

**FRUITLAND PLANNING COMMISSION
TUESDAY, OCTOBER 6, 2009
MINUTES**

The Fruitland Planning Commission met at City Hall on Tuesday, October 6, 2009 at 7:00 p.m. with the following members in attendance:

Chairperson Leland Bonneville, Derek Bland, Theodore O. Lokey, Annette Noble, and Robin Townsend.

Also present were:

City Manager John F. McDonnell, City Solicitor Andrew C. Mitchell Jr, City Clerk Diane C. Nelson, Utilities Director Joseph P. Derbyshire, Councilor Richard F. Tull, and Councilor Gloria J. Ortiz.

Our guests included:

Algy F. Giles, Jr., Don Willey, Ray Mariner, David M. Brown of Elite Soundz, Pastors Shelia and James Holbrook, Louise Jones, Denisha Barr, Laquina Armstrong, Lois Thomas, Karen Lokey, Lucille Godfry, Peter Schindelbeck, and Ed and Mary Owens.

Chairperson Bonneville called the meeting to order at 7:03 p.m. and asked for comments or changes to the minutes of September 1, 2009 other than those already circulated to Commission members. There being no additional changes, **Mr. Lokey moved to adopt the minutes as presented. Mr. Robin Townsend seconded it, and the motion was approved by a four to zero vote in favor.**

Ms. Noble arrived after the vote was taken.

OLD BUSINESS

1. Zoning Ordinance Update

City Solicitor Mitchell reported that as part of their contract with the City of Fruitland, Tim Bourcier of Davis, Bowen & Friedel (DBF) will be preparing a proposed enabling legislation that takes general concepts of the Comprehensive Plan and turns them into an ordinance. Mr. Mitchell recommended that Mr. Bourcier forward the draft legislation to Administrative Assistant Powell as well as Messrs. Mitchell, McDonnell, and Scholl for their comments on the various parts that are pertinent to them on a daily basis; those comments would be made known to Commissioners at the November Planning Commission Meeting when the proposed enabling legislation is presented for consideration.

Status Update on Pending Ordinances

a. Sign/Billboard

City Solicitor Mitchell reported that there had been little to no progress on this ordinance since the last meeting, noting that he will continue to work on the ordinance in preparation for Commissioners to review at a later time.

b. Windmills

City Solicitor Mitchell reported that several other jurisdictions had enacted windmill ordinances only to find almost immediately thereafter technical objections by those in the industry. Rather than go this route, Mr. Mitchell suggested the Planning Commission request the Council issue a brief moratorium on placement of windmills that will allow time for an ordinance to be developed with input from interested parties. The moratorium would allow time for the ordinance to be enacted and in place before the first applicant's review.

Pursuant to Solicitor Mitchell's recommendation, **on motion by Mr. Lokey that was seconded by Mr. Bland and approved on a four to zero vote in favor, the Planning Commission agreed to request Council issue a brief moratorium through December 31, 2009 for placement of windmills within the City of Fruitland until such time as an ordinance can be enacted.**

c. Subdivision

City Solicitor Mitchell reported that there had been little to no progress on this ordinance since the last meeting, he will continue to work on the ordinance in preparation for Commissioners' review, noting that the scope and content of the ordinance may dictate several reviews by Commissioners.

d. Impact Fees

City Solicitor Mitchell reported that there has not been significant forward movement on this ordinance, acknowledging that it has several issues.

A recent situation whereby a fairly heavy user in town wished to relocate within city limits with no apparent impact is just such an issue; since the old location would remain grandfathered for heavy use, the relocation could have a serious impact should another heavy user occupy the vacated location. Messrs. Derbyshire, McDonnell, and Mitchell are evaluating how best to address this issue that may eventually go before the Council for a decision.

Status Update – Bennett Middle School

City Solicitor Mitchell reported that there is still no official word on which of the two sites the Wicomico County Board of Education (WCBOE) is favoring as the site for the New Bennett Middle School, although Fruitland has a good chance of being chosen. The County, WCBOE, and City have reached an agreement concerning Equivalent Dwelling Units (EDUs), and the WCBOE and City have a Memorandum of Understanding (MOU) regarding water, sewer, and roads issues. The current property owners of the site are prepared to donate a specific lot for the placement of a lift station as well as pay a Ten Thousand Dollar (\$10,000.00) prior obligation to the City should the WCBOE choose South Division Street in Fruitland over Snow Hill Road in Salisbury as the site for the new Bennett Middle School.

