

**FRUITLAND CITY COUNCIL
TUESDAY, MAY 11, 2010
MINUTES**

The Fruitland City Council met in regular session at City Hall on Tuesday evening, May 11, 2010 at 7:30 p.m. with the following members present:

*President Gregory J. Olinde, Councilor Raymond D. Carey, Councilor Theodore O. Lokey
and Councilor Richard F. Tull.*

Also present were:

*City Solicitor Andrew C. Mitchell Jr., Chief of Police Michael J. Phillips, Deputy Treasurer Amy B. Caton,
Public Works Director P. Cooper Townsend, Wastewater Superintendent George Calloway, Code
Enforcement Officer Joe Vogel, Administrative Assistant Linda J. Powell, and City Clerk Diane C. Nelson.*

Our guests included:

*Joyce Crouch, Bob Marvel, Margaret Foxwell, Jeff Dale, Mark Miciotto, Lorece Bounds, Sam Ennis, Richard L.
Outen, Amy Bechard of AWB Engineers, Patti Gagnon, Cornella Harmon, Annette Noble, John Bonas, Leland
Bonneville, Janice Primm, Amanda Pollack of George, Miles, and Buhr (GMB), Kerry Nelson, Chuck Nichols,
and John Bonas.*

President Olinde called the meeting to order at 7:31 p.m. and welcomed all in attendance. All recited The Lord's Prayer and The Pledge of Allegiance.

President Olinde acknowledged receipt of the minutes of the Regular Meeting of April 13, 2010, the Special Meeting Work Sessions of May 3, 2010 and June 8, 2009, and the Closed Sessions of January 25, 2010, January 18, 2010, January 12, 2010, December 14, 2009, November 11, 2008, and September 9, 2008, calling for additions or corrections. As there were none, **Councilor Tull moved to adopt all the minutes as presented; Councilor Carey seconded and the motion passed on a four to zero vote in favor.**

Deputy Treasurer Caton delivered the Treasurer's Report.

Cash on Hand 4/01/10	\$ 137,188.01
Deposits	281,691.94
Transfer from Savings	<u>200,000.00</u>
Subtotal	\$ 618,879.95
Disbursements	<u>(468,923.38)</u>
Total Ending 4/30/10	\$ 149,956.57

Councilor Carey moved to accept the Treasurer's Report as presented. Councilor Lokey seconded and the motion passed on a four to zero vote in favor.

City Clerk Nelson delivered the City Manager's Report which included upcoming meetings and events scheduled during the month of May 2010.

Chief Phillips delivered his report for the month of April 2010, noting fluctuations in crime statistics and service calls from prior periods.

Wastewater Superintendent George Calloway reported on the status of the slip-lining project currently under way, and on the cleaning of Well #1, which has been completed and has restored capacity at the well.

Code Enforcement Officer Vogel delivered his report for the month of April 2010 which included statistics for all types of correspondence, meetings, housing inspections, building permits, certificates of occupancy, code violations, and violation notifications.

Public Hearing Ordinance No. 246-Reinstatement of Adult Oriented Businesses Moratorium-7:40 P.M.

At 7:40 p.m. President Olinde convened a Public Hearing to discuss Ordinance No. 246, which was given First Reading at the April 13, 2010 Council Meeting on recommendation by the Planning Commission at its April 6, 2010 Meeting that the City Council reinstate the previously expired moratorium with Ordinance No. 246, which reinstates the moratorium on adult oriented businesses established by Ordinance No. 229, as amended by Ordinance No. 233, and previously extended by Resolutions 3-07, 4-07, and 4-08.

After City Solicitor Mitchell presented the ordinance, President Olinde opened the floor for public comment regarding the Adult Oriented Businesses Moratorium.

With no public comment, President Olinde closed the public hearing and called for the motion.

On a motion by Councilor Lokey that was seconded by Councilor Tull and approved by a four to zero vote in favor becoming effective May 21, 2010, Ordinance No. 246 was adopted extending the moratorium for Six (6) Months to allow time for the final zoning ordinance to be adopted prior to the expiration of the moratorium.

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 Carey that was seconded by Councilor Tull, the paid bills were approved as listed by a four to zero vote in favor.**

2. Drug Policy

City Solicitor Mitchell summarized efforts to date by City Council, Staff, and Counsel to implement the Drug Policy addendum to the Employee Handbook which the Council adopted at its March 9, 2010 Meeting, acknowledging that efforts had temporarily slowed with the recent resignation of the City Manager; Mr. Mitchell hoped to reconvene the group and provide Council an update at the June 2010 Meeting.

3. New Police Building-Final Plat Approval (AWB Engineers)

Amy Bechard of AWB Engineering submitted a Final Plat for approval for the New Police Building which was granted a Special Exception to be constructed on City owned property at 208 South Division Street in an M-1 Light Industrial District by the Board of Zoning Appeals (BZA) at a Public Hearing held Tuesday, May 4, 2010 at 6:00 p.m.; the same plans were recommended to the City Council for approval by the Planning Commission at its May 4, 2010 Meeting.

