

**FRUITLAND CITY COUNCIL**  
**TUESDAY, May 12, 2009**  
**MINUTES**

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The Fruitland City Council met in regular session at City Hall on Tuesday evening, May 12, 2009 at 7:30 p.m. with the following members present:

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

Also present were:

*City Manager John F. McDonnell, City Solicitor Andrew C. Mitchell Jr., Chief of Police Michael J. Phillips,  
Deputy Treasurer Amy B. "Polly" Caton, Director of Public Utilities Joseph P. Derbyshire, Public Works  
Director P. Cooper Townsend, Code Enforcement Officer Daniel M. Scholl, Administrative , Corporal  
Christopher Shockley, Officer Joseph Kerr, and City Clerk Diane C. Nelson.*

Our guests included:

*Amanda Pollack of George, Miles, and Buhr (GMB), Lennart Elmlund, Ed Otter of the Fruitland Fire  
Department, Earl Holland of the Daily Times, Robert Marvel, Rob Schultheis, Georgieann and Oliver Brown,  
Jason Pearce, Kyle Kinnamon, Cameron Meadows, John Thoroughgood, Glenn Thorogood, and Charles  
Carroll.*

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President Olinde called the meeting to order at 7:30 p.m. and welcomed all in attendance. Treasurer Ortiz delivered the opening prayer, and all recited the Pledge of Allegiance.

President Olinde acknowledged receipt of the minutes of the Regular Meeting of April 14, 2009, and the Special Meetings of March 23, 2009, April 6, 2009, and April 13, 2009, calling for additions or corrections. As there were none, Councilor Lokey moved to adopt all the minutes as presented; Councilor Tull seconded and the motion passed on a unanimous vote in favor.

**Reports – City Manager, Treasurer, and Department Heads**

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

Cash on Hand 4/01/09	\$	80,655.36
Deposits		363,437.77
Transfer from Savings		<u>400,000.00</u>
Subtotal	\$	844,093.13
Disbursements		<u>(583,523.12)</u>
Total Ending 4/30/09	\$	260,570.01

As there were no questions, Councilor Tull moved to accept the Treasurer's Report as presented. Councilor Lokey seconded and the motion passed on a unanimous vote in favor.

**City Manager McDonnell** reported on upcoming meetings and events.

#### Meetings

- Fruitland Chamber of Commerce - Wednesday, May 20, 2009 at 12:00 p.m. at the Impact Church of God
- Lower Eastern Shore Mayors Association – Thursday, May 21, 2009 hosted by the Town of Hurlock
- Fruitland Recreation Commission – Tuesday, May 19, 2009 at 7:00 p.m.

#### Events

- Fruitland City Employees received an award for their 100% participation in last year's United Way Campaign for the Eastern Shore.
- Fruitland City Offices will be closed on Monday, May 25, 2009, in observance of the Memorial Day Holiday; trash collection will proceed as usual.

**Chief Phillips** delivered his report on behalf of the Police Department comparing statistics for the month of April, 2008 and 2009.

- Part I & II offenses both decreased, by 14% and 30% respectively
- Assaults, thefts, and vehicle thefts decreased
- Overall arrests increased 41%, which includes both *adult* and *juvenile* arrests
- Warrant Service increased 33%
- DWI arrests increased 100%
- Traffic enforcement increased 56%
- The Criminal Investigation Division (CID) was successful in solving 2 robberies and 4 burglaries, which in turn facilitated cross-solving other cases in other jurisdictions

Chief Phillips concluded his report with updates on recently deployed Officer Pauley and recently injured Recruit Guard.

