

**FRUITLAND PLANNING COMMISSION  
TUESDAY, DECEMBER 1, 2009  
MINUTES**

The Fruitland Planning Commission met at City Hall on Tuesday, December 1, 2009 at 7:00 p.m. with the following members in attendance:

*Chairman Leland Bonneville, Derek Bland, Theodore O. Lokey, and Annette Noble.*

Also present were:

*City Manager John F. McDonnell, City Solicitor Andrew C. Mitchell Jr, City Clerk Diane C. Nelson,  
Public Works Director P. Cooper Townsend, Utilities Director Joseph P. Derbyshire,  
And Administrative Assistant Linda J. Powell.*

Our guests included:

*Bob Marvel, Steve and Nancy Wallace, Paul Ellison, John J. McIntyre, Jr., John J. McIntyre, Sr., Larry Horsman  
and Warren Fields.*

Chairperson Bonneville called the meeting to order at 7:00 p.m. and requested a moment of silence in memory of Code Enforcement Officer Daniel M. Scholl who passed away on Sunday, November 8, 2009.

Chairperson Bonneville acknowledged receipt of the minutes of the November 3, 2009 Planning Commission Meeting, calling for additions or corrections. As there were none, **Ms. Noble moved to adopt the minutes as presented; Mr. Lokey seconded and the motion passed on a four to zero vote in favor.**

**OLD BUSINESS**

**1. Zoning Ordinance Update**

City Solicitor Mitchell reported minimal progress in reviewing the draft of the proposed Zoning Ordinance provided by Tim Bourcier of Davis, Bowen & Friedel (DBF); the comprehensive nature of the document contributes to the slow review process. Upon completion of his review of the ordinance, Solicitor Mitchell still anticipates meeting with Mr. Bourcier, City Manager McDonnell and Administrative Assistant Powell to review comments for incorporation into the next draft of the ordinance prior to circulating that next draft to Commissioners for review; the scope of the review process, coupled with the December Holidays, indicates that it is unlikely the next draft will be available in time to be an agenda item at the January 2010 Planning Commission Meeting.

After discussion, **on a motion by Mr. Lokey that was seconded by Mr. Bland and approved by a four to zero vote in favor, the Zoning Ordinance Update was tabled until such time as Solicitor Mitchell confirms that the next draft is available for Commissioners' review.**

**2. Status Update – Bennett Middle School**

City Solicitor Mitchell reported that TBH, Inc the successor to Houlihan Enterprises, Inc had successfully deeded Lot 8 to the City of Fruitland for the placement of a lift station, had satisfied the Ten Thousand Dollar (\$10,000.00) prior obligation to the City of Fruitland, and had been to settlement on the property sold to the Wicomico County Board of Education (WCBOE) for the location of the New Bennett Middle School. The Memorandum of Understanding (MOU) between the City and the WCBOE regarding water, sewer, and roads

issues has been signed by the WCBOE; it is the precursor to the Public Works Agreement.

### **3. Other-Windmill/Solar Panel Discussion**

Larry Horsman of *Complete Systems, Inc* and John McIntyre, Jr of *McIntyre Electric and Wireworks* presented industry information regarding standards, permitted uses, regulatory agencies, and available grants and stimulus money regarding installation of Windmill and Solar Panel energy efficient devices for Planning Commission Members to consider as they develop Fruitland's Windmill/Solar Panel Ordinance.

Discussion included traditional, non-traditional, vertical and horizontal wind turbines, underwriting guidelines as they relate to reliable and safe equipment for residential use, installation guidelines, wind source maps, ordinances from other jurisdictions, and inherent problems with drafting a comprehensive ordinance to regulate this type of technology.

## **NEW BUSINESS**

### **1. Special Exception – Steve Wallace – 703 South Camden Avenue**

Steve Wallace presented his application for a special exception to operate an auto repair and small towing business that includes storage of vehicles in the enclosed lot behind the building at 703 South Camden Avenue. The Maryland State Police (MSP) have approved the lot and he is eligible to be on the MSP Tow Rotation once he provides MSP with a letter verifying the zoning permits the use of this property for the towing business.

Discussion included the precise location of the business and enclosed lot, the size of the enclosed lot, the criteria for a towing operation as specified in City Ordinance No. 172, the criteria for being a part of the Fruitland Police Tow Rotation, and potential compliance issues with Mr. Wallace's business.

City Solicitor Mitchell noted that Mr. Wallace would need to first meet the criteria for a special exception for the auto repair portion of his business and then authority for the small towing portion of his business. Solicitor Mitchell also acknowledged that due to insufficient information presented at this time, the Planning Commission may wish to refer the matter to the Board of Zoning Appeals (BZA) without a recommendation; the onus is on Mr. Wallace to prove to the BZA that he meets the criteria for granting the special exceptions.

**On a motion by Mr. Lokey that was seconded by Mr. Bland and approved by a four to zero vote in favor, the Planning Commission referred Mr. Wallace's Special Exception Request to the Board of Zoning Appeals (BZA) with no recommendation as there was insufficient information available to make a recommendation.**

A BZA Hearing will be scheduled and advertised accordingly when Mr. Wallace advises the City that he is prepared to make his presentation to the BZA.

### **2. Re-Subdivision – Paul Ellison**

Mr. Ellison presented his re-subdivision request for 403 W. Main Street that would allow the sale of a portion of that lot to adjacent property owners Donald and Rose Eastman.

Discussion included requirements for submission of a subdivision survey plat in order to obtain approval for the re-subdivision request.

After discussion, on a motion by Mr. Bland that was seconded by Mr. Lokey and approved by a four to zero vote in favor, the Planning Commission approved Mr. Ellison's re-subdivision request contingent upon his presentation of the subdivision survey plat replete with signatures from Mr. and Mrs. Eastman and the existing property line being abandoned, clearly showing that the re-subdivision is only being approved with the new lot attaching to the their property at 407 W. Main Street.

With no further business to discuss, Mr. Lokey moved to adjourn and Mr. Bland seconded. The motion was approved by a four to zero vote in favor and the meeting adjourned at 7:55 p.m.

*Diane C. Nelson*

Diane C. Nelson, City Clerk

*Approved, March 2, 2010*