Ms. Bechard acknowledged that the Final Plat presented now included designated landscape areas which had been previously discussed but never designated on the preliminary site plan and that the water meter to be installed was changed to a type specific to the City of Fruitland instead of a type specific to the City of Salisbury as originally presented.

On a motion by Councilor Tull that was seconded by Councilor Carey approved by a four to zero vote in favor, Council approved the Final Plat for the New Police Building as presented.

4. Tax Differential

President Olinde summarized the combined efforts of the Town of Delmar, City of Salisbury, and City of Fruitland in pursuing a tax differential for taxes paid to the Municipalities as well as the County for duplicate services which led to a study that justified differentials for each Municipality. At its April 13, 2010 Meeting, Council authorized a letter to be sent to Wicomico County Executive Pollitt, copied to the

Wicomico County Council, stating the City of Fruitland's case for the \$0.051 tax differential; as yet, there has been no response to this letter from either The County Executive or County Council.

NEW BUSINESS

1. Resolution No. 1-10-Law Enforcement Officers Pension System (LEOPS)

City Solicitor Mitchell summarized that Chief Phillips had made a presentation to Council at its May 3, 2010 Work Session for LEOPS, an enhanced retirement for sworn police officers, noting that Council had agreed to consider the proposal in conjunction with the Proposed Fiscal Year 2010-2011 Budget and in consideration of the May 2010 deadline imposed for the requisite adoption of a resolution to activate the program according to the current actuarial study; Solicitor Mitchell then read Resolution No. 1-10, a resolution adopting a LEOPS Plan for eligible officers in the Police Department.

There being no discussion after Chief Phillips and President Olinde each shared highlights from the May 3rd presentation made to Council, **on a motion made by Councilor Tull that was seconded by Councilor Carey and approved by a four to zero vote in favor becoming effective today, May 11, 2010, Resolution No. 1-10 was adopted as presented with participation in the LEOPS plan effective July 1, 2010.**

2. Affiliated Power Purchasers International (APPI) Energy Contract Extension

President Olinde summarized correspondence received from APPI which detailed a "blend and extend" offer from electric supplier Washington Gas Energy Services (WGES), whereby the City would agree to extend its present contract for a specified period of time in exchange for an immediate reduction in its currently contracted per kilowatt hour (KWh), electricity supply rate; adjusting the City's existing per KWh rate downward by \$0.00827 in exchange for an additional 12-month commitment beyond the original June 2012 contract expiration date projects City savings of Thirty Thousand Six Hundred Ninety-one Dollars (\$30,691.00) versus the expense associated with maintaining the terms of the existing agreement through June 2012.

Councilor Tull moved to accept the Energy Contract Extension as presented; Councilor Lokey seconded and discussion followed prior to the vote.

During discussion, Sam Ennis of Total Energy Consultants, LLC reported that he had recently negotiated a \$0.07 per KWh price contract for a client and suggested that the Council consider obtaining other pricing options prior to exercising the option to extend the contract.

After discussion, President Olinde called for the vote. **The vote was zero in favor and four against extending the energy contract; the motion did not pass.**

3. Other-2010-2011 Asphalt and Concrete Contracts

City Solicitor Mitchell summarized the bid process in place that secures the basic needs contracts for the City for street and concrete repairs, noting that major projects still need to go through the bidding process; the bid opening took place earlier today at City Hall and the usual two bidders submitted quotes, N. R. Harrison and Worth Construction. City Solicitor Mitchell and Public Works Director Townsend will review the contracts and report back to Council at the June 2010 Council Meeting with a recommendation to the Council for awarding of the contracts.

Public Hearing Proposed Fiscal Year 2010-2011 Budget-7:50 P.M.

At 8:02 p.m. President Olinde convened a Public Hearing to discuss the Proposed Fiscal Year 2010-2011 Budget, thanking the public for attending in light of the fact that the County Budget Hearing was also being held tonight; he noted that Fruitland is bound by its Charter to hold the budget public hearing on the second Tuesday in May.

He referenced the Press Release issued by the City on Friday, May 7, 2010 as he proceeded to explain that two separate budgets, the General Operating Fund Budget and the Water/Sewer Fund Budget, comprise the proposed budget. The Water /Sewer Fund Budget is designated as an Enterprise Fund under the City Charter, with revenues equal to expenses; water/sewer services should pay for themselves.

President Olinde reported that the preliminary budget for the Water/Sewer Fund includes an increase of Ten Dollars (\$10.00) per quarter for water service charges and an increase of Twenty Dollars (\$20.00) per quarter for sewer service charges, *both effective with the October 2010 quarter*; all other fees and charges in the Water/ Sewer Fund Budget are proposed to remain the same as the current year. The cost of complying with Maryland Department of the Environment (MDE) regulations and funding reserve balances for replacements costs, as well as the continuing rise in operating costs for the Water and Wastewater Treatment Plants, were cited as key elements in determining the rate increases.

President Olinde continued that the preliminary budget for the General Operating Fund indicates that Ten-cent (\$0.10) increases in both *Real Property* and *Personal Property* Tax Rates are necessary to offset significant lost revenue from decreased state highway aid, decreased state police aid, and lower property assessment values. Even with a proposed real property tax increase, the City projects many residents will actually have lower property tax bills than last year as a result of the lower assessment values.

