

The Fruitland City Council met in Regular Session at City Hall on Tuesday, May 10, 2011 at 7:30 p.m. with the following members present:

*President Richard Lee Outen, Jr., Treasurer Darlene Kerr, Councilor Gloria J. Ortiz, Councilor Raymond D. Carey, and Councilor Edwin A. Cowell*

Also present at the table were:

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

Also present in the audience were:

*Public Works Director Joseph P. Derbyshire, Public Works Deputy Director George Calloway, and Sgt. Christopher D. Shockley*

Our guests included:

*Bunky Nielsen, Dizzy Bromley of the Fruitland Chamber of Commerce, Bob Marvel, Amanda Pollack of George, Miles, and Buhr (GMB) and the Fruitland Chamber of Commerce, John Bonas, Sheila Nichols, Richard F. Tull, Rick Whayland, Austin Cox, Fruitland Volunteer Fire Company Chief Robin Townsend, and Earl Holland of the Daily Times*

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

President Outen read and presented to Chief Phillips, a Proclamation from the City Council designating May 23 to June 5, 2011 as "Click It or Ticket Mobilization" in Fruitland, Maryland.

President Outen then acknowledged receipt of the minutes of the Regular Meeting of April 12, 2011, calling for additions or corrections. As there were none, **Councilor Ortiz moved to adopt the minutes as presented; Councilor Carey seconded and the motion passed on a unanimous vote in favor.**

<b><u>Treasurer Kerr</u></b> delivered the Treasurer's Report.	Cash on Hand 4/01/11	\$ 187,387.93
	Deposits	208,409.86
	Transfer from Savings	<u>100,000.00</u>
	Subtotal	\$ 495,797.79
	Disbursements	( <u>394,963.09</u> )
	Total Ending 4/30/11	\$ 100,834.70

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

**City Manager Konrad** delivered the City Manager's Report, which was followed by presentation of Departmental Reports from **Chief Phillips and Public Works Director Derbyshire.**

### **Public Hearing – Zoning Map Amendment No. 1-11 – 207-209 North Dulany Avenue - 7:45 p.m.**

**At 7:45 p.m.** President Outen convened a Public Hearing on Zoning Map Amendment No. 1-11 , which was given First Reading at the April 12, 2011 Council Meeting when Mr. John “Bunky” Nielsen of BN Properties presented his request that 207-209 N. Dulany Avenue be rezoned from C-2, Neighborhood Business, to R-2, Multi-Family Residential, to accommodate construction of a duplex unit, if possible, on his L-shaped lot at 207-209 N. Dulany Avenue; the property is presently zoned *C-2 Neighborhood Business*, but slated, in accordance with the City’s Comprehensive Plan, to be designated a *Residential Zone* at some unspecified date in the future. Upon presenting his request at the April 5, 2011 Planning Commission Meeting, Mr. Nielsen received a favorable recommendation from the Planning Commission to the City Council for approval of his request.

City Solicitor Mitchell then presented background information, including comments regarding the manner of advertising for the *request ordinance* Zoning Map Amendment No. 1-11 prior to presenting it for Second Reading, acknowledging that Council would still be in concert with the Comprehensive Plan should it opt to rezone the property R1-C, General Residential, instead of R-2, Multi-Family Residential, as requested.

President Outen opened the floor for public comment and discussion; after discussion **on a motion by Councilor Carey which was seconded by Councilor Cowell and approved by a unanimous vote in favor, Council adopted Zoning Map Amendment No. 1-11 as presented, rezoning 207-209 N. Dulany Avenue from C-2, Neighborhood Business, to R-2, Multi-Family Residential.**

### **Public Hearing – Community Development Block Grant (CDBG) - 7:50 p.m.**

**At 7:50 p.m.** President Outen convened a Public Hearing to discuss the City’s proposed plan to file a Community Development Block Grant (CDBG) application to undertake sidewalk construction at various locations for Phase I of the City of Fruitland Community Connectivity Project.

City Manager Konrad provided background information on the grant filing process and sources of funding, acknowledging that determining the City’s eligibility was the first step toward pursuing Phase I of the project which would then obligate the City for a non-refundable Eight Hundred Dollar (\$800.00) application fee; Mr. Konrad then outlined the several planned phases of the Connectivity Project which would then require the City to expend Four Thousand Five Hundred Dollars (\$4,500.00) in Capital Funds over a Two-year period should the City be awarded the Four Hundred Seven Thousand Five Hundred Dollars (\$407,500.00) Community Development Block Grant, which would be accompanied by a Forty-five Thousand Dollars (\$45,000.00) State Highway Administration (SHA) Grant.

