

The Fruitland City Council met in regular session at City Hall on Tuesday evening, October 12, 2010 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*

*Councilor-Elect Edwin A. Cowell, Councilor-Elect Darlene Kerr, and Councilor-Elect Richard Lee Outen, Jr.*

Also present were:

*City Manager Rick D. Konrad, Assistant City Manager/City Clerk Diane C. Nelson, Deputy Treasurer Amy B. Caton, Chief of Police Michael J. Phillips, and City Solicitor Andrew C. Mitchell Jr.*

*Utilities Director Joseph P. Derbyshire, Public Works Director P. Cooper Townsend, Administrative Assistant Linda J. Powell, and Accounting Associate III Jonika A. McKeithan*

Our guests included:

*Jim and Anna Grace East, Sheila Nichols, Carolyn and Wayne Foltz, Chris, Andy, and Mike Helkowski, Dawn Kerr, Spencer Rains, Crisfield Mayor Percy Purnell, Frances Mezick, Judy Carey, Christine Williams, Charmaine, Zachary, and Ryan Cowell, Clarence and Carole Kehoe, Josh Taylor of Davis, Bowen & Friedel, Inc. (DBF), Christy Outen, Frances Jean Tull, Cornella Harmon, Dale M. Jones, John Bonas, Joe Ollinger, Mary K. Davis, Kerry and Lynette Nelson, Roland Palmer, Bryan & Valerie Cox, Leland Bonneville, Sandra K. Bradley, and Earl Holland of The Daily Times.*

President Olinde called the meeting to order at 7:33 p.m. and welcomed all in attendance. Treasurer Ortiz delivered the opening prayer, and all recited the Pledge of Allegiance.

President Olinde yielded the floor to Asst. City Mgr./City Clerk Nelson who introduced the 2010-2011 President of the Lower Eastern Shore Mayors' Association (LESMA), Crisfield Mayor Percy Purnell; Mayor Purnell made a presentation to Fruitland Council President Olinde, the outgoing 2009-2010 LESMA President.

President Olinde acknowledged receipt of the minutes of the Regular Meeting of September 14, 2010, the Special Meetings of May 27, 2010 and September 28, 2010, and the Closed Meeting Minutes of February 22, 2010, April 5, 2010, and June 7, 2010 calling for additions or corrections. As there were none, **Councilor Tull moved to adopt the minutes as presented; Treasurer Ortiz seconded and the motion passed on a unanimous vote in favor.**

**Treasurer Ortiz** delivered the Treasurer's Report.

Cash on Hand 9/01/10	\$ 142,955.13
Deposits	<u>1,279,610.66</u>
Subtotal	\$ 1,422,565.79
Transfer to Savings	(900,000.00)
Disbursements	<u>(362,264.42)</u>
Total Ending 9/30/10	\$ 160,301.37

**Councilor Carey moved to accept the Treasurer's Report as presented. Councilor Tull seconded and the motion passed on a unanimous vote in favor.**

**City Manager Rick Konrad delivered the City Manager's Report** which included updates on the recent City election, several ongoing projects, staff communications, and upcoming meetings and events pertinent to Fruitland.

**Chief Phillips** delivered his report for the month of September 2010, noting fluctuations in crime statistics and service calls from prior periods, and updates on several departmental projects and recent serious incidents involving Fruitland residents.

*A Fruitland resident then shared positive comments about the Fruitland Police Department.*

**Utilities Director Derbyshire** delivered his monthly report which included updates on several ongoing projects. He reported that the Maryland Department of the Environment (MDE) grant had allowed the City to continue its slip lining project, which should conclude this week. It has a life expectancy of more than Fifty (50) Years and has resulted in a flow reduction of 35-36% from last year, which has created additional capacity at the Waste Water Treatment Plant (WWTP) equal to a \$3.6 Million Dollar expansion.

**City Manager Konrad delivered Code Enforcement Officer Vogel 's** report for the month of September 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. 247 – Dog Control Ordinance - 7:40 p.m.**

**At 7:54 p.m.** President Olinde convened a Public Hearing to discuss Ordinance No. 247, which was given First Reading at the September 14, 2010 Council Meeting, and which amends Ordinance No. 186, which regulates dogs and other animals by retaining certain rights, and authorizing concurrent jurisdiction with Wicomico County, Maryland.