President Olinde indicated that while most capital projects have been stricken from the budget, the City is moving forward with its plans to construct a much needed new municipal building to house its Police Department at an estimated overall project cost of Two Million Six Hundred Dollars (\$2,600,000.00), but with no significant impact to the 2010-2011 Budget. The City is holding employee expenses level again this year with no salary increases for employees, and the City will continue to pursue Fruitland's \$0.051 tax differential from the County.

In conclusion, President Olinde acknowledged that City Council and Staff are deeply concerned with the proposed rate increases and their effect on residents during these difficult economic times; the Council and Staff will continue to investigate all possible avenues to reduce the proposed increases prior to the June 2010 adoption of the budget.

President Olinde then opened the floor to public comment, inviting the public to come forward and address the Council with their thoughts and concerns regarding the proposed budget.

- **Richard Outen** shared his thoughts which included instituting commercial water/sewer rates in addition to residential rates, and increasing the overage charge for consumption beyond the minimum usage.
- **Paula Bruce** shared her concerns with the increases she has experienced in Twenty-three (23) years as a Fruitland resident as well as the increase in rental properties that now surround her residence.
- **Cornella Harmon** shared her concerns with being able to afford to continue to live in Fruitland, in light of the reduction in pay she has experienced; she asked the Council to consider the elderly and their ability to pay their bills on fixed incomes.
- **Sam Ennis** shared his thoughts about a tiered rate structure for overage charges for consumption beyond the minimum usage as well as the possibility of reducing the number of gallons supplied for the base water/sewer service charges.
- **Chuck Nichols** questioned the Equivalent Dwelling Units (EDUs) assigned to Wal-Mart.
- **Jeff (no last name provided)** expressed his concerns with the front foot assessment for unimproved lots, the number of people residing at a property on his street, and the insufficient notice that he felt the public was given regarding the scheduled budget hearing.
- **Annette Noble** shared her concerns with back to back increases last year and again this year, and she spoke to increasing the overage cost for consumption beyond the minimum usage; she acknowledged that even though the increase amounted to approximately One Dollar (\$1.00) per day, she was still against the increase in rates.

- **Janice Primm** expressed her concerns as a single parent trying to provide for two (2) children, with a water bill which would soon match her rent; she also was concerned that decent people would be driven from Fruitland because of increased rates.
- **John Bonas** questioned whether Fruitland had exercised due diligence in comparing Fruitland's rates with those of other municipalities.
- **Frances Mezick** shared her concerns with the increased rates, referencing resident Jimmy Bounds, now deceased, who had appeared before the Council last year in opposition to last year's rate increase.
- **Kerry Nelson** suggested that the true onus for the rate increases lie at the state and federal levels, suggesting residents should contact their respective state and federal representatives as opposed to just expressing their displeasure with the rate increases at the local level.
- President Olinde shared resident **Roland Somers'** suggestion to use wind turbines as an alternative power source at the treatment plants; Mr. Somers was unable to attend tonight's meeting.
- President Olinde read into the minutes a letter addressed to the Council from resident **Betty Melvin** opposing the water/sewer rate increases; Ms. Melvin was unable to attend tonight's meeting.
- **Leland Bonneville** expressed his disappointment on behalf of the Fruitland Fire Company for the Council's decision not to fund a portion of the Fire Department's new ambulance service again this year, noting the number of calls logged and wages paid during this almost completed first year of service.

As there was no one else wishing to address the Council, President Olinde acknowledged that there would be continued communication between the Council and Messrs. Ennis and Outen regarding several of their suggestions, and that a Work Session would be scheduled with the Fire Department to discuss their budget needs and requests in conjunction with the City's 2010-2011 Budget; President Olinde then closed the Public Hearing at 9:35 p.m. and thanked all for their comments.

On a motion by Councilor Carey that was seconded by Councilor Lokey and approved by a four to zero vote in favor, Council approved the First Reading of the Proposed Fiscal Year 2010-2011 General Operating Budget as presented.

On a motion by Councilor Lokey that was seconded by Councilor Tull and approved by a three to one vote in favor, Council approved the First Reading of the Proposed Fiscal Year 2010-2011 Water and Sewer (Utilities) Budget as presented; Councilor Carey was the dissenting vote.

On a motion by Councilor Tull that was seconded by Councilor Carey and approved by a four to zero vote in favor, Council approved the First Reading of the Proposed Fiscal Year 2010-2011 Capital Improvements Budget as presented.

On a motion by Councilor Carey that was seconded by Councilor Lokey and approved by a four to zero vote in favor, Council approved the First Reading of the Proposed Fiscal Year 2010-2011 Five-Year Capital Improvements Plan as presented.

With no further business to discuss, **on motion made by Councilor Carey that was seconded by Councilor Lokey and approved by a four to zero vote in favor, the meeting adjourned at 10:07 p.m.**

Diane C. Nelson
Diane C. Nelson, City Clerk
Approved, June 8, 2010 dcn