President Outen then opened the floor for public comment and discussion which touched on the need for sidewalks in conjunction with safety, utility, and right of way issues, homeowner property/sidewalk upkeep enforcement, American Disability Act (ADA) Compliance, the overall cost estimate of the project for sidewalk installation and associated paving, and the amount of City funds to be expended in conjunction with the point at which the City could abandon the project should it find the project is no longer feasible; after discussion **on a motion by Councilor Carey which was seconded by Councilor Ortiz and approved by a four to one vote in favor with Treasurer Kerr the dissenting vote, Council approved the City’s plan as presented, to file a Community Development Block Grant (CDBG) application.**

### **Public Hearing – Proposed Fiscal Year 2011-2012 Budget - 7:55 p.m.**

**At 8:23 p.m.** President Outen convened a Public Hearing to discuss the Proposed Fiscal Year 2011-2012 Budget and then yielded the floor to City Manager Konrad for presentation of the budget.

City Manager Konrad presented all components of the Proposed Budget beginning with the 2011-2012 Utilities Department Budget, acknowledging that there are no planned increases for water rates, user fees, or front foot assessments reflected in this balanced budget as presented.

Mr. Konrad then presented the 2011-2012 General Operating Budget Revenues and Expenditures, acknowledging an increase in Revenues from last year, due in large part to a slight increase in the Assessable Base for both Real Estate and Personal Property with no change in the tax rate for either, reinstatement of a portion of State Highway Aid and the inclusion of the loan amount proceeds which will fund the New Police Building. He continued by acknowledging an increase in Expenditures from last year, due in large part to the addition of Six (6) months of expenses associated with the New Police Building once completed, such as loan payments and operating expenses for the New Building; he also noted a Ten Thousand Dollar (\$10,000.00) increase from last year in the line item amount for the Volunteer Fire Department.

After Public Comment and Discussion on this portion of the Budget, **on a motion by Councilor Ortiz which was seconded by Councilor Cowell and approved by a unanimous vote in favor, Council approved the First Reading of the Proposed Fiscal Year 2010-2011 General Operating and Water and Sewer (Utilities) Budgets as presented.**

City Manager Konrad then proceeded with presentation of the 2011-2012 Capital Improvement Budget, noting that the asterisk (\*) shown therein, signified *Funding Pending* for several projects with outside funding sources; he continued with the 2012-2016 Five Year Capital Improvement Plan, acknowledging that listing projects on the Five Year Capital Plan positioned the City to move forward with those projects should funding become available.

Discussion included Paving, Recreation, and Water projects, as well as the required replacement of the Police Radio System, all in conjunction with the Five Year Capital Plan.

*City Manager Konrad will follow up on a question raised during discussion of Recreation projects regarding adjustment of the lights already installed at the Falcon Football Field.*

President Outen provided background information regarding the issue of paving Irl Lane which has resurfaced in the form of a new petition from patrons of a South Brown Street Business requesting that the City pave Irl Lane; President Outen acknowledged that a letter generated by former City Manager Pollitt to then patrons of the same business with the same paving issue in 2006, is still an accurate representation of the City's current position regarding the paving of Irl Lane.

*City Manager Konrad will resend former City Manager Pollitt's letter as a response to the new petition.*

**On a motion by Treasurer Kerr which was seconded by Councilor Carey and approved by a unanimous vote in favor, Council approved the First Reading of the Proposed Fiscal Year 2011-2012 Capital Improvements Budget as presented.**

*[Solicitor Mitchell has provided City Manager Konrad with additional information on Irl Lane, by letter, since this Meeting.]*

**On a motion by Councilor Ortiz which was seconded by Treasurer Kerr and approved by a unanimous vote in favor, Council approved the First Reading of the Proposed Fiscal Year 2012-2016 Five-Year Capital Improvements Plan as presented.**

## **UNFINISHED BUSINESS**

### **1. Paid Bill Report**

President Outen acknowledged receipt of the paid bill report. As there were no questions, **on a motion made by Councilor Carey which was seconded by Councilor Ortiz, the paid bills were approved as listed by a unanimous vote in favor.**

## **2. Camden Interceptor Pump Station Project – Update – Amanda Pollack**

Amanda Pollack of GMB provided an update on the Camden Interceptor Pump Station Project which is to be funded by the Wicomico County Board of Education (WCBOE) in conjunction with the New Bennett Middle School slated for construction in Fruitland; after summarizing the bid process, Ms. Pollack highlighted bidding informalities and irregularities which were discovered in the review process which followed. Ms. Pollack then presented GMB's recommendation to the City to waive the bidding informalities and irregularities noted and to approve the bid from Austin Cox Mechanical in the amount of Five Hundred Fifty-Six Thousand Five Hundred Fourteen Dollars (\$556,514.00) contingent upon approval from the WCBOE, with further recommendation that upon entering into a contract with Austin Cox Mechanical, Inc, the City obtain a new unit price for any sanitary sewer above the quantity bid. City Solicitor Mitchell concurred with GMB's recommendation, but preferred *informalities* be considered *irregularities*.