City Solicitor Mitchell provided background information and then presented Ordinance No. 247 for Second Reading, after which President Olinde opened the floor for public comment; after discussion which raised issues about temporary housing of dogs, newborn dogs, and clean up after dogs, President Olinde closed the Public Hearing and called for the motion.

**On a motion by Councilor Tull that was seconded by Treasurer Ortiz and approved by a unanimous vote in favor, Council deferred final approval of Ordinance No. 247 until the November 9, 2010 Council Meeting when the New City Council could render a decision after reviewing the Ordinance inclusive of City Solicitor Mitchell's modifications to sections of the ordinance dealing with temporary housing of animals, newborn animals, and owner responsibility for cleaning up after pets, with the ordinance becoming effective upon completion of Animal Control Officer training.**

**Public Hearing Ordinance No. 249 – Property Upkeep – 7:45 p.m.**

**At 8:14 p.m.** President Olinde convened a Public Hearing to discuss Ordinance No. 249, which was given First Reading at the September 14, 2010 Council Meeting, and which amends Property Maintenance Ordinance No. 236, by requiring property owners whose property abuts a sidewalk or curb to maintain same free of grass and weeds.

City Solicitor Mitchell then presented Ordinance No. 249 for Second Reading, highlighting the particular areas that were amended, after which President Olinde opened the floor for public comment; after discussion which yielded a question about snow removal, President Olinde closed the Public Hearing and called for the motion.

**On a motion by Treasurer Ortiz that was seconded by Councilor Tull and approved by a unanimous vote in favor becoming effective October 12, 2010, Council adopted Ordinance No. 249 as presented.**

**Public Hearing Ordinance No. 250 – Authorization for Sale of Bonds - 7:50 p.m.**

**At 8:18 p.m.** President Olinde convened a Public Hearing to discuss Ordinance No. 250, which was given First Reading at the September 28, 2010 Council Meeting, and which updates the Authorization for Sale of Bonds previously presented in Ordinance No. 237.

City Solicitor Mitchell summarized and explained the need to update by legislation the amount and the expenses the City of Fruitland is allowed to reimburse itself from bond money whenever funds are borrowed for a particular project, in this case the New Police Building and site development to allow for expansion of the facility to potentially house a future City Hall.

City Solicitor Mitchell then presented Ordinance No. 250 for Second Reading, highlighting the particular areas that were updated, after which President Olinde opened the floor for public comment; there being no public comment, President Olinde closed the Public Hearing and called for the motion.

Prior to the motion being made, City Solicitor Mitchell clarified for the record that an inadvertent erroneous reference to *208 N Division Street* in Resolution No. 02-10, which states the City's *Intent to Reimburse* in conjunction with the New Police Building, was deemed insubstantial according to the City's Bond Counsel. There being numerous references in other documents to the correct property address, **208 S Division Street**, including Ordinance No. 250 as just presented, it is clear which address is the intended property; therefore there is no need to amend Resolution No. 02-10.

**On motion made by Councilor Tull that was seconded by Councilor Lokey and approved by a unanimous vote in favor becoming effective October 12, 2010, Council adopted Ordinance No. 250 as presented.**

## **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 Treasurer Ortiz, the paid bills were approved as listed by a unanimous vote in favor.**

### **2. Final FEMA Report-Update**

City Manager Konrad reported that the City of Fruitland has received reimbursement from FEMA in the amount of Ten Thousand Four Hundred Eighty-seven Dollars and thirty-two cents (\$10,487.32), Two Hundred Twenty-eight Dollars (\$228.00) for roof repair at the Water Plant and Ten Thousand Two Hundred Fifty-nine Dollars and thirty-two cents (\$10,259.32) for expenses associated with snow removal during the Two (2) February 2010 Snow Events.

### **3. Police Officer Position-Grant Funding-Update-Chief Phillips**

Chief Phillips summarized events which have led to the City of Fruitland recently being awarded grant funding for an additional Police Officer; Council had previously authorized application for Two (2) additional Police Officers through last year's Federal Stimulus Package. The Federal Grant money will fund the position for Three (3) years and the City will be obligated to fund a consecutive Fourth (4<sup>th</sup>) year.

