

**FRUITLAND CITY COUNCIL
TUESDAY, JULY 14, 2009
MINUTES**

The Fruitland City Council met in regular session at City Hall on Tuesday evening, July 14, 2009 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 Manager John F. McDonnell, City Solicitor Andrew C. Mitchell Jr., Chief of Police Michael J. Phillips, Deputy Treasurer Amy B. Caton, Director of Public Utilities Joseph P. Derbyshire, Code Enforcement Officer Daniel M. Scholl, Corporal Christopher D. Shockley, and City Clerk Diane C. Nelson.

Our guests included:

Amanda Pollack of George, Miles, and Buhr (GMB), Bob Marvel, Kim Marshall, Donna Hudson, Chuck Nichols, Kathleen Hall, Renola and Leon Bounds, Frances Mezick, and Jim Bounds.

President Olinde called the meeting to order at 7:31 p.m. welcoming all in attendance and inviting them to join him in reciting The Lord's Prayer followed by the Pledge of Allegiance.

President Olinde acknowledged receipt of the minutes of the Regular Meeting of June 9, 2009, calling for additions or corrections other than those that Councilors had already discussed. As there were no additional corrections from the floor, **Councilor Lokey moved to adopt the minutes as amended; Councilor Tull seconded and the motion passed on a four to zero vote in favor.**

Deputy Treasurer Caton delivered the Treasurer's Report in Treasurer Ortiz's absence.

Cash on Hand 6/01/09	\$	111,104.96
Deposits		<u>617,053.17</u>
Subtotal	\$	728,158.13
Disbursements		<u>(482,775.65)</u>
Total Ending 6/30/09	\$	245,382.48

As there were no questions, **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 Manager McDonnell reported on upcoming meetings and events, noting that both the Fruitland Chamber of Commerce and the Fruitland Recreation Commission are on hiatus during July and August. The Town of Berlin is hosting the July meeting of the Lower Eastern Shore Mayors Association and the Fruitland Police Department is hosting its National Night Out on August 4, 2009.

Chief Phillips delivered his report for the month of June 2009, noting fluctuations in crime statistics and service calls from prior periods. He gave updates on a recent robbery and a recent home invasion.

President Olinde commended the Police Department for their positive impact on the community, as evidenced by correspondence received from Fruitland citizens and visitors.

Director of Public Utilities Joseph Derbyshire reported on the Water and Sewer Departments noting that the major construction of the Salisbury-Fruitland Water System Interconnect Project has been completed, leaving only punch list items to be resolved with the Contractor. Staff will be trained in procedures that coordinate the two systems, allowing the systems to work together by opening valves to establish an emergency connection when needed from either system. When the final interconnect between Salisbury and Delmar is eventually completed, the entire Metro Core will have an interconnection system to ensure continued water supply during emergency situations.

Code Enforcement Officer Scholl presented his report for June 2009, stating that twelve building permits that included six new townhouse units in Cedar Commons had been issued for a total value of Five Hundred Seventeen Thousand Nine Hundred Ninety-five Dollars (\$517,995.00) and Four Thousand Two Hundred Ninety-eight Dollars (\$4,298.00) collected in fees.

In addition to an update on the successful resolution of a somewhat lengthy sign compliance issue, Mr. Scholl also gave an update on the proposed demolition of a property located at 601 St. Luke's Road. He requested the Council accept the lowest of the three demolition bids as submitted by **Bennett Construction**, noting that the property owner is in agreement with the demolition of the property and is willing to reimburse the City for demolition expenses incurred.

On a motion by Councilor Tull that was seconded by Councilor Carey, the lowest of the three demolition bids as submitted by Bennett Construction was accepted by a four to zero vote in favor.

As it was not yet time for the first of the three Public Hearings scheduled for this evening, President Olinde proceeded with **Unfinished Business** and 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.**

PUBLIC HEARING: ORDINANCE 242- FUNDING HAYWARD AVENUE – 7:40 P.M.

At 7:40 p.m. President Olinde convened a Public Hearing to discuss borrowing funds for the financing of the expenditure of funds for the Hayward Avenue Reconstruction and Inflow and Infiltration Project; the expenditure was previously authorized by the City Budget and the borrowing will now be authorized by ordinance. City Solicitor Mitchell clarified why the authorization was by ordinance and then read the ordinance that defines the borrowing parameters for the financing of the project; he noted that Deputy Treasurer Caton had advised him that one prospective lender was requiring collateral in the form of a mortgage on real property and that the ordinance could be amended to allow for this requirement.

President Olinde opened the floor to public comment and discussion; after several comments and brief discussion the Public Hearing closed at 7:50 p.m.

