

The Fruitland City Council met in Regular Session at City Hall on Friday, August 12, 2011 at 6:00 p.m. with the following members present:

*President Richard Lee Outen, Jr., Treasurer Darlene Kerr, and Councilor Gloria J. Ortiz*

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 was: *Public Works Director Joseph P. Derbyshire*

Our guests included: *Tammi Knight, Richard F. Tull, Earl Johanson, Bill Hopper, Bill Hearne, Bob Marvel, and Fred Strobel*

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**At 6:00 p.m.** President Outen convened a Public Hearing on the Byrd-Disharoon Road / Annexation Resolution No. 1-2011, which was given First Reading at the July 12, 2011 Council Meeting.

**Public Hearing – Byrd-Disharoon Road / Annexation Resolution No. 1-2011 – 6:00 p.m.**

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

City Solicitor Mitchell provided background information and summarized 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 then presented Annexation Resolution No. 1-2011 for Second Reading, accompanied by the surveyed description of the property, the proposed zoning by the City, review comments from the Wicomico County Planning Commission and the Maryland Department of Planning (MDP), and other reasons for annexation of this property specific to the property itself.

President Outen opened the floor for public comment and Tammi Knight addressed the Council on behalf of property owner Stephen Byrd, to assert his objection to the annexation as he could not be present; discussion followed which included other public comment as well as references to a prior agreement between the City and the property owner which was reflected in January and February 1986 City Council meeting minutes.

After a final call for Public or Council comments, President Outen closed the Public Hearing prior to calling for the motion; **the Byrd-Disharoon Road / Annexation Resolution No. 1-2011 failed for lack of a motion.**

**Public Hearing – Hopper–East Main Street / Annexation Resolution No. 2-2011 – 6:10 p.m.**

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

**At 6:53 p.m.** President Outen convened a Public Hearing on the Hopper-East Main Street/ Annexation Resolution No. 2-2011, which was given First Reading at the July 12, 2011 Council Meeting.

Solicitor Mitchell then presented Annexation Resolution No. 2-2011 for Second Reading, accompanied by the surveyed description of the property, the proposed zoning by the City, review comments from the Wicomico County

Planning Commission and the Maryland Department of Planning (MDP), and other reasons for annexation of this property specific to the property itself. Mr. Mitchell also reported that the Finance Department has withheld billing the property owner for City taxes due for the past Four (4) years, because of a discrepancy between the information provided from the Maryland Department of Assessments and the visual inspection of the property, which the survey has now resolved.

President Outen then opened the floor for public comment and Bill Hopper addressed the Council on behalf of his mother, property owner Catherine Hopper, as she could not be present; discussion followed which included other public comment as well as discussion of the water/sewer and real estate tax bills for the property and the *supposed versus actual* property lines in conjunction with the billing of back taxes for the property for prior years.

President Outen closed the Public Hearing and yielded the floor to Councilors for comments and discussion prior to calling for the motion; **on a motion by Treasurer Kerr which was seconded by Councilor Ortiz and approved by a three to zero vote in favor with the Resolution becoming effective August 12, 2011 and the Annexation becoming effective September 30, 2011, Council adopted the Hopper-East Main Street / Annexation Resolution No. 2-2011 as presented.**

**Public Hearing – Gravenor-Graydon Lane / Annexation Resolution No. 3-2011 – 6:15 p.m.**

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

**At 7:15 p.m.** President Outen convened a Public Hearing on the Gravenor-Graydon Lane/ Annexation Resolution No. 3-2011, which was given First Reading at the July 12, 2011 Council Meeting.

Solicitor Mitchell then presented Annexation Resolution No.3-2011 for Second Reading, accompanied by the surveyed description of the property, the proposed zoning by the City, review comments from the Wicomico County Planning Commission and the Maryland Department of Planning (MDP), and other reasons for annexation of this property specific to the property itself.