**Director of Public Utilities Joseph Derbyshire** reported on the Water and Sewer Departments.

- Drill Tech, Incorporated is on schedule working on the Hydraulic Interconnection between the City of Salisbury and the City of Fruitland Potable Water Systems
  - The directional drill from Emily Drive through the face of the dam at Morris Mill Pond (up to the top hill) has been completed
  - The directional drill toward Village Oak Drive will be next
- Staff continue to replace defective water service lines
- The Biosolids & Leachate Agreement remains active with the City receiving two loads daily, Monday through Friday, from the County

**Code Enforcement Officer Scholl** presented his building permit report for April 2009.

- Five permits were issued for a total value of \$80,700.00 and \$525.00 collected in fees
- There were no new dwellings among the five permits issued (third straight month)
- Sonic Restaurant is slated to open May 19, 2009

#### **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 Treasurer Ortiz that was seconded by Councilor Carey, the paid bills were approved as listed by a unanimous vote in favor.

## **2. Drug Policy – First Reading**

Prior to the first reading of the Drug Policy Ordinance, City Solicitor Mitchell summarized his comments regarding the proposed ordinance in light of the fact that he was not involved in the drafting of the document.

- When the ordinance has a second reading prior to passage, it will be noted that the City will be eliminating by deletion the current comments on drug and alcohol policy as contained in Sec. 2.10 up to Sec. 2.11 (pages 2-6 though 2-9) of the Employee Handbook
- The current comment, “*Separate Drug Policy will be put in place as addendum to Handbook,*” will be updated to reflect “*Drug and Alcohol Policy*”
- The addendum will be adopted by ordinance just as the Employee Handbook was originally adopted by ordinance (♦)
- Several forms, including both a Federal Sign Off and Federal Notice Form, are part of the Drug Policy and should be incorporated by reference and not by inclusion in the ordinance

After Solicitor Mitchell completed the First Reading of the Drug Policy Ordinance, President Olinde scheduled a Public Hearing on Tuesday, June 9, 2009 at 7:40 p.m. for the second reading and passage of the ordinance.

With no further comments, President Olinde called for a motion to accept the First Reading of the Drug Policy Ordinance with any typographical or grammatical corrections incorporated if necessary. Councilor Lokey so moved; Councilor Tull seconded and the motion passed on a unanimous vote in favor.

**(♦) *Since the meeting Solicitor Mitchell has advised that the handbook itself was not so adopted.***

## **3. New Police Building – Engineering Services**

Chief Phillips reported that initial bids for schematic drawings and elevations for the New Police Building have been received from two companies, Newtech Design Associates of York, Pennsylvania and AWB Engineers in Salisbury, Maryland.

The consensus of the Building Committee, that includes Councilor Carey, Chief Phillips, and other city personnel, was to recommend awarding engineering services to AWB Engineers as the low bidder at Six Thousand Five Hundred Dollars (\$6,500.00); the bid submitted by NewTech Design Associates was Twelve Thousand Five Hundred Dollars (\$12,500.00)

Councilor Lokey moved to accept the low bid as submitted by AWB Engineers; Treasure Ortiz seconded, and the motion carried on a unanimous vote in favor.

## **4. Truck Traffic on South Division Street**

City Manager McDonnell reported on the status of the truck traffic issue, including updates on recently generated city correspondence to affected business owners on South Division Street. The correspondence prompted in person and telephone communication from these businesses to City Hall; the businesses contacted are working with the City to minimize large truck traffic on South Division Street.

## 5. Bennett Middle School

City Solicitor Mitchell reported that based on follow up calls from the Wicomico County Board of Education's (WCBOE's) Attorney, the WCBOE contingent left the April 27, 2009 City Council Work Session with the impression that the City would not require installation of the Southwest Interceptor as a condition of the school locating in Fruitland; the school would be permitted to use the Camden Sewer shed until such time as the Southwest Interceptor was installed and available for hook-up. Mr. Mitchell advised contacting the WCBOE if this is not the Council's position.

By consensus but without vote, the City Council agreed to schedule an additional work session to discuss the new Bennett Middle School and to invite the WCBOE to attend.

### Public Hearing Proposed FY 2009-2010 Budget – 8:00 p.m.

President Olinde offered an apology for the inaccurate and untimely publication of budget information submitted a week ago as a Press Release to the Daily Times that was just published today; he cited the weeks of hard work City Council and Staff had devoted to budget preparation and the measures undertaken to get that information out to the public.