On a motion by Councilor Tull that was seconded by Councilor Lokey and approved by a four to zero vote in favor becoming effective today, July 14, 2009, Ordinance No. 242 was adopted as read and then amended to include a clause that would allow for a mortgage as collateral if required by the lender with the stipulation that the City Council must first approve the choice of collateral and the terms of the mortgage or deed of trust by resolution.

PUBLIC HEARING: ORDINANCE 243- FUNDING POLICE CARS/UTILITIES DUMP TRUCK - 7:41 P.M.

At 7:50 p.m. President Olinde convened a Public Hearing to discuss borrowing funds for the financing of a completed purchase of three police vehicles, and one dump truck to be used by the Utilities Department; the purchase was previously authorized by the City Budget and the borrowing will now be authorized by ordinance. City Solicitor Mitchell then read the ordinance that defines the borrowing parameters for the financing of the purchase, noting that the amount to be borrowed is less than originally planned due to the City securing a better purchase agreement than anticipated.

President Olinde opened the floor to public comment and discussion; with no comments or discussion, the Public Hearing closed at 7:55 p.m.

On a motion by Councilor Carey that was seconded by Councilor Lokey and approved by a four to zero vote in favor, Ordinance No. 243 was adopted as read becoming effective today, July 14, 2009.

PUBLIC HEARING: ORDINANCE 244- FUNDING WATER INTERCONNECT - 7:42 P.M.

At 7:56 p.m. President Olinde convened a Public Hearing to discuss borrowing funds for the financing of a completed purchase of the prior payment of the City's share of the Salisbury-Fruitland Water System Interconnect Project to be used by the Utilities Department, Water Division; the purchase was previously authorized by the City Budget and the borrowing will now be authorized by ordinance. City Solicitor Mitchell then read the ordinance that defines the borrowing parameters for the financing of the project, noting that the amount to be borrowed is One Hundred Thousand Dollars (\$100,000.00) less than originally anticipated; he further noted that Deputy Treasurer Caton had advised him that one prospective lender was requiring the City to pledge the full faith and credit of the City and that the ordinance could be amended to allow for this requirement.

President Olinde opened the floor to public comment and discussion; after several comments and minimal discussion the Public Hearing closed at 7:58 p.m.

On a motion by Councilor Lokey that was seconded by Councilor Tull and approved by a four to zero vote in favor becoming effective today, July 14, 2009, Ordinance No. 244 was adopted as read and then amended to include a clause that would allow the City to pledge the full faith and credit of the City if required by the lender.

UNFINISHED BUSINESS

New Police Department Building

Chief Phillips summarized that the initial floor plan has been reviewed with the Committee recommending minor changes for the engineers to incorporate into the plan prior to the next Committee review of a more detailed floor plan. Concurrent with the floor plan review, the Committee has also begun to review outside services like the phone system in an effort to maximize and maintain project momentum.

Drug Policy-Approve Proposal

City Manager McDonnell outlined the revised cost proposals for the *Full Package* and the *Fundamental Package* Councilors had received from **American Drug Testing Consultants**; his recommendation to Councilors was to approve the *Fundamental Package*, with the City Manager authorized to sign the proposal for return to American Drug Testing Consultants.

After discussion, **Councilor Tull moved to accept the Fifteen Hundred Dollar (\$1,500.00) *Fundamental Package* Proposal from American Drug Testing Consultants, with City Manager McDonnell authorized to sign the budget item proposal and to research testing facilities; Councilor Lokey seconded and the motion carried on a four to zero vote in favor.**

Bennett Middle School

City Solicitor Mitchell summarized the list of conditional requirements Councilors had submitted to the Wicomico County Board of Education (WCBOE) for their consideration should the new Bennett Middle School be built in Fruitland; the WCBOE has now requested a meeting with Fruitland representatives, possibly to discuss and/or clarify the list of conditional requirements.

Discussion of the pros and cons associated with the new middle school locating in Fruitland was generated by Councilor Tull reporting constituents' concerns that had been shared with him regarding the new middle school locating in Fruitland.

Property Upkeep Ordinance-Set Time of Public Hearing

A Public Hearing and Second Reading of the Property Upkeep Ordinance will be scheduled on Tuesday, August 11, 2009 at 7:40 p.m.

[Several days following this meeting, City Solicitor Mitchell in consultation with City Clerk Nelson, advised that this Public Hearing was premature and that the ordinance should be scheduled for a new first reading on August 11, 2009.]

NEW BUSINESS

Declare Surplus Property-Public Works

City Manager McDonnell read the list of property Public Works had submitted to Councilors for declaration as surplus property, to be disposed of through the standard bid process for surplus property.

