

**FRUITLAND CITY COUNCIL
TUESDAY, SEPTEMBER 9, 2008
MINUTES**

The Fruitland City Council met in regular session at City Hall on Tuesday evening, September 9, 2008 with the following members present: President Gregory J. Olinde, Treasurer Gloria J. Ortiz, Councilman Raymond D. Carey, Councilman Theodore O. Lokey and Councilman Richard F. Tull. Also present were City Manager John F. McDonnell, Assistant City Manager/Clerk Joyce E. Crouch, 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 Cooper Townsend, Wastewater Superintendent George Calloway, Code Enforcement Officer Danny Scholl, and City Clerk Diane Nelson. Our guests included Paul Bradshaw, Bob Marvel, Council Candidate Algy "Fred" Giles, Phyllis Giles, Scott Bennett, Paul Morris, Bravard and Ernie Cornbrooks, Eva Anderson, Les and Lil Simpson, Sally and Arnold Cooper, Bernice Bloodsworth, Bev and Cliff Carter, Lynn Ransley, and Mike Nelson.

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. Mr. Olinde then acknowledged receipt of the minutes of the meeting of August 12, 2008 and called for additions or corrections. As there were none, Councilman Lokey moved to adopt the minutes as presented. Councilman Tull seconded and the motion passed unanimously.

Treasurer Ortiz then delivered the Treasurer's Report as follows:

Cash on Hand 8/1/08	\$154,989.69
Deposits	<u>662,147.37</u>
SUBTOTAL	\$817,137.06
Disbursements	(375,425.42)
Transfer to Savings	<u>(200,000.00)</u>
TOTAL ENDING 8/31/08	\$241,711.64

As there were no questions, Councilman Tull moved to accept the Treasurer's Report as presented. Councilman Lokey seconded and the motion passed without dissent.

City Manager McDonnell reported on the MD State Board of Public Works approval of the City's \$300,000 grant for our Inflow and Infiltration project, upcoming meetings of the Fruitland Chamber of Commerce, Economic Development Commission, the Lower Eastern Shore Mayors Association and the Recreation Commission meeting on September 15 beginning at 7:30 p.m. instead of the usual 7:00 p.m.

Council President Olinde commented on the City Manager's report by publicly thanking Delegate Page Elmore for his ongoing assistance since becoming a delegate; Delegate Elmore's efforts were instrumental in helping Fruitland obtain the aforementioned grant funding for the Inflow and Infiltration project. President Olinde also advised that speaker for the upcoming Fruitland Chamber of Commerce meeting was County Council President John Cannon.

Police Chief Phillips thanked his department for increased performance levels this month compared to this month a year ago. Arrests in general increased 16%, adult arrests specifically by 7%. Warrants served increased by 25% and traffic enforcement increased by 57%. Chief Phillips further thanked Public Works Director Townsend and Code Enforcement Officer Scholl for their help on several projects, citing their willingness to assist. Council President Olinde also acknowledged and commended the interdepartmental cooperation on the Chief's projects.

Deputy Treasurer Caton reported that water disconnections for non-payment of water bills would take place on Thursday, September 11, 2008.

Director of Utilities Derbyshire reported that the City had received the engineering report on the feasibility of utilizing the Crown Sports Center's water system as part of our community water system and copies of the report are available for Council review. Also, Mr. Derbyshire reported that utilities staff have located signs of impending failure of the City gasoline storage tank at the City compound and have transferred the fuel to a spare pumping station fuel tank. Derbyshire stated that staff will continue to move forward with the upgrade to the fuel delivery and management system as provided in this year's Capital Improvement Budget. Finally, Mr. Derbyshire reported that a pre-construction meeting for the sanitary sewer manhole rehabilitation project has been scheduled for Wednesday, September 17, 2008 at 2:00 p.m. at City Hall, noting that this project should begin construction this fall.

Code Enforcement Officer Scholl presented his building permit report for August 2008, stating 11 permits were issued for a total value of \$921,300 and \$5,700 collected in fees. He stated that 6 of the 11 permits issued represented renewals of expired permits on new dwellings; in response to President Olinde's question, Mr. Scholl further clarified that the renewals were on Chelsea Lane in Meadowbridge.

