

**FRUITLAND CITY COUNCIL
TUESDAY, NOVEMBER 11, 2008
MINUTES**

The Fruitland City Council met in regular session at City Hall on Tuesday evening, November 11, 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, City Solicitor Andrew C. Mitchell Jr., Chief of Police Michael J. Phillips, Director of Public Utilities Joseph P. Derbyshire, Public Works Director Cooper Townsend, Code Enforcement Officer Danny Scholl, and City Clerk Diane Nelson.

Our guests included:

Morgan Helfrich, Michael McArthur, and Amanda Pollack of George, Miles and Buhr, Charles Shores, Joe Jimmerson, Algy "Fred" Giles, Don Willey, Bob Janeski, Paul Bradshaw, Annette Noble, Bob Marvel, and Frances Mezick.

President Olinde called the meeting to order at 7:35 p.m., welcomed all in attendance, and requested a moment of silence be observed in honor of Veterans Day; Treasurer Ortiz then delivered the opening prayer and all recited the Pledge of Allegiance. Mr. Olinde then acknowledged receipt of the minutes of the regular meeting of October 14, 2008 and called for additions or corrections. Clerk Nelson highlighted the several minor changes and then Councilman Lokey moved to adopt the minutes as amended and presented. Councilman Carey seconded and the motion passed unanimously.

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

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|-----------------------|---------------------|
| Cash on Hand 10/1/08 | \$ 85,551.52 |
| Deposits | 300,507.63 |
| Transfer from Savings | <u>200,000.00</u> |
| SUBTOTAL | \$ 586,059.15 |
| Disbursements | <u>(521,096.62)</u> |
| TOTAL ENDING 10/31/08 | \$ 64,962.53 |

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 that the Fruitland Chamber of Commerce will hold its annual awards banquet on Wednesday, November 19, 2008 at the Fruitland Hampton Inn where Citizen (Joyce Crouch), Police Officer (to be announced by Chief Phillips), and Business of the Year (Mann & Associates) awards will all be presented; the Chamber will also host the Annual Holiday Lighting Ceremony in front of City Hall on Thursday, December 4, 2008, beginning at 6:30 p.m. The Recreation Commission will sell hot dogs, chips and soda, and Adam's Ribs will provide free hot chocolate and cookies for everyone. He further reported that the Lower Eastern Shore Mayors Association meeting will be hosted by the Town of Pocomoke on Thursday, November 20, 2008, and the Recreation Commission will meet at City Hall on Tuesday, November 18, 2008 at 7:00 p.m. The Fruitland Board of Zoning Appeals is scheduled to meet in session at City Hall on Tuesday, November 18, 2008 at 6:30 p.m. to hear a variance request from the West Cedar Lane Commercial Shops. Mr. McDonnell concluded his report by announcing that City offices will be

closed on Thursday and Friday, November 27-28, 2008 in observance of the Thanksgiving holiday; two trash trucks will be picking up trash on November 26, 2008 and bulk pick up is cancelled for that week.

Police Chief Phillips announced that Corporal Christopher Shockley had been named Police Officer of the Year by the Fruitland Chamber of Commerce. Chief Phillips also reported that he would be the keynote speaker at the graduation exercises scheduled for Thursday, December 18, 2008 for the two officer candidates presently enrolled in the Police Academy. Chief Phillips also acknowledged the passing of Officer Herbert's grandfather, noting arrangements had been made for Saturday, November 15, 2008 in Bivalve, Maryland. Chief Phillips concluded his report by advising the council that the two officers presently on light duty would be reassessed by their respective doctors in the next couple of weeks, at which time the scheduling needs of the department would be determined.

With President Olinde's permission to incorporate the surplus property (Nextel Phones) agenda item into the Police Departmental Report, Chief Phillips announced that recently all of the Nextel mobile telephones had been switched over to Verizon mobile telephones generating surplus phone equipment to include forty telephones, two air cards, and two car chargers; a detailed list with equipment serial numbers had been furnished to City Manager McDonnell. Chief Phillips recommended that the surplus equipment be donated to a worthy cause or charitable organization. Councilman Lokey moved that all the Nextel telephone equipment be declared surplus property and that the Chief be authorized to donate the equipment to a worthy cause or charitable organization. Councilwoman Ortiz seconded and the motion passed unanimously.