On a motion by Councilor Tull that was seconded by Councilor Lokey, the Public Works Property was declared surplus as presented by a four to zero vote in favor, to be disposed of through standard bid procedures for surplus property.

Declare Surplus Property-Utilities

City Manager McDonnell read the list of property Utilities had submitted to Councilors for declaration as surplus property, to be disposed of through the standard bid process for surplus property; Utilities Director Derbyshire advised Councilors that the single wall diesel fuel storage tank listed does not meet current code requirements

On a motion by Councilor Tull that was seconded by Councilor Carey, the Utilities Property was declared surplus as presented by a four to zero vote in favor, to be disposed of through standard bid procedures for surplus property.

Declare Surplus Property-Administration

City Manager McDonnell read the list of property Administration had submitted to Councilors for declaration as surplus property, to be disposed of through the standard bid process for surplus property; Mr. McDonnell advised Councilors that the Royal electric typewriter listed is known to have sticking keys and that replacement parts are no longer available for this model.

On a motion by Councilor Tull that was seconded by Councilor Lokey, the Administration Property was declared surplus as presented by a four to zero vote in favor, to be disposed of through standard bid procedures for surplus property.

Bid Award Phase Two Inflow and Infiltration (I & I) Project

After summarizing that Maryland Department of the Environment (MDE) had several years ago awarded the City of Fruitland's I & I Project Six Hundred Thousand Dollar (\$600,000.00) in grant money from the Chesapeake Bay Restoration Funds (also known as the *Flush Tax*), Ms. Pollack explained the allocation of the grant money between Phase I (Manhole Rehabilitation) and Phase II

(Pipeline Rehabilitation) of the project; she noted that an additional Two Hundred Thousand Dollars (\$200,000.00) in funds may be available for award to Fruitland because it is ready to immediately move forward with the project. Ms. Pollack explained how Phase II of the project had been bid, mindful of the grant money already awarded and the potential for more to be awarded. She emphasized that the grant money is available for construction costs only; design, inspection, and other ancillary costs are excluded.

The bid opening took place on July 7, 2009; **A.M. Liner East**, with extensive experience from Maine to Florida that includes the City of Fruitland, submitted the low bid that Ms. Pollack and Utilities Director Derbyshire were now recommending Councilors accept.

On a motion by Councilor Lokey, seconded by Councilor Tull and approved by a four to zero vote in favor, the low bid submitted by A.M. Liner East was accepted as presented, contingent upon Maryland Department of the Environment's (MDE's) approval of the entire bid package that includes funding of the grant money already awarded and funding of the additional Two Hundred Thousand Dollars \$200,000.00) of grant money potentially available to be awarded from the Chesapeake Bay Restoration Funds.

PUBLIC COMMENT/GENERAL DISCUSSION

Renola Bounds of Allen Cut-off Road voiced safety concerns about existing traffic issues with the Allen Cut-off Road/Camden Avenue Extended intersection; Chief Phillips and Code Enforcement Officer Scholl acknowledged that they will follow up and investigate the traffic issues as they pertain respectively to traffic and code enforcement.

Jim Bounds of Brown Street, voiced concerns about the increase in water and sewer rates adopted this fiscal year, asking Councilors to consider charging residents based on actual consumption rather than imposing minimum usage fees; President Olinde acknowledged Mr. Bounds' concerns, the importance of minimum usage fees in balancing the budget, and the Council's continued pledge to monitor this issue even though the new budget has already gone into effect.

Kathleen Hall of Allen Cut-off Road echoed safety concerns with regard to traffic issues already discussed with the Allen Cut-off Road/Camden Avenue Extended intersection, adding that the traffic issues may be exacerbated should the new Bennett Middle School locate in Fruitland; she asked Councilors to consider a different, *more rural* neighborhood.

President Olinde clarified that the decision making authority for location of the new Bennett Middle School rests solely with the WCBOE, also noting that the WCBOE is not subject to zoning requirements because it is a government entity. The City of Fruitland's involvement is limited to the need for water and sewer at the school; as long as the WCBOE meets Fruitland's requirements for water and sewer at the school, the transaction is strictly between the WCBOE and the landowner. Ms. Hall's concerns were noted and President Olinde suggested she also share them with the Facilities Staff at the WCBOE.

With no further business to discuss, **Councilor Carey moved to adjourn. Councilor Lokey seconded, and with a four to zero vote in favor, the meeting adjourned at 8:42 p.m.**

Diane C. Nelson
Diane C. Nelson, City Clerk
Approved, August 11, 2009 dcn