President Outen opened the floor for public comment; after public comment and discussion, President Outen closed the Public Hearing and yielded the floor to Councilors for comments and discussion prior to calling for the motion; **on a motion by Councilor Ortiz which was seconded by Treasurer Kerr and approved by a three to zero vote in favor with the Resolution becoming effective August 12, 2011 and the Annexation becoming effective September 30, 2011, Council adopted the Gravenor-Graydon Lane / Annexation Resolution No. 3-2011 as presented.**

Prior to convening the next Public Hearing, President Outen referred back to the Hopper-East Main Street property and the billing of back taxes issue which was raised during the Public Hearing to discuss annexation of that property.

**On a motion by Treasurer Kerr which was seconded by Councilor Ortiz and approved by a three to zero vote in favor, Council directed the City Finance Department to send the FY 2011-2012 tax bill for this property when completed, based upon the computations from the survey, but to forgive all tax bills unpaid prior to this time.**

**Public Hearing – Badger-Graydon Lane / Annexation Resolution No. 4-2011 – 6:20 p.m.**

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

**At 7:20 p.m.** President Outen convened a Public Hearing on the Badger-Graydon Lane/ Annexation Resolution No. 4-2011, which was given First Reading at the July 12, 2011 Council Meeting.

Solicitor Mitchell then presented Annexation Resolution No.4-2011 for Second Reading, accompanied by the surveyed description of the property, the proposed zoning by the City, review comments from the Wicomico County Planning Commission and the Maryland Department of Planning (MDP), and other reasons for annexation of this property specific to the property itself.

President Outen opened the floor for public comment and property owner Regina Badger addressed the Council; discussion followed which included other public comment as well as the availability of water and sewer services in general to the whole of Graydon Lane properties in conjunction with the placement of City water and sewer service lines.

President Outen closed the Public Hearing and yielded the floor to Councilors for comments and discussion prior to calling for the motion; **on a motion by Treasurer Kerr which was seconded by Councilor Ortiz and approved by a three to zero vote in favor with the Resolution becoming effective August 12, 2011 and the Annexation becoming effective September 30, 2011, Council adopted the Badger-Graydon Lane / Annexation Resolution No. 4-2011 as presented.**

President Outen dispensed with the usual and customary opening for the Regular Meeting and then acknowledged receipt of the minutes of the Regular Meeting of July 12, 2011, calling for additions or corrections. As there were none, **Councilor Ortiz moved to adopt the minutes as presented; Treasurer Kerr seconded and the motion passed on a three to zero vote in favor.**

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

Cash on Hand 7/01/11	\$	78,423.48
Deposits		160,116.13
Transfers from Savings		<u>250,000.00</u>
Subtotal	\$	488,539.61
Disbursements		<u>(483,830.00)</u>
Total Ending 7/31/11	\$	4,709.61

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

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

## **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 Ortiz, the paid bills were approved as listed by a three to zero vote in favor.**

### **2. Police Building Change Order Flush Valves – Action Item**

City Manager Konrad acknowledged Council's receipt of the overall Bid Tally for the Police Building and then summarized that included in the overall bid package had been an Alternate *Sensor Flush Valves* Bid totaling One Thousand One Hundred Fifty-Five Dollars (\$1,155.00) which would conserve both energy and water usage in the water and sewer fixtures in the new building; Mr. Konrad continued that in order to submit this change order request to the United States Department of Agriculture (USDA) for approval for final USDA financing of the project, the request must be accompanied by Council's approval of the alternate bid and resulting change order as reflected in the minutes.

After discussion, **on a motion by Councilor Ortiz which was seconded by Treasurer Kerr and approved by a three to zero vote in favor, Council approved the Alternate Bid and Change Order Request for Sensor Flush Valves as presented.**

### 3. Public Works Garage/Shed

#### a. Electrical Bid – Action Item

City Manager Konrad summarized that after consultation with Solicitor Mitchell regarding the fact that no bids were submitted as a result of the formal bidding process and discussion with Messrs. Derbyshire and Calloway, the preferred course of action was then determined to be completion of most of the wiring in-house with a Request For Proposal (RFP) for contractual services of an electrician for the final panel wiring and permit/inspection services. Mr. Konrad then presented the results of the RFPs and indicated that his recommendation was *Mast Electrical Service* as the lowest priced vendor. He continued that the materials cost for in-house wiring (\$5,000.00-6,000.00) plus the cost for contractual services (\$2,598.51) was well within the original budgeted amount (\$16,000.00) for electric for this project; not wishing to delay the project further as a result of the non-receipt of formal electrical bids, staff had moved forward with the wiring and Mast Electrical had been onsite to begin its portion of the work.