After discussion, **on a motion made by Councilor Tull that was seconded by Treasurer Ortiz and approved by a unanimous in favor, Council authorized Chief Phillips to accept the grant award and move forward in staffing the additional Police Officer position.**

### **4. New Police Building -Update**

Chief Phillips reported that the United States Department of Agriculture (USDA) had authorized the City to move forward with the bid process and AWB Engineers had conducted a Pre-Bid Meeting at City Hall earlier today with Ten (10) contractors in attendance.

City Manager Konrad reported that after the bid opening later this month, Chief Phillips and he would evaluate the bids and obtain USDA approval prior to awarding the bid. Bridge financing proposals are being solicited for review by Outgoing Council President Olinde and City Manager Konrad.

*Just prior to New Business, outgoing Councilors shared final remarks with their colleagues remaining on the Council.*

## **NEW BUSINESS**

### **1. 2010 Final Election Report / 2. Induction of New City Councilors -(Asst. City Mgr./City Clerk)**

Asst. City Mgr./City Clerk Nelson delivered the 2010 Final Election Report which concluded with the Board of Supervisors of Elections unanimously certifying the election of Richard Lee Outen, Jr., Darlene Kerr, and Edwin A. Cowell to the Fruitland City Council with their Oaths of Office to be administered by the City Clerk in Public Session at the Regular City Council Meeting held this evening and also noting that the next regular election for the Fruitland City Council will be held on Monday, October 1, 2012, with the seats now held by Councilors Raymond D. Carey and Gloria J. Ortiz up for contest.

Asst. City Mgr./City Clerk Nelson then administered Oaths of Office to Councilors-Elect Edwin A. Cowell, Darlene Kerr, and Richard Lee Outen, Jr.; Outgoing President Olinde then turned the meeting over to City Solicitor Mitchell.

### **3. Election of Council President and Treasurer**

*Pursuant to Fruitland Charter 2-2B City Solicitor Mitchell then presided over the Meeting while reorganization of the Council took place. Mr. Mitchell opened the Council floor to nominations for the Office of Council President. Mr. Cowell nominated Mr. Outen and Mrs. Ortiz nominated Mr. Carey. Mrs. Ortiz moved to close the nominations, Mrs. Kerr seconded and all unanimously voted to close nominations. Solicitor Mitchell then called for the vote. Mr. Outen received Three (3) votes and Mr. Carey received Two (2) votes, therefore Mr. Outen was voted in by a majority vote as Council President; Solicitor Mitchell then turned the meeting back over to President Outen.*

President Outen then opened the Council floor to nominations for the Office of Council Treasurer. Mr. Carey nominated Mrs. Ortiz and President Outen nominated Mrs. Kerr. Mrs. Ortiz moved to close the nominations; Mr. Cowell seconded and all unanimously voted to close nominations. President Outen then called for the vote. Mrs. Ortiz received Two (2) votes and Mrs. Kerr received Three (3) votes, therefore Mrs. Kerr was voted in by a majority vote as Council Treasurer.

### **4. Commission / 5. Committee Assignments**

President Outen then moved on to discussion of Council Assignments to the various Boards and Committees within City government.

**On a nomination by President Outen that was seconded by Treasurer Kerr and approved by a unanimous vote in favor, Councilor Cowell was appointed as the Council Representative to serve on the Fruitland Economic Development Commission.**

**On a nomination by President Outen that was approved by a unanimous vote in favor, Councilor Carey was appointed as the Council Representative to serve on the Fruitland Recreation Commission.**

**The Council unanimously approved President Outen's self appointment as the Council Representative to serve on the Planning Commission.**

**On a nomination made by President Outen that was approved by a unanimous vote in favor, Treasurer Kerr was appointed as the Council Representative to serve on the Board of Noise Control.**

The Council determined by consensus but without vote that Treasurer Kerr and Councilor Carey would serve on the Audit Committee and President Outen and Councilor Cowell would serve on the Debt Reduction Committee.

**6. Resolution 03-10 / 7. Resolution 04-10 / 8. Resolution 05-10**

City Manager Konrad spread upon the minutes Resolutions 03-10, 04-10, and 05-10 honoring Outgoing Councilors Richard F. Tull, Theodore O. Lokey, and Gregory J. Olinde respectively, thanking them on behalf of the Council and Staff for their years of service to the City of Fruitland and its citizens.

**9. Fruitland Economic Development Commission (FRED) Presentation**

On behalf of Chairman Lennart Elmlund, City Manager Konrad presented Outgoing Council President Gregory J. Olinde with a plaque honoring his years of service on the Fruitland Economic Development Commission.