President Olinde explained that two separate budgets, the General Operating Budget and the Utilities Budget comprise the proposed budget and that the Utilities Budget is further segregated into separate Water and Sewer Departments.

Elimination of budget line items under Expenditures for financing for two capital projects, additional elevated water storage and an upgrade to the Waste Water Treatment Plant (WWTP), reduced the proposed Revenues needed this year to balance both Water and Sewer Departments within the Utilities Budget.

The Water and Sewer Budgets are designated as Enterprise Funds under our Charter, with revenues equal to expenses. The Utility Services should pay for themselves and for the last several years have not done so; prepaid impact fees have funded Utilities shortfalls in prior budget years.

After four years of no increases in water and sewer rates, the Council is proposing a phased in rate increase over this budget year and potentially the next budget year that should enable the Utilities to pay for themselves.

- Water

Base Rate User Fee for 8,000 gallons (minimum) -\$65.00/quarter (a \$20.00 increase)\*

Overage Rate -\$1.50 per 1,000 gallons over minimum (a \$.25 increase)\*

*\*effective October 2009 quarter*

Annual Front Foot Assessment-\$\$.40 per lineal foot (billed quarterly) (no increase)

Impact Fee -\$4,500.00 per Equivalent Dwelling Unit (EDU) (a \$750.00 increase)

- Sewer

Base Rate User Fee for 8,000 gallons (minimum) -\$95.00/quarter (a \$30.00 increase)\*

Overage Rate -\$1.50 per 1,000 gallons over minimum (a \$.25 increase)\*

*\*effective October 2009 quarter*

Annual Front Foot Assessment-\$1.50 per lineal foot (billed quarterly) (a \$.12 increase)

Impact Fee -\$4,500.00 per Equivalent Dwelling Unit (EDU) (a \$750.00 increase)

President Olinde continued with the General Operating Budget presentation, stating that Property Tax and Personal Property Tax Rates would remain the same at \$.70 and \$1.66 respectively, per \$100.00 of assessed value; this budget year reflects the third year of the most recent three year Maryland State real estate assessment. He summarized how both Councilors and Staff strove to maintain these General Operating Budget tax rates in light of the significant rate increases proposed for the Utilities Budget.

- At \$6.3 Million Dollars, the FY 09-10 Budget has been reduced \$600,000.00 [9.3% per City Manager McDonnell] from last year's budget
- The only significant borrowing planned for this budget year is financing for the new Police Department

City Manager McDonnell continued with his portion of the budget presentation that included summary comments and statistics, as well as specific references to departments and line items.

- No salary increase for employees this fiscal year
- Department Heads reduced their departmental budgets on average, 12.5%, even though some line items may have increased [Mr. McDonnell thanked all department heads for their concerted efforts in paring down the budget]

At the conclusion of the budget presentation, President Olinde opened the floor to public comment; he invited the public to come forward and address the Council with their thoughts and concerns regarding the proposed budget.

- **Oliver Brown** expressed his and his wife's concerns about being able to pay their water bill at the proposed higher rates with fixed Social Security their only income.
- **Rob Schultheis** applauded the Council's efforts at budget reduction that included no salary increase for employees; he also praised the Fruitland School System. He then expressed his concerns about the already high tax rate as well as the proposed Utility Rate increases, both in comparison to other municipalities; he raised specific concerns about the quality of snow removal that his tax dollars fund. He expressed broad concern for all citizens' ability to pay the increased utility bill in light of current economic conditions defined by work force reduction and deflated property values. He felt that the rising utility costs should have been better forecasted to allow for less substantial increments over time as opposed to the significant increments planned for this year and probably the next year. He concluded his comments with a challenge to Councilors to find the money to balance the budget by additional budget reductions as opposed to rate increases.
- **Ed Otter** 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; the Fire Company had requested the City of Fruitland fund 20% of the overall expenses that actually provide 60% of the overall services to Fruitland residents.
- **Charles Carroll** expressed initial concern for the lack of publication of the budget information and subsequent hearing this evening [Mr. Carroll's comment was duly noted even though President Olinde had already addressed this issue with an explanation and apology earlier in the meeting]. While Mr. Carroll did acknowledge Fruitland's exceptional water quality and service, he did express concerns regarding the potential inability to pay the higher utility bills with combined household retirement, Social Security, and part-time incomes. He questioned the continued front foot assessment charges, originally established as temporary charges to fund necessary upgrades to the water/sewer system; why have the charges extended beyond the upgrade?