Assistant City Manager/Clerk Crouch reported on the upcoming 2008 City Election schedule, announcing six candidates filed Petitions of Candidacy but one withdrew by the deadline. Ms. Crouch stated that Raymond D. Carey, Gloria J. Ortiz, Edwin A. Cowell, Algy "Fred" Giles, and Mark D. Miciotto were accepted as eligible for candidacy for election to the Fruitland City Council by the Ethics Commission earlier this evening. Absentee ballot applications will be available by Friday, September 12, 2008. The Notice of Election will be published in The Daily Times on Sunday, September 21, 2008 and on the City's web site; a Sample Ballot will appear in The Daily Times on Sunday, October 5, 2008. The election will be held at City Hall on Monday, October 6, 2008, from 7:00 a.m. to 8:00 p.m.; absentee ballots must be completed and returned by close of election at 8:00 p.m. The newly elected Council members will be inducted into office by the City Clerk at their regular meeting on October 14, 2008. President Olinde encouraged all Fruitland residents to come out and vote on Monday, October 6, 2008; Councilman Tull encouraged voters to double the voter turnout from the last election.

President Olinde announced that the three Public Hearings scheduled for tonight regarding the Annexation and Zoning requests regarding the Rotary Scout House were cancelled because the Rotary had submitted a letter to withdraw their request. City Solicitor Mitchell further clarified that the letter received requested a postponement but that a call late this afternoon from the Rotary's attorney asked for withdrawal since the 30 day requirement could not be met for a postponement.

Unfinished Business

Mr. Olinde acknowledged receipt of the paid bill report. As there were no questions, Councilman Carey moved to approve all paid bills as listed. Councilman Tull seconded and the motion passed unanimously.

Solicitor Mitchell presented and read aloud Resolution No. 7-08, which authorizes the acquisition of, the expenditure of purchase funds, and designates President of the City Council to sign and ratify the Contract for the purchase of the new City Hall property. Councilman Tull moved to adopt Resolution No. 7-08 as presented. Councilman Lokey seconded and the motion passed unanimously.

New Business

Upon unanimous recommendation of the Board of Noise Control, Councilman Tull moved to appoint James Passwaters as a member of that Board. Treasurer Ortiz seconded and the motion passed unanimously.

President Olinde announced that Assistant Manager/City Clerk Crouch was retiring after more than 30

years of city service and that Diane Nelson, a ten-year city employee, had been selected from 14 applicants for appointment as the new City Clerk. Councilman Lokey moved to appoint Diane C. Nelson as City Clerk; Councilman Tull seconded and the motion passed unanimously. Councilman Tull further commented that it was a win-win situation to promote from within, both for city government and employee morale. City Solicitor Mitchell announced that Assistant Manager Crouch had resigned as City Clerk effective 7:45 p.m. this evening, to be followed up with a formal letter of resignation. Diane Nelson was sworn in by President Olinde shortly thereafter as City Clerk.

Wastewater Superintendent Calloway requested Council permission to purchase a new sludge truck for the Utilities Department, having come in under budget and meeting City purchasing policy requirements by getting the Maryland Municipal Contract Price. The total purchase price of \$95,946.72, from local contractor Barr International, included the chassis, total equipment, hoist and one body. In response to a question from Councilman Tull, Superintendent Calloway stated that this sludge truck would be an additional truck, not a replacement of the current sludge truck. There being no further discussion, Councilwoman Ortiz moved to purchase the sludge truck from Barr International. Councilman Carey seconded, and the motion passed unanimously.

