

The Fruitland City Council met in Regular Session at City Hall on Tuesday, July 12, 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, Chief of Police Michael J. Phillips, and City Solicitor Andrew C. Mitchell Jr.

Also present in the audience were:

Public Works Deputy Director George A. Calloway and Corporal Matthew E. Brown

Our guests included:

Joe Jimmerson, Kenny Mills, Bob Marvel, Gary Pusey, Spencer Rains, Mike Lynn of RDM, Inc., Laurie Crawford of ERA, Charles Ruch of CNB, Steve Smethurst and Robert Taylor of Adkins, Potts & Smethurst LLP, and Tracy Peterson

President Outen called the meeting to order at 7:34 p.m. and welcomed all in attendance; Councilor Ortiz delivered the opening prayer, and all recited the Pledge of Allegiance.

President Outen then acknowledged receipt of the minutes of the Regular Meeting of June 14, 2011, calling for additions or corrections. As there were none, **Councilor Carey moved to adopt the minutes as presented; Councilor Ortiz seconded and the motion passed on a unanimous vote in favor.**

President Outen yielded the floor to Chief Phillips for presentation of a *Drug Free Wicomico Underage Drinking Leadership Award* to Corporal Matthew E. Brown.

<u>Treasurer Kerr</u> delivered the Treasurer’s Report.	Cash on Hand 6/01/11	\$ 199,772.26
	Deposits	<u>472,537.45</u>
	Subtotal	\$ 672,309.71
	Disbursements	(543,535.36)
	Transfers to Savings	<u>(50,350.87)</u>
	Total Ending 6/30/11	\$ 78,423.48

Councilor Ortiz moved to accept the Treasurer’s Report as presented. Councilor Cowell 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 Deputy Director Calloway**; City Manager Konrad requested Assistant City Manager/City Clerk Nelson summarize and present highlights of the recent purchase of new recording and transcription equipment which will streamline the recordkeeping process and documentation of City meetings.

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

2. Split Lot Annexations – Solicitor Mitchell

a. Four (4) Annexation Resolutions for First Reading

City Solicitor Mitchell provided background information and summarized information presented to Council at the May 2011 meeting which included that State Government Article 23A §19 (t) of the Maryland Annotated Code was amended in October 2009 to allow municipalities a two-year window (which expires September 30, 2011) 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; he also cited as reasons for the annexations, the long standing arduous nature of hand amending bills for properties with varying City services which are partially in the City, and the need to *clean up* several property lines.

Solicitor Mitchell continued that since Council at that same meeting had authorized Staff to work on the potential annexations and report back to Council, Staff had determined that there were Four (4) properties which should be considered for annexation. He summarized the Staff's selection process and then outlined the annexation process which included advertisement of public hearings, description of properties by survey, establishment of annexation plans for the properties, and the effective date of the annexations, prior to presenting the following Annexation Resolutions for Council consideration:

Byrd-Disharoon Road / Annexation Resolution No. 1-2011

Property known as Tax Map 57 — Grid 11 — Parcel No. 89

Hopper–East Main Street / Annexation Resolution No. 2-2011

Property known as Tax Map 805 — Grid 20 — Parcel No. 749

Gravenor-Graydon Lane / Annexation Resolution No. 3-2011

Property known as Tax Map 803 — Grid 12 — Parcel No. 164

Badger-Graydon Lane / Annexation Resolution No. 4-2011

Property known as Tax Map 803 — Grid 12 — Parcel No. 165

After discussion of all Four (4) Annexation Resolutions, **on motion made by Councilor Cowell which was seconded by Treasurer Kerr and approved by a unanimous vote in favor, Council moved to adopt the First Reading of Annexation Resolution No. 1-2011 as presented , with a Public Hearing for the Second Reading of Annexation Resolution No. 1-2011 scheduled for Friday, August 12, 2011 at 6:00 p.m.**

Then on motion made by Councilor Carey which was seconded by Councilor Ortiz and approved by a unanimous vote in favor, Council moved to adopt the First Reading of Annexation Resolution No. 2-2011 as presented , with a Public Hearing for the Second Reading of Annexation Resolution No. 2-2011 scheduled for Friday, August 12, 2011 at 6:10 p.m.

Then on motion made by Councilor Ortiz which was seconded by Treasurer Kerr and approved by a unanimous vote in favor, Council moved to adopt the First Reading of Annexation Resolution No. 3-2011 as presented , with a Public Hearing for the Second Reading of Annexation Resolution No. 3-2011 scheduled for Friday, August 12, 2011 at 6:15 p.m.