Director of Utilities Derbyshire reported that the City of Salisbury had issued Addendum No.2 which changes the bid opening for the Salisbury/Fruitland Emergency Water Line Connection from Wednesday, November 12, 2008 at 2:30 p.m. to Wednesday, November 26, 2008 at 2:30 p.m.; this was done to allow contractors additional time to price the proposed work.

Code Enforcement Officer Scholl presented his building permit report for October 2008, stating 13 permits were issued for a total value of \$986,298.00 and \$5,685.00 collected in fees. He clarified for President Olinde that the 13 permits issued included a six townhouse unit in Cedar Commons and a couple of renewal permits on Nina Lane. Mr. Scholl also stated that Fire Chief Robin Townsend had forwarded information received by the Fire Department from the International Code Council regarding a mandate scheduled to be implemented in 2011 that would require all new construction be equipped with sprinkler systems; Mr. Scholl advised the council that the ICC is the same body that governs Fruitland's building code, therefore this mandate may affect the city as well. Solicitor Mitchell clarified that the City would have to look at the City code to determine if the City would be bound by the new ICC mandate.

In conclusion of the Department Heads' Reports, President Olinde thanked Public Works Director Cooper Townsend and his staff for putting up the new fall banners purchased by the Fruitland Chamber of Commerce. Mr. Olinde had received several positive comments about the banners and wanted to extend the Chamber's thanks to Mr. Townsend and his staff.

PRESENTATIONS

On behalf of the Council and Staff, President Olinde spread upon the minutes **Resolution 10-08** honoring Charles Shores for his thirteen years service on the Planning Commission, sitting as chair since 2002. Mr. Shores was thanked for his caring and faithful service during a time of unprecedented growth in the City of Fruitland that included thirteen subdivisions, and the Wal-Mart and Food Lion Plaza Shopping Centers.

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.

President Olinde then proceeded to the second item under unfinished business, **review of the most current City Hall Floor Plan** as submitted by George, Miles, and Buhr. Amanda Pollack summarized on behalf of her colleagues, Morgan Helfrich and Michael McArthur, the revised City Hall floor plans that were the direct result of meetings held in October 2008 between GMB and City staff. Ms. Helfrich proceeded to highlight the most recent revisions that included incorporating a circular table formation for council seating, enlarging the Planning Commission table for plat review and presentation, and reducing the Finance waiting area to a more realistic size; also highlighted was a portion of the right rear section of the audience seating that could be used for a wheel up wheelchair access. After some discussion Ms. Pollack advised that the schematic phase of the project was completed and that GMB would now seek Council approval to move to the full design phase which would mean ordering a topographic survey in addition to the boundary survey that had already been done. GMB would also get soil borings to check the bearing capacity of the soil, as well as infiltration rates for storm water. Ms. Pollack indicated that as GMB began putting together full designs and specifications, Council could typically anticipate progress meetings at 30%, 60%, and 90% levels of design. President Olinde asked GMB to estimate a timeline for the design phase. Ms. Pollack indicated with November Council approval, mid January 2009 was realistic for a 30% level of completion to include incorporating the structural, mechanical, electrical, and plumbing engineers into the project; incorporating the additional disciplines with the civil, site schematics, and architectural floor plans meets United States Department of Agriculture (USDA) requirements for a full set of designs. Ms. Pollack continued that 60% and 95% levels of completion were projected mid March and mid May 2009 respectively, realizing 100% design completion in June 2009; GMB would also be including USDA in these progress meetings to ensure continued compliance with USDA guidelines. By summer of 2009, Ms. Pollack hoped to be advertising for bids on the project, with contract negotiations and legalizations completed by August 2009. Construction would begin in the fall of 2009 and continue through 2010, with a projected move in date of January 2011. Paul Bradshaw, a guest at the meeting, inquired about state grant funding available for buildings going green (meaning more environmentally friendly.) Ms. Pollack indicated that USDA did not require Leadership in Engineering and Environmental Design (LEED) certification (meaning proof of going green) and at present, the State of Maryland was only requiring LEED certification for new schools. Ms. Pollack indicated that the mechanical and electrical engineers GMB proposed to use, Allen & Sharif, were LEED certified; these engineers would be able to evaluate the cost effectiveness of green measures proposed (like the geo thermal system), as well as green measures considered (like solar panels.) President Olinde acknowledged on behalf of all City Staff and Council the hope that the new City Hall would be as efficient and environmentally friendly as possible while still adhering to the project budget; he further acknowledged the wisdom of pursuing grant money to fund the additional costs LEED certification typically generates. Ms. Pollack's suggestion of inviting a LEED certification consultant to meet with GMB and City Council in a work session elicited positive council reaction. GMB was then authorized to order a topographic survey and begin the full design phase of the new City Hall on a motion by Councilman Tull that was seconded by Councilwoman Ortiz and passed by a unanimous vote.