After discussion which also referenced the City's Memorandum of Understanding (MOU) with the WCBOE, **on a motion by Councilor Carey which was seconded by Treasurer Kerr and approved by a unanimous vote in favor, Council awarded the bid to the low bidder Austin Cox Mechanical, Inc., contingent upon receiving confirmation from the WCBOE that it will pay for the cost of the bid.**

### **NEW BUSINESS**

#### **1. Resolution No. 03-11 – Authorizing CDBG Grant Application for Sidewalk Construction**

City Manager Konrad summarized that as part of the application process, the City has to authorize by Resolution, the filing of the CDBG Grant Application as discussed and approved by Council earlier this evening during the Public Hearing; Mr. Konrad then presented Resolution No. 03-11 for Council consideration.

**On a motion by Councilor Ortiz which was seconded by Councilor Carey and approved by a four to one vote in favor with Treasurer Kerr the dissenting vote, Council adopted Resolution No. 03-11 as presented.**

#### **2. Bid for City Public Works Building Replacement and Rehabilitation – Action Item**

City Manager Konrad acknowledged Council's receipt of the bid tabulation and revised budget for the project, summarizing that Harkins Contracting is the apparent low bidder at a Thirty-Five Thousand Six Hundred Thirty Dollar (\$35,630.00) base bid and that the alternate concrete work will be bid out and then brought back to Council at a later time.

Mr. Konrad requested Council award Harkins Contracting the base bid for the Building Replacement and Rehabilitation, after which President Outen clarified that insurance proceeds from the loss of the building in the fire at the Public Works Complex would pay for the project.

After discussion, **on a motion by Treasurer Kerr which was seconded by Councilor Cowell and approved by a unanimous vote in favor, Council awarded the base bid in the amount of Thirty-Five Thousand Six Hundred Thirty Dollars (\$35,630.00) to Harkins Contracting as presented.**

### **3. Paving Policies – Discussion Item**

City Manager Konrad acknowledged Council's receipt of the City of Salisbury's Paving Policy dealing with road cuts in conjunction with a recent road cut by a local utility company which resulted in substandard patching of the road cuts; Mr. Konrad requested Council direction in establishing a written policy for repaving of road cuts with the end result being improved quality of the repaving after the road cuts.

Discussion included technical aspects of the various types of road cuts, the current volume of Miss Utility requests received by the City, and why policy for utility cuts was different for developers.

City Solicitor Mitchell opined that Council could adopt the City of Salisbury Policy as its own, effective immediately, with each reference to "Salisbury" becoming "Fruitland, and with Fruitland relying on the City of Salisbury's Standard 400.35 by reference, and with the understanding that the language of the policy would be conformed in its entirety to a Fruitland Policy.

**On a motion by Treasurer Kerr which was seconded by Councilor Cowell and approved by a unanimous vote in favor, Council adopted City of Salisbury Resolution No. 1312, Policy of Repaving City Streets and Rights of Way, to be conformed to be a Fruitland Policy and effective immediately.**

### **4. Other?**

City Solicitor Mitchell summarized that State Government Article § 23A-19 of the Maryland Annotated Code was amended in October 2009 to allow municipalities a two-year window to annex properties which have been partially in City limits for more than Three (3) years, are not larger than Five (5) acres each, and do not represent aggregate acreage of more than Twenty-Five (25) acres for all parcels, without the customary landowner concurrence to annexation. The two-year window expires September 30, 2011.

Solicitor Mitchell and Deputy Treasurer Caton both spoke to the long standing arduous nature of hand amending bills for properties with varying City services which are partially in the City and then requested Council authorization to actively work on the annexation of approximately one dozen properties.

After discussion, Council authorized by consensus, but without vote, Mr. Mitchell and Ms. Caton to work on the annexation process as requested and to report back to Council at the June 2011 Meeting with more comprehensive information prior to a Council vote on the proposed annexation.

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

Public Comments generated discussion on the success of the Fruitland School Spring Fair and concern with noise from loud radios playing in vehicles.

With no further business to discuss, **Councilor Ortiz moved to adjourn. Councilor Cowell seconded, and with a unanimous vote in favor, the meeting adjourned at 9:55 p.m.**

*Diane C. Nelson*

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

*Approved, June 14, 2011 dcn*