Then on motion made by Treasurer Kerr which was seconded by Councilor Cowell and approved by a unanimous vote in favor, Council moved to adopt the First Reading of Annexation Resolution No. 4-2011 as presented , with a Public Hearing for the Second Reading of Annexation Resolution No. 4-2011 scheduled for Friday, August 12, 2011 at 6:20 p.m.

b. Receipt of Informal Bids for Survey

City Solicitor Mitchell then summarized the bidding process, undertaken in adherence to the City's Purchasing Policy whereby informal Requests for Proposals (RFPs) were solicited for surveying the properties separately, as well as together; although higher on only one of the four properties quoted, Brian M. Dennis was the apparent low bidder for surveying all of the properties together.

After discussion, **on motion made by Councilor Carey which was seconded by Treasurer Kerr and approved by a unanimous vote in favor, Council approved the RFP for surveying all of the properties to Brian Dennis in the amount of One Thousand Nine Hundred Dollars (\$1,900.00) as presented.**

3. EECBG-(Energy Efficiency and Conservation Block Grant) – Discussion/Action Item – City Manager Konrad

City Manager Konrad acknowledged Council's receipt of the bid tabulation for the EECBG Grant, summarizing that Eastern Shore Electrical Services is the low bidder at Twelve Thousand Seven Hundred Dollars (\$12,700.00); Mr. Konrad further summarized the bid process, grant requirements, and scope of the project which will enable replacement of light fixtures at City Hall and the Water Treatment Plant, as well as replacement of a Twenty-plus (20+) year old heater at the Garage on Shady Lane. He then requested Council award the bid to Eastern Shore Electrical Services.

After discussion, **on motion made by Councilor Cowell which was seconded by Councilor Carey and approved by a unanimous vote in favor, Council awarded the EECBG Electrical Upgrade bid to Eastern Shore Electrical Services in the amount of Twelve Thousand Seven Hundred Dollars (\$12,700.00) as presented and further authorized City Manager Konrad to sign the contract and move forward with the project.**

4. Other- Meadowbrook Traffic Calming

City Manager Konrad reported that President Outen, Treasurer Kerr, and he had accompanied members of the Meadowbrook Homeowners' Association (HOA) on a walking tour through the subdivision to discuss traffic issues in the development; Mr. Konrad then acknowledged receipt of an email from John Bonas, President of Meadowbrook HOA, outlining the HOA's requests for traffic calming measures which included changes in posted speed limits, additional signage acknowledging children and pedestrians, and prohibiting on-street parking of commercial vehicles.

Discussion included City Ordinances, HOA covenants and Community Unit Plan (C.U.P.) stipulations for the planned residential Meadowbrook subdivision as existing tools to be used as traffic calming measures, speed enforcement issues with proposed and existing signage, and interpretation issues with proposed signage for vehicles and pedestrians.

City Solicitor Mitchell opined that any traffic calming measure which the Council might choose to enact should not be construed as representative of Council's corroboration of Meadowbrook HOA's reference to the *flawed traffic design and extremely hazardous nature* of Emily Drive.

After discussion, **on motion made by Councilor Carey which was seconded by Treasurer Kerr and approved by a three to zero vote in favor, with Councilors Ortiz and Cowell abstaining from the vote, Council approved reducing the posted speed limit in Meadowbrook Subdivision from Twenty-Five Miles per Hour (25mph) to Twenty Miles per Hour (20mph).**

NEW BUSINESS

1. Cedar Commons - Community Unit Plan (C.U.P.) Amendment Request-Duplex Lots – Robert Taylor

Prior to yielding the floor to Mr. Taylor, City Solicitor Mitchell summarized the components of a Community Unit Plan (C.U.P.) such as Cedar Commons, acknowledging that tonight's discussion as well as the preceding discussion at the July 5, 2011 Planning Commission Meeting had both been advertised as Public Hearings; he continued that should the Council move forward and grant the change in setback requirements as requested, a large portion of the paving would be completed and it would also be necessary to amend the Public Works agreement.

Then as an attending member of the Planning Commission present at the July 5, 2011 Meeting, President Outen acknowledged that residents from Cedar Commons in attendance at that meeting spoke in support of the C.U.P. Amendment Request.

As they did at the July 5, 2011 Planning Commission Meeting, Attorneys Robert Taylor and Steve Smethurst of Adkins, Potts & Smethurst LLP, Builder/Developer Mike Lynn of RDM, Inc., Realtor Laurie Crawford of ERA, and Bank Vice President Charles Ruch of CNB provided background information and then presented testimony and documentation in the form of labeled exhibits on behalf of Cedar Commons Business Trust, the current owner of a number of undeveloped lots in the Cedar Commons development, in support of its request for a change in setback requirements which would allow a larger footprint of a more marketable *Twin Home* (Duplex) product on existing lots which the owner anticipates will facilitate the build out of the stalled development. They also discussed the completion of the paving.