**10. Traffic Issues – Emily Drive-Meadowbrook Homeowners’ Association – John Bonas – Discussion Item**

Meadowbrook Homeowners’ Association (HOA) President John Bonas summarized traffic issues plaguing Emily Drive residents, presenting visual illustrations for Council to review; the HOA requested the City consider reducing the speed limit from 25 mph to 15 mph and prohibiting parking of commercial vehicles on the roadway.

After discussion, it was agreed that the HOA would provide a copy of its covenants for Council and Staff to review in order to determine the most effective manner in moving forward to deal with the traffic issues, in conjunction with the various suggestions brought forth today and a site visit to be scheduled.

**11. Traffic Issues – Brown Street – Discussion Item**

South Brown Street Resident Valerie Cox summarized traffic issues with Brown Street, from St. Luke’s Road to the Crown Sports Center, which included the condition and width of the road, drivers traveling at excessive rates of speed, and inadequate lighting.

During discussion it was acknowledged that Reconstruction of Brown Street is included in the City’s Five-Year Capital Improvement Plan, the Recreation Commission is already working on additional lighting as a security measure for designated parking areas as well as the Concession Stand, and Council will continue to monitor and discuss the traffic issues as presented.

**12. Cedar Commons Punch List – Action Item**

Municipal Engineer Josh Taylor of Davis, Bowen & Friedel, Inc. (DBF), representing Talbot Bank, the financial backer for Cedar Commons which is being developed by East Fields Development, requested Council allow the developer to surface course Seventy-Five Percent (75%) of the development roads to include the two-way portion of Brown Street, White Pine and White Oak Drives, thus serving Eighty-Five Percent (85%) of the residents with the exception of Five (5) units on Cottonwood Drive. Talbot Bank would also like to defer surface paving on Cottonwood and Teak Drives as well the construction of the one-way portion of Brown Street. The Bank represented that the deferment would assist and support the developer in trying to complete the project during the current depressed economy.

Discussion included the pros and cons of base versus surface course, surface course one-year warranty to the City, potential for construction traffic to damage roadways, and a new Public Works Agreement between the City, the Developer, and the Bank drafted by the City Solicitor at the Developer/Bank’s expense which would include designation of a construction entrance from Cedar Lane to Brown Street and then into the un-built lots on Cottonwood Drive, designation of new security for the remaining infrastructure within the development, designation of base course inspection prior to application of final surface course, designation of periodic evaluations of roadways, designation of remedies should developer construction damage St. Luke’s Road, and lastly, inclusion of Utilities Director Derbyshire’s acknowledgement regarding meters, should the City permit the developer to delay/defer application of surface course as requested.

After discussion, **on a motion made by Councilor Cowell that was seconded by Councilor Ortiz and approved by a unanimous in favor, Council approved the deferral of surface course as requested subject to a new Public Works Agreement between the City, the Developer, and the Bank, drafted by the City Solicitor at the Developer/Bank's expense, subject to the aforementioned terms as discussed.**

### **13. Other**

City Solicitor Mitchell acknowledged that although the City has a Comprehensive Plan in place, the ordinance which will implement the details of the plan has not yet been finalized. He requested a proposal from the City's original consultant on the project Tim Bourcier, formerly of DBF, for consulting services *as needed* to work with the Planning Commission, City Manager and City Solicitor to finalize the ordinance; Solicitor Mitchell will report back to Council once he has reviewed the proposal.

### **PUBLIC COMMENT/GENERAL DISCUSSION**

Residents' comments included election suggestions and concerns, upcoming Fruitland Falcons events, recent and proposed proactive community events targeting gang activity, and an alert to a scam being promulgated by older teens offering to mow lawns as a means to identify which homes are vacant during the day, making those homes potential targets for break-ins; the teens do not have lawn equipment with them.

Joe Ollinger introduced himself as a Candidate for County Executive in the upcoming November election.

New Councilors offered final comments of appreciation to Outgoing Councilors.

With no further business to discuss, **Councilor Ortiz moved to adjourn. Treasurer Kerr seconded, and with a unanimous vote in favor, the meeting adjourned at 10:00 p.m.**

*Diane C. Nelson*

Diane C. Nelson, Asst. City Mgr. /City Clerk

*Approved, November 9, 2010 dcn*