After discussion, **on a motion by Councilor Ortiz which was seconded by Treasurer Kerr and approved by a three to zero vote in favor, Council approved the work already begun and still to be completed by Mast Electrical Service per the proposal quoted to the City of Fruitland in the amount of Two Thousand Five Hundred Ninety-Eight Dollars and Fifty-One Cents (\$2,598.51) as presented.**

President Outen acknowledged that the preceding bid approved as well as the ones now to be discussed as part of the Public Works Garage/Shed Rehabilitation Project are all being funded by insurance and scrap metal proceeds from the loss of the building in the fire at the Public Works Complex in January 2011.

#### b. Add-ons

##### i. Bathroom – Action Item

City Manager Konrad summarized that a healthy contingency had allowed the City to move forward with the installation of a bathroom next to the Office in the rehabilitated Garage/Shed; the original building had no bathroom. He then summarized the status of the project and outlined the purchasing guidelines followed for the expenditures not originally included in the budget, which included a Grinder Pump at a cost of Three Thousand Four Hundred Ninety –Five Dollars (\$3,495.00) and Fixtures at an estimated cost of One Thousand Dollars (\$1,000.00.)

After discussion, **on a motion by Treasurer Kerr which was seconded by Councilor Ortiz and approved by a three to zero vote in favor, Council approved the Bathroom Add-ons as presented.**

##### ii. Concrete Slab Bay #1 – Action Item

City Manager Konrad summarized the circumstances that led to consideration of an additional concrete slab in Bay #1 just prior to concrete being poured for the entire project; the additional slab would accommodate a lift in that bay for working on larger trucks. Mr. Konrad acknowledged that the additional cost was within the original budget approved when the project was initiated.

After discussion, **on a motion by Councilor Ortiz which was seconded by Treasurer Kerr and approved by a three to zero vote in favor, Council approved the Concrete Slab in Bay #1 Add-on in the amount of One Thousand Nine Hundred Forty Dollars (\$1,940.00) as presented.**

##### iii. Ceiling – Action Item

**AND**

##### iv. Inside Walls – Action Item

City Manager Konrad summarized plans for the installation of insulation followed by a metal finish for the ceiling and inside walls with the expectation of realizing a savings on heating expenses for the building. The building contractor (Harkins) quoted Four Thousand Three Hundred Seven Dollars (4,307.00) for the insulation and metal finish for the ceiling; the in house labor cost estimate is Four Thousand Dollars (\$4,000.00) for the insulation and metal finish for the inside walls.

After discussion, **on a motion by Treasurer Kerr which was seconded by Councilor Ortiz and approved by a three to zero vote in favor, Council approved the Ceiling and Inside Walls Add-ons as presented.**

**4. Crown Sports Request – Discussion Item**

Bill Hearne requested to meet with Council for a Work Session to further discuss his Crown Sports Request; Council determined by consensus, but without vote, to schedule a Special Meeting on Monday, August 22, 2011 at 6:00 p.m. with Crown Sports Request as an agenda item.

**NEW BUSINESS**

**1. First Reading Ordinance No. 254 – Public Ethics Ordinance**

Prior to presenting Ordinance No. 254 for first reading, City Solicitor Mitchell provided background information regarding the City's existing Ethics Ordinance, Maryland State Code dealing with conflicts of interest, financial disclosure, and lobbying and the State's requirement effective October 1, 2010 that municipalities certify their compliance with the new Maryland State ethics law on or before October 1<sup>st</sup> of each year with the first required report date being October 1, 2011. Mr. Mitchell recommended adoption of the Model State Ordinance, with deviations specific for Fruitland as appropriate, noting that such deviations could be easily pointed out to the State Ethics Commission upon the occasion of the City's annual certification of compliance with the Maryland State ethics law.