Documentation submitted was labeled as follows:

- Exhibit A – Sketch Front Elevation Cedar Commons Twin Home
- Exhibit B – Floor Plan
- Exhibit C – Site Plan – Cedar Commons – Dated April 20, 2011 and modified May 5, 2011
- Exhibit D – Letter from Wicomico County Fire Protection Division
- Exhibit E – Email from Cary and Michael Sove
- Exhibit F – Corrected Applicant's Statement
- Exhibit G – Certification of Public Hearing Advertisement

One resident from Cedar Commons in attendance at the meeting acknowledged and reiterated the residents' support of the C.U.P. Amendment Request expressed at the July 5, 2011 Planning Commission Meeting.

After discussion, **on motion made by Councilor Carey which was seconded by Councilor Cowell and approved by a unanimous vote in favor, Council approved the requested setback changes as shown on the application plat dated April 20, 2011 for Cedar Commons Duplex Lots 12-23, 32 & 33 in Block 'A', 5-14 in Block 'B', 1-12 in Block 'C', and 12 & 13 in Block 'E' as presented.** Thereafter, City Solicitor Mitchell acknowledged that approval of the requested setback changes would require an amendment to the Public Works agreement as he had previously reported earlier in the meeting.

2. Towing Fees – Discussion Item

City Solicitor Mitchell provided background information which included a chronology of the City's historical treatment of towing fees in conjunction with applicable ordinances and agreements prior to Kenny Mills and Gary Pusey, each representing his respective Fruitland tow company, requesting Council consider increasing the tow fee for non-accident calls from Eighty-Five Dollars (\$85.00) as reflected in the July 2005 Towing Agreement to Two Hundred Dollars (\$200.00); rising fuel and equipment costs were cited as the underlying reasons for the request.

City Manager Konrad acknowledged Council's receipt of copies of the current Salisbury City Police Tow Call proposal, the proposed Schedule of Charges requested in July 2006 which the Sitting Fruitland Council did not pass, and a copy of the current Towing Agreement and Schedule of Charges established in July 2005.

Discussion included accident versus non-accident calls, the status of the Salisbury Proposal, various tow procedure scenarios in conjunction with towing, storage, payment, and recovery of vehicles, establishing tow fees based on whether the tow destination is to the City or tow company impound lot, existing criteria and grandfathered exceptions in conjunction with criteria to be included in an updated Towing Agreement, and coordinating the restructuring of the Tow Procedures and Towing Agreement to coincide with the new Police Building becoming operational.

General consensus as discussion concluded was to gather more information for additional discussion at a future Council Work Session.

3. Yard Sale Legislation – Discussion Item

City Manager Konrad acknowledged that Council had been provided for its review, a copy of an email from City Solicitor Mitchell with an accompanying attachment of a marked up version of a previously proposed yard and garage sale ordinance which did not pass; brief discussion ensued and will be continued at a subsequent meeting after Council has reviewed the supplied documents and forwarded any comments to Solicitor Mitchell.

4. Other-Capital Equipment Replacement

City Manager Konrad summarized that allocation had been made in the Five-Year Capital Improvement Plan during Fiscal Year 2012-2013 for a Utilities Pick-Up Truck to replace a 1997 Public Works-Utilities Van which currently has Two Hundred Sixty-Eight Thousand (268,000) Miles on its second engine, the first engine having already been replaced once; the van has just recently broken down and gone out of service.

Given the age of the vehicle and anticipated costs associated with repair, Mr. Konrad and Public Works Deputy Director Calloway requested Council authorize replacement of the capital equipment during the current Fiscal Year 2011-2012 with an accompanying budget amendment authorizing funds to be moved from contingency to underwrite the capital equipment purchase when the purchase is finalized; both the Capital Improvements Budget for Fiscal Year 2011-2012 and the Five-Year Capital Improvement Plan for Fiscal Years 2012-2016 will have to be changed to accurately reflect the budget amendment when it is enacted. Messrs. Konrad and Calloway anticipate purchasing the vehicle according to the State Contract Price for a white, F150 Pick-Up Truck with 4-wheel drive, an extended cab, and an 8-ft bed.

After discussion which included vehicle particulars, accessories, and intended uses in conjunction with overall purchase price versus the practicality of leasing as an option for replacement of the equipment, **on motion made by Councilor Cowell which was seconded by Councilor Ortiz and approved by a unanimous vote in favor, Council supported the request to purchase a pick-up truck as presented, not to exceed a total expenditure of Twenty-Seven Thousand Dollars (\$27,000.00).**

With no Public Comment, General Discussion, or further business to discuss, **Treasurer Kerr moved to adjourn. Councilor Carey seconded, and with a unanimous vote in favor, the meeting adjourned at 10:14 p.m.**

Diane C. Nelson, Asst. City Mgr., City Clerk
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Approved, August 12, 2011 dcn