resolution.

Kerry Nelson of East Main Street thanked all persons involved with the Fruitland Falcons Program for contributing to the success of the organization, noting that athlete participation is allowed based upon academic performance criteria; he requested that concerns with any aspect of the program be forwarded directly to him.

Joe Jimmerson of Wye Oak Drive inquired about potential energy cost-saving measures planned for the New Police Building; he expressed appreciation for the sports complex, noting that the addition of a sidewalk along one side of Brown Street (which he brought up in a previous meeting) would be much safer given the increased traffic as that is the result of the expanding recreation complex.

President Olinde acknowledged that the New Police Building would be as energy efficient as the City could afford; he also acknowledged Mr. Jimmerson's request for a sidewalk on Brown Street, noting that significant cuts in state funding for roads means less immediate improvements and enhancements to the City.

Mike Bruno of Redwing Drive acknowledged his first time attendance at a Council meeting and offered comment regarding pre-planning of Information Technology (IT) Infrastructure as a means of enhancing security and minimizing costs.

President Olinde noted that the City hoped to offer residents the "Pay by Credit Card" option in the near future.

With no further business to discuss, **Councilor Lokey moved to adjourn. Treasurer Ortiz seconded, and with a unanimous vote in favor, the meeting adjourned at 9:10 p.m.**

Diane C. Nelson

Diane C. Nelson, City Clerk

Approved, October 13, 2009 dcn