Solicitor Mitchell then presented for Council consideration Ordinance No. 254, which repeals Ordinance No. 193, the Ethics Ordinance, and enacts in its stead a new ethics ordinance, to be known as the Public Ethics Ordinance.

After discussion, **on a motion by Treasurer Kerr which was seconded by Councilor Ortiz and approved by a three to zero vote in favor, Council moved to adopt the First Reading of Ordinance No. 254 as presented, with a Public Hearing for the Second Reading of Ordinance No. 254 scheduled for Tuesday, September 13, 2011 at 7:40 p.m.**

**2. Community Parks and Playground (CPP) Grant for Lot Y – Action Item**

City Manager Konrad provided background information on a Thirty-Five Thousand Dollar (\$35,000.00) CPP grant which the City had only recently learned had been approved some time ago for a playground on Lot Y, which is owned by the Wicomico County Housing Authority and located in a central area between several City streets (Theodore, Leslie, Poplar, and Dulany.) He outlined plans for the playground and requested permission to move forward with the project, acknowledging that the playground will require City maintenance in the future similar to other City maintained properties, but will not require any expenditure of City funds to complete the project; he confirmed the Housing Authority's concurrence to move forward with the project.

After discussion, **on a motion by Councilor Ortiz which was seconded by Treasurer Kerr and approved by a three to zero vote in favor, Council approved the Community Parks and Playground (CPP) Grant for Lot Y as presented.**

**3. Enhanced Nutrient Removal (ENR) Upgrade – Engineering Bid – Action Item**

City Manager Konrad provided background information regarding the Maryland Department of the Environment (MDE) Grant requirement to bid out the engineering for the ENR Upgrade at the Wastewater Treatment Plant (WWTP.) and then summarized the *Request for Qualifications* process to be followed as discussed with Pete Bozick of George, Miles, and Buhr (GMB), the City's engineer, prior to requesting Council permission to move forward with solicitation of RFQs for the ENR Upgrade.

After discussion, Council determined by consensus, but without vote, that Mr. Konrad should proceed as requested.

#### **4. Water Tower Rehabilitation Project – Discussion Item**

City Manager Konrad provided background information and then summarized highlights, proposed changes to the City's FY 2011-2012 Capital Improvement Budget, and funding sources pertinent to the project; discussion was generated but no action was taken since the required four fifths (4/5) majority vote for passage was unattainable with the three (3) person, Council quorum present.

#### **5. Other-Police Cars**

City Solicitor Mitchell summarized his previous correspondence to Council regarding issues arising out of the Police Department's plan to lease three (3) vehicles from Ford Motor Credit (FMC) on a government bid contract from Criswell Chevrolet. There are four basic issues upon which Solicitor Mitchell expounded: (1) matters surrounding the lease itself and "bank qualified loan" status; (2) the City's budget and ramifications arising from the way in which it was passed; (3) financial; and (4) procedures to move forward.

Discussion included leasing versus purchasing vehicles, impact on the Police Department and overall City Budgets, status of the delivery of vehicles and the leasing contract itself, and extended warranty on vehicles.

After discussion, **on a motion by Treasurer Kerr which was seconded by Councilor Ortiz and approved by a three to zero vote in favor, Council authorized the advance of funds from the City's General Fund in the amount of One Hundred Eleven Thousand Four Hundred Twenty-Seven Dollars and Forty-Four Cents (\$111,427.44) rather than entering into the proposed lease, pending action to borrow said funds for the purchase of Three (3) Police vehicles.**

#### **Public Comment/General Discussion**

Public Comments included questions which generated discussion about parking on Hayward Avenue, the curb and gutter upkeep portion of the property upkeep ordinance, and the cost and nature of the water supply when obtained from Salisbury during the water tower rehabilitation period.

With no further business to discuss, **Councilor Ortiz moved to adjourn. Treasurer Kerr seconded, and with a three to zero vote in favor, the meeting adjourned at 9:05 p.m.**

*Diane C. Nelson*

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

*Approved, September 13, 2011 dcn*