President Olinde stated that staff had determined additional discussion and review was still needed prior to making a recommendation to the council regarding **outsourcing payroll**; City Manager McDonnell then advised that he and Deputy Treasurer Caton hoped to make a recommendation to the Council at the December meeting. Mr. Olinde advised tabling the issue until the December meeting and Councilman Tull so moved; Councilman Carey seconded and the motion unanimously passed.

New Business

President Olinde announced that Charlene Hannah and Joseph Jimmerson had been recommended for appointment to the Board of Noise Control. Councilman Lokey moved to table this appointment until further information could be gathered and additional discussion could take place regarding each of these candidates for appointment. Councilman Carey seconded and the motion passed without dissent.

President Olinde then announced Leland Bonneville, former councilman and current member (former chair)

of the Planning Commission, as his recommendation to succeed Charles Shores as Chair of the Planning Commission. Mr. Bonneville was then appointed as Chair of the Planning Commission on a motion by Councilman Tull that was seconded by Councilman Lokey and passed by a unanimous vote.

President Olinde continued by announcing that Annette Noble and Robin Townsend, both current members of the Planning Commission, had been recommended for reappointment to 5-year terms to the Planning Commission. Councilman Tull moved to reappoint both candidates with the stipulation that each would submit a letter explaining why they wanted to serve on the Planning Commission; Councilman Lokey seconded and the motion passed unanimously.

President Olinde stated that the Recreation Commission had recommended Gracie L. Dennis and Micki Ponton to serve on the Recreation Commission. Councilman Tull moved to appoint both candidates with the stipulation that each would submit a letter explaining why they wanted to serve on the Recreation Commission, acknowledging that he had been on the Recreation Commission and had met them when each had expressed their desire to serve on the Commission. The motion was not seconded, therefore died. Councilwoman Ortiz then moved to table the appointments of both Gracie L. Dennis and Micki Ponton until they could each submit a letter explaining why they wished to serve on the Recreation Commission. Council Lokey seconded and the motion passed by a 4-1 vote with Councilman Tull as the only dissenting vote. [see below for further action on appointments]

Surplus Property-Fruitland Police Department-Nextel Phones

Action was taken on this agenda item during Chief Phillips' departmental report.

OTHER

Chief Phillips requested the Council consider enhancing the police retirement, reducing the number of service years from thirty to twenty-five, as a way of retaining certified police officers. The Chief outlined his proposal to have a cost analysis done, funded by seized drug money that he would request in writing from the task force, to determine the City's overall cost if the police retirement was enhanced to L.E.O.P.S. (Law Enforcement Officers' Pension System); he clarified for Mr. Olinde that this retirement is basically available to all emergency service personnel and further stated that the current trend in local law enforcement is to offer this type of retirement. After some discussion, Councilman Tull moved to authorize Chief Phillips to obtain the retirement study, contingent upon the cost of the study being funded by seized money requested from the Narcotics Task Force; Councilwoman Ortiz seconded and the motion passed without dissent.