Mr. Carroll's additional questions and comments regarding different tax and/or trash rates for renters, and increased police citations to generate revenue for the Utilities Budget prompted discussion and explanations about the inability to charge different tax rates for different people and the inability to combine General Operating and Utilities Budget Funds; charging different trash rates would need to be explored further to determine the viability of that option to generate additional revenue for the General Operating Budget only.

Clarified during the discussion was the disparity between Fruitland's utility rates as compared to other municipalities' rates; the disparity may exist because Fruitland has both full service Water Treatment and Waste Water Treatment Plants, unlike some other municipalities that may only add chemicals at a pumping station.

Also clarified was that Fruitland has been pursuing, albeit unsuccessfully thus far, a tax differential with Wicomico County as a measure of relief for citizens paying both City and County taxes for seemingly duplicate services.

Utilities Director Derbyshire summarized his departments' sensitivity to citizens' costs for service and the efforts made to reduce those end costs to the consumer, highlighting two efforts in particular.

- A quarter of a million dollar monthly electric bill at the Waste Water Treatment Plant (WWTP), an expense that the City has no control over, prompted a study that yielded improvements to maximize efficiency in an effort to minimize costs
- A zero percent loan available to the City from Maryland Department of the Environment (MDE) was declined so as not to increase the Utilities Budget with loan repayment

Mr. Derbyshire concluded his comments by inviting Fruitland citizens to come in and observe the City's Utility system, welcoming them to look at the operation to determine how the City could save any additional money while still adhering to federal government regulations and MDE permit conditions.

As there was no one else wishing to address the Council, President Olinde closed the Public Hearing and thanked all for their comments.

#### 1. **Windmill Ordinance No. 241 – First Reading**

City Solicitor Mitchell prefaced the first reading of the Windmill Ordinance by stating that the initial draft basically mirrored Wicomico County's Windmill Ordinance that dealt primarily with different sizes of vertical standing, propeller driven windmills. After conversation with Planning Commission Member Derek Bland, who is familiar with this type of green technology, and John McIntyre, who is starting a new business in this field, it became apparent that the City's Ordinance should be more comprehensive prior to a second reading; the ordinance should be broadened to include the many other types of windmills available to the consumer and should go back before the Planning Commission for review and comments.

After Solicitor Mitchell read the Windmill Ordinance, Councilor Lokey moved to adopt the first reading of the Windmill Ordinance, with the understanding that it would go back before the Planning Commission for review, comments, and recommendation to the Council prior to the second reading of the ordinance; Councilor Tull seconded, and the motion carried on a unanimous vote in favor. President Olinde scheduled a Public Hearing on Tuesday, July 14, 2009 at 7:40 p.m. for the second reading and passage of the Windmill Ordinance (Ord. 241)

**PUBLIC COMMENT/GENERAL DISCUSSION**

Mr. Bob Marvel expressed concerns regarding the poor quality of the meeting room sound system; President Olinde advised Mr. Marvel that it was being addressed and would hopefully be corrected by the next meeting.

With no further business to discuss, Treasurer Ortiz moved to adjourn. Councilor Tull seconded, and with a unanimous vote in favor, the meeting adjourned at 8:50 p.m.

*Diane C. Nelson*  
Diane C. Nelson, City Clerk  
*Approved, June 9, 2009 dcn*