City Manager McDonnell recommended two administration PCs be declared surplus property, the first one previously used by former City Manager Pollitt and the second one currently being used by Assistant Manager Crouch. Assistant Manager Crouch has requested she be allowed to take her computer with her upon retirement, in the same manner former City Manager Pollitt did when he resigned as City Manager to accept a position as Wicomico County Executive. A review of previous meeting minutes indicated an allusion to then manager Pollitt's request, but not a formal declaration of his PC as surplus property prior to its removal from City Hall; declaring Pollitt's PC surplus property at this time formalizes the Council's implied approval of Pollitt's request. Assistant Manager Crouch added that both computers were causing problems due to being outdated and would need to be updated or replaced anyway. Councilman Carey moved to declare both administration PCs, as described, as surplus property. Councilman Tull seconded, and the motion passed unanimously.

City Manager McDonnell stated that \$12,000 had been allocated in the Fiscal Year 08-09 Budget for the codification of all city ordinances into one document, three bids had been obtained from American Legal Publishing, Municipal Code Corporation, and General Code and that Council had been given copies of all three bids detailing additional charges and a number of copies included in the overall price from each company. After review of all three quotes, Manager McDonnell and Assistant Manager Crouch recommended that American Legal Publishing be selected to conduct the Codification Project of the City's Ordinances and that the City Manager be permitted to sign the contract. In response to President Olinde's inquiries regarding the company's length of time in business, ability to complete the project, and logistics of providing the information, Mgr. McDonnell stated that all had sent references and Asst. Mgr. Crouch stated that American Legal had been in business approximately 55 years. Mgr. McDonnell further stated that American Legal already had discs of the City ordinances, Charter, etc., that a part-time summer employee had scanned and compiled in specific preparation for obtaining bids for the codification project. Councilman Lokey's question regarding whether or not this was a one-time fee elicited further comment and discussion. Mgr. McDonnell confirmed that it was a one time fee. However, the city had the ability to use other American Legal's services to update the initial document produced or could opt to update the document here at City Hall or at Solicitor Mitchell's office. Asst. Mgr. Crouch likened American Legal's services and additional fees to that of Legislative Services that has in the past updated the City Charter, although they had not done so for the past few years. Asst. Mgr. Crouch underscored the importance of this project, that it had been on the back burner for some 25 years, describing the difficulty of researching a subject unless you are familiar with the ordinances on file. President Olinde then summarized the discussion thus far: Up to \$12,000 dollars had been budgeted for this project, American Legal's bid was \$7,315, and they are the only company which will reduce the charge per if less than the number they estimated. In response to President Olinde's question as to time frame of completion of the contract, Asst. Mgr. Crouch stated that American Legal could carry the contract over two fiscal years, but thought they had also indicated actual completion of

the project within six to nine months. Councilman Tull asked if the City was getting just one big book, which Solicitor Mitchell also questioned. Mgr. McDonnell and Asst. Mgr. Crouch stated that the contract price included 25 copies of the completed code book along with a disc. Asst. Mgr. Crouch explained further that American Legal also offered services where they place the City Code online and update it for additional fees. They also offer folio view files where typing a keyword to search a topic yields all sections of the code that pertain to that subject. They also offer subscription services where the public could make purchases of the code directly from them. President Olinde indicated that it was certainly worth gathering information on all the additional services offered, to be reviewed after the initial project was completed and in place. Mgr. McDonnell offered to obtain the additional services information for the file. Mr. Paul Bradshaw inquired if the discs could be copied. Mgr. McDonnell offered to research and get back with Mr. Bradshaw. With no further discussion, President Olinde called for a motion to approve the recommendation of American Legal Services to codify the city ordinances and to give Mgr. McDonnell the authority to sign the contract. Councilman Tull so moved, Councilwoman Ortiz seconded and the motion was unanimously approved.

City Solicitor Mitchell stated that having just sworn in a new City Clerk, he and Asst. Mgr. Crouch were recommending that a new book be initiated chronicling oaths of office given. There are a number of oaths given as people take certain jobs; there are a number of these records that are easy to find and affirm, and some that are not. Solicitor Mitchell then cited several examples of each. In order to reaffirm, ratify, and document a specific swearing in date for those records not easily obtainable, the following positions will be sworn in en masse this evening: City Manager, City Solicitor, Deputy Treasurer, Utilities Director, Director of Public Works, and Code Enforcement Officer/Building Inspector. Any members of other Boards or Commissions that need to be sworn in will be done the next time they meet. Shortly thereafter, Clerk Nelson swore in the staff members retaining the aforementioned positions.