Chief Phillips also requested the Council consider implementing a Reserve Police Officer Program that would eliminate manpower shortages that are created by extended light duty/officer illness and extended military leave, as well as natural disaster and/or terrorist incident. Presently the department is operating with minimum manpower per shift due to extended light duty, illness, military leave, and family matters. Chief Phillips proposed hiring four contractual reserve officers, exclusive to Fruitland, that would be used to supplement police staff when manpower is short. He estimated the start up cost for each reserve officer to be between \$1,300.00 and \$1,500.00, proposed an hourly wage rate of \$20.00/hour (less than the average \$28.84/hour full time officer overtime rate), and detailed both the City's and Officers' financial investment in the program. Chief Phillips also stated that he had a specific recruitment in mind, retired officers that wished to maintain their police commissions and would so under Fruitland's auspices. Chief Phillips indicated that money presently allocated in the budget for training and overtime would fund the Reserve Officer Program that is geared to reducing both training and salary costs while still supplementing shift coverage when needed. After much discussion and several audience comments, the Chief's recommended Reserve Police Officer Program was approved on a motion by Councilwoman Ortiz that was seconded by Councilman Carey and passed by a unanimous vote.

PUBLIC COMMENT

Recreation Commission Chairman Bob Janeski opened public comment by revisiting agenda item number four under new business, appointments to the Recreation Commission. He explained how potential members currently come before the commission to volunteer to serve, how the commission reviews these potential members with either the City Manager or the sitting Councilmember present as part of the commission, and how the resulting commission recommendations are presented to the council for appointment. Mr. Janeski expressed concern that the two candidates had already been before the Recreation Commission, approved, and recommended for appointment to the council. He further noted that there was no point in the Recreation Commission voting on candidates, if letters were now going to be required before appointment.

Planning Commission Member Annette Noble agreed with Mr. Janeski, adding that she understood that commission membership was by appointment to serve but now it seemed a person had to apply to do a service for the City of Fruitland. Ms. Noble asked the council to explain the current criteria for appointment to the various city commissions, that if you had to apply perhaps it would be necessary to advertise this information so that any and all that would want to apply could do so.

Solicitor Mitchell cautioned that applications versus appointments could create problems, if the council wished to appoint a non-applicant to a commission in lieu of one of the applicants.

Ms. Noble also questioned why the appointment to fill the Planning Commission vacancy created by Charles Shores resigning was omitted from the agenda when she had understood at the Planning Commission Meeting on Tuesday, November 4, 2008 that the appointment would be an agenda item.

Councilman Lokey explained that the council's decision to require an application letter from prospective appointees to commissions was made in response to a particular vacancy and the multiple prospective appointees for that vacancy. Mr. Lokey further explained the importance of appointing the candidate best equipped to perform the duties and responsibilities on that commission, taking into consideration the expertise of that candidate and the needs of the commission; because there were multiple prospective appointees for the Planning Commission vacancy that were to be requested to submit a letter for council review prior to appointment, the appointment to that commission could not be part of tonight's agenda. Discussion continued regarding the letter, whether it was required for prospective appointees only or if it was also required for re-appointees, whether or not the re-appointments involved additional responsibilities such as chairing the commission.

Councilman Tull commented that the Recreation Commission was not as limited in membership as either the Planning Commission or Board of Zoning Appeals.

Board of Zoning Appeals member Bob Marvel commented about making sure that the agenda items as printed in the newspaper story were accurate and further expressed his opinion that some of tonight's discussion items were petty.

Councilman Lokey distributed to council members copies of a resume requested by the City Manager in response to multiple candidates' interest in serving on a particular board and the controversy surrounding that potential appointment. Mr. Lokey also clarified that he thought the requirements should be the same for all, thereby showing no prejudice or partiality.

Board of Zoning Appeals alternate Paul Bradshaw inquired if every member on every board would now have to submit a cover letter and resume.

Solicitor Mitchell commented that the charter called for a recommendation from the council President to the council for appointment to the Planning Commission.