City Solicitor Mitchell anticipates that a decision will be forthcoming soon from the WCBOE as to which construction site will be chosen.

NEW BUSINESS

1. **Elite Soundz "Live" 703 S. Camden Avenue**

David Brown presented his plans for creating a live music venue for amateur artists to showcase their talents and national artists to have a place to perform before an intimate audience. The venue will be alcohol free, initially targeting college age students.

Discussion included zoning and the fact that the property is surrounded on three sides by Residential areas and only one area of Light Industrial; other concerns included parking issues, increased vehicle and foot traffic, where people would go that were not allowed into the establishment, problems with similar establishments in years past with trespassing on neighboring properties, controlling the non-alcohol issue, and whether the neighborhood had been canvassed to gauge community support for such a venue.

Mr. Brown addressed several of the topics of discussion, explaining that he thought he should come before the Planning Commission prior to canvassing the neighborhood; he explained his procedures and safeguards for maintaining a non-alcohol policy that have proven successful at his Chesapeake East location. In addition to the shuttle service he envisioned as a way to alleviate parking issues, Mr. Brown indicated that Rev. Ortiz had given permission to use the church parking lot if necessary for overflow parking. Rev. Ortiz was at the meeting; she spoke up and stated that she had not given any such permission and in fact was not in favor of the establishment locating in her community. Councilor Lokey also spoke of the bad experiences with prior establishments and added his opposition.

Chairman Bonneville allowed public comment; all residents that spoke were against the venue coming to their community.

- **Ed and Mary Owens** of South Division Street
- **Karen Lokey** of South Camden Avenue
- **Lucille Godfry** of South Division Street
- **Lois Thomas** of South Camden Avenue
- **Rev. Gloria Ortiz** of South Camden Avenue

After discussion, **Mr. Lokey moved to recommend to the Board of Zoning Appeals (BZA) that the BZA disallow the venue in the community; Mr. Robin Townsend seconded and the motion carried on a four to zero vote in favor.**

City Manager McDonnell announced that the BZA Meeting will be held on Tuesday, October 27, 2009 at 6:30 p.m. at City Hall.

Ms. Noble took her seat at the table after the vote was taken, having arrived late to the meeting.

2. Rotary Foundation Annexation Request

City Solicitor Mitchell reported that the Rotary Foundation is aware that their petition for annexation must begin with the Council, but in the meantime have chosen to provide the Planning Commission with material to review. The Rotary is proposing that a new zone be established in Fruitland that will specifically mirror the County's R-20 Zone in which the Rotary Building is located; this new zone could also be used elsewhere in the City as a floating or overlay zone. Mr. Mitchell proposed postponing consideration of the petition until such time as enabling legislation can be drafted amending the Comprehensive Plan; the Rotary Foundation is aware that the enabling legislation must be in place prior to any approval of their annexation request.

3. Restoration, Signs & Wonders Ministries – 224 N. Camden Avenue

Pastor James Holbrook came before the Planning Commission to present plans that he and his wife, Pastor Shelia Holbrook, had developed for a ministry at 224 N. Camden Avenue. The property they lease is zoned Neighborhood Business but is designated to be Residential under the Comprehensive Plan; residential zoning does allow churches.

Since Commissioners were not familiar with the Holbrooks' request , as no information had been provided for review prior to this meeting, the Holbrooks were invited to return before the Planning Commission at the November 2009 Meeting. Given the transitional nature of the zoning of this parcel, Solicitor Mitchell suggested Pastors Holbrook speak with Administrative Assistant Linda J. Powell to determine whether the request will be posed as a variance given the present zoning or if it will be submitted as a special exception after the rezoning has taken place.

Pastor Holbrook acknowledged that he and his wife would be happy to return in November to present their proposal, mission statement, and neighborhood petitions.

General Discussion

With no further business to discuss, **Mr. Lokey moved to adjourn and Mr. Bland seconded. The motion was approved by a five to zero vote in favor and the meeting adjourned at 7:35 p.m.**

Diane C. Nelson

Diane C. Nelson, City Clerk

Approved, November 3, 2009 dcn