President Olinde then acknowledged the Fruitland Falcons Football Team, sponsored by the Recreation Commission and specifically praising Kerry Nelson, Ed Irven, and Bob Janeski for their efforts. Game times for specific age groups were mentioned for the initial games scheduled for Saturday, September 13, 2008. President Olinde further stated that the blue and gold Falcons would not be traveling this year, playing all their games at home in Fruitland.

Solicitor Mitchell brought up establishing the committee that City Auditor Jack Layton recommended in March of this year be established to review revenue sources and to set up a legally acceptable language hierarchy to determine where revenues are coming from that fund certain projects. This committee, comprised of the Deputy Treasurer, City Manager, City Solicitor and City Auditor, would look at impact fees, accounting procedures, and how to assist in preparation of the management discussion letter. The committee would initially report findings to the Treasurer and the President, incorporating these two council members' recommendations prior to a complete presentation to the full council. Solicitor Mitchell recommended action now in establishing the committee since the management discussion analysis letter must go out with the audit; the audit deadline is around the first of the year. A motion was made by Councilman Lokey to establish the committee, comprised of the Deputy Treasurer, City Manager, City Solicitor and City Auditor, to review revenue sources and to set up a legally acceptable language hierarchy to determine revenue funding from certain projects. Councilman Carey seconded and the motion passed unanimously.

Public Comment/General Discussion was invited prior to the public hearing scheduled at 8:30 p.m. Mr. Paul Bradshaw addressed a question to Solicitor Mitchell regarding Ordinance 208 and the practicality in general terms of enforcing the "no more than three unrelated individuals" as a family under one roof. Solicitor Mitchell acknowledged that the City certainly felt it enforceable since that is what had been passed.

Mr. Bob Marvel thanked the City for its efforts with mosquito control, citing Code Enforcement Officer Scholl's diligence in having the field cut near Mr. Marvel's home and Public Works Director Townsend's efforts to eliminate mosquito larvae by stocking stagnant ponds with fish. Mr. Marvel further complemented Public Works and their steady efforts to eliminate weeds that could potentially ruin sidewalks and the Police

Department and their continued efforts at speed control on West Main Street. Mr. Marvel commended the Water/Sewer Department for their due diligence in repairing a leak in front of his house; and then Public Works Director Townsend's follow-up over the weekend after a rainstorm threatened to ruin street repair work. In conclusion, Mr. Marvel expressed his and his wife's appreciation for the hard working dedication of Fruitland City employees. President Olinde concurred.

Council Candidate Algy F. Giles, Jr. requested council permission to present Chief Phillips with a Job Well Done plaque in appreciation of the Chief's efforts in resolving an unpleasant situation on Ridgefield Lane.

At 8:30 p.m., a Public Hearing for the second reading of Ordinance No. 237, which authorizes the City to issue and sell general obligation bonds in regards to the new City Hall project, began by Solicitor Mitchell reading the newspaper ad detailing the First Reading of the Ordinance on August 12, 2008, followed by the reading of Ordinance No. 237. With no comments, Councilwoman Ortiz moved to approve Ordinance No. 237, Councilman Carey seconded and the motion was unanimously approved.

Having no further comments or business to discuss, President Olinde called for a short recess at 8:33 p.m. before going into closed session to discuss a personnel matter and litigation matter with legal counsel.

After a short recess, Councilwoman Ortiz moved to suspend the open meeting and convene in closed session. Councilman Lokey seconded, the motion passed unanimously and the Council went into closed session at 8:50 p.m.

At 9:59 p.m. Councilman Lokey moved to reconvene in open session. Councilwoman Ortiz seconded and President Olinde recapped that Council had met in closed session to discuss a personnel matter and seek legal advice.

With no further business to discuss, Councilwoman Ortiz moved to adjourn. Councilman Lokey seconded, the motion passed unanimously, and the meeting adjourned at 9:59 p.m.

Respectfully submitted,

Diane C. Nelson
City Clerk