President Olinde then explained that he had made a recommendation to the council for appointment to the Planning Commission but there was not consensus for the appointment; he subsequently learned that there were three candidates interested in serving. Mr. Olinde said he had requested a letter and/or resume from the prospective candidates because he did not know all the interested parties; he felt he needed this information to fulfill his responsibility of making a bona fide recommendation to the council for appointment to the Planning Commission. Mr. Olinde indicated that the next time an appointment was to be made and he was familiar with the candidate (maybe there would only be one candidate) it may not be necessary to request the letter or resume. Solicitor Mitchell agreed with Mr. Olinde that the documentation may only be necessary if the council had no working knowledge of the candidate interested in appointment and that it may be totally unnecessary when the council knew the candidate well.

Discussion continued with Councilwoman Ortiz indicating that she agreed with requesting information from new appointee candidates but that she did not understand why the same request was being made from re-appointees. Councilman Carey agreed with Ms. Ortiz for new appointees, but thought that proven re-appointees be exempt from this requirement. Mr. Lokey then said he agreed with exempting re-appointees.

Solicitor Mitchell then cited his own personal experience serving on the Parking Commission for the City of Salisbury and how he was requested to submit a cover letter and resume upon being advised that the Mayor sought his appointment. Later, as a re-appointee, he received a phone call asking if any information in his resume needed to be updated.

After additional discussion, Councilman Tull moved to reconsider agenda item three under new business, the reappointment of Annette Noble and Robin Townsend to new 5-year terms on the Planning Commission; Councilman Lokey supplemented Mr. Tull's reconsideration motion and further moved to re-appoint Ms. Noble and Mr. Townsend with no stipulations of any letter or resume submissions by either candidate. Councilwoman Ortiz seconded and both candidates were unanimously approved by council for reappointment.

After more discussion, Councilman Tull moved to reconsider agenda item four under new business, the appointment of Gracie L. Dennis and Micki Ponton to the Recreation Commission; Mr. Tull restated his prior motion to appoint both candidates to the commission with no stipulations of any letter or resume submissions by either candidate. President Olinde seconded and the motion passed without dissent. Councilman Lokey then moved to give the Recreation Commission chair the authority to make commission appointments without coming before the Council and President Olinde seconded. During discussion, Solicitor Mitchell cautioned the council regarding giving away this power of review of commission appointments. Mr. Lokey then rescinded his motion and President Olinde confirmed that no action was taken; President Olinde then ordered the comment "no power has been given away" to be entered on the minutes.

President Olinde again offered the meeting open to public comment. Bob Marvel stated that he thought it was important to really know the candidates when it came to appointments to either the Planning Commission or the Board of Zoning Appeals because of the importance of those two functions to the City. Paul Bradshaw suggested the Board of Supervisors of Elections also be included with the Planning Commission and the Board of Zoning Appeals because of the importance of the election function to the City.

Bob Janeski provided the following information regarding the Recreation Commission:

- The new playground had been completed and was in use.
- Sod and a sprinkler system had been installed in the new football field that also was in use.
- The well had been installed for the softball fields; the irrigation system was pending grant funding.

- Installation of fencing and lighting were both contingent upon grant funding.
- Fruitland is presently the number one overflow park for County scheduled tournaments and remaining the number one choice is contingent upon the installation of the irrigation systems, lights, and fencing.
- A very active summer is anticipated for the Fruitland Recreational Park.

A short recess was declared at 8:55 p.m., at which time City Council President Olinde asked that all in attendance except the City Manager and City Solicitor withdraw so that the Council could go into a closed meeting. At 9:03 p.m. the City Council reconvened in open session. Councilman Lokey made a motion to go into closed session to discuss a personnel matter and possibly seek legal advice, and the same was seconded by Councilman Tull, and adopted on a 5–0 favorable vote.

The Council then reconvened in open session at 9:35 p.m. on a motion by Councilwoman Ortiz that was seconded by Councilman Lokey and passed by unanimous vote; President Olinde advised that the Council had discussed a personnel matter and received legal advice during closed session.

With no further business to discuss, Councilman Carey moved to adjourn. President Olinde seconded, the motion passed unanimously, and the meeting adjourned at 9:40 p.m.

Respectfully submitted,

Diane C. Nelson
City Clerk