

The Fruitland City Council met in Regular Session at City Hall on Tuesday, November 8, 2011 at 7:30 p.m. with the following members present:

President Richard Lee Outen, Jr., Treasurer Darlene Kerr, and Councilor Raymond D. Carey

Also present at the table were:

City Manager Rick D. Konrad, Assistant City Manager / City Clerk Diane C. Nelson, Public Works Director Joseph P. Derbyshire, Sgt. Christopher D. Shockley and City Solicitor Andrew C. Mitchell Jr.

Our guests included:

Bob Marvel, Amanda Pollack of GMB and the Fruitland Chamber of Commerce, Les Katona of Affiliated Power Purchasers International (APPI) Energy, George Tryder of Total Energy Consultants, LLC, and Gary G. Pusey

President Outen called the meeting to order at 7:37 p.m., welcomed all in attendance, and immediately acknowledged the passing of Pocomoke City Councilor Bob Hawkins; he then invited all to join him in reciting The Lord's Prayer followed by The Pledge of Allegiance.

President Outen then acknowledged receipt of the minutes of the Regular Meeting of October 11, 2011, and the Special Meetings of September 12, 2011, September 27, 2011 and October 5, 2011 calling for additions or corrections. As there were none, **Treasurer Kerr moved to adopt the minutes as presented; Councilor Carey seconded and the motion passed on a three to zero vote in favor.**

<u>Treasurer Kerr</u> delivered the Treasurer's Report.	Cash on Hand 10 /01/11	\$	188,895.56
	Deposits		<u>607,550.61</u>
	Subtotal	\$	796,446.17
	Disbursements		(488,904.38)
	Transfer to Savings		<u>(175,000.00)</u>
	Total Ending 10/31/11	\$	132,541.79

Councilor Carey 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 **Sgt. Shockley, and Public Works Director Derbyshire.**

Between presentation of the Police and Public Works Departmental Reports, Sgt. Shockley presented two (2) action item requests for Council consideration relating to seized forfeitures of property and money processed through the court system.

Sgt. Shockley requested Council authorization to pursue a 2007 Nissan Altima with One Hundred Fourteen Thousand (114,000) Miles, and a Blue Book net equity of approximately Six Thousand Three Hundred Dollars (\$6,300.00) after payoff of the outstanding lien on the vehicle; the vehicle would be put into departmental service or sold at auction with proceeds applied as an offset to the departmental budget.

On motion made by Treasurer Kerr which was seconded by Councilor Carey and approved by a three to zero vote in favor, Council authorized the department to move forward through the court system to obtain the vehicle through the seizure process for forfeited property.

Then on motion made by Councilor Carey which was seconded by Treasurer Kerr and approved by a three to zero vote in favor, Council authorized the department to exercise the most reasonable option for use of the vehicle, whether it is put into departmental service or sold at auction with proceeds applied as an offset to the departmental budget.

Having received notification from the Court of its availability for seizure, Sgt. Shockley then requested Council permission to convert Three Thousand One Hundred Dollars (\$3,100.00) from *Forfeited Funds Property Record P-01618* to the Department's Uniform account for construction and purchase of new badges which will be unique to Fruitland; there are issues with the quality of the current badges and the vendor's willingness to warranty the product.

On motion made by Treasurer Kerr which was seconded by Councilor Carey and approved by a three to zero vote in favor, Council approved the conversion of *Forfeited Funds* to the Uniform Account as requested.

Public Hearing – Ordinance No. 257 – Municipal Homestead Property Tax Credit – 7:45 p.m.

At 7:55 p.m. President Outen convened a Public Hearing on the Municipal Homestead Property Tax Credit, which was given First Reading at the October 11, 2011 Council Meeting. City Solicitor Mitchell then provided background information clarifying the need for Fruitland to enact its own ordinance in order to retain the previously enforced percentage and not to follow the recent change enacted by Wicomico County which reduced the County's percentage; he then presented for Second Reading Ordinance No. 257, an ordinance of the City of Fruitland, Maryland to establish a Municipal Homestead Property Tax Credit at a rate different from that established by Wicomico County, Maryland, all pursuant to Maryland Annotated Code, Tax-Property Article, Section 9-105.

At the conclusion of the Public Hearing, **on motion made by Councilor Carey which was seconded by Treasurer Kerr and approved by a three to zero vote in favor becoming effective November 9, 2011 to affect property tax bills beginning July 1, 2012, Council adopted the Municipal Homestead Property Tax Credit Ordinance No. 257 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 Treasurer Kerr which was seconded by Councilor Carey, the paid bills were approved as listed by a three to zero vote in favor.**

2. Ordinance No. 254 – Public Ethics Ordinance – Action Item

City Solicitor Mitchell provided background information on the ordinance, which was given First Reading at the August 12, 2011 Council Meeting, Second Reading during the October 11, 2011 Public Hearing, and which is still under review by the State Ethics Commission.

At the time of First Reading, Mr. Mitchell had 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; during the Public Hearing Solicitor Mitchell recommended Council postpone the vote on the ordinance until the November 8, 2011 Council Meeting in order to allow time for the State to comment on the ordinance prior to Council adoption of the same, advising that the State Ethics Commission, aware that the City had not met the October report date because the Commission was not able to complete its review of the ordinance in a timely fashion, was not holding the City to the deadline date.

Given that the State is still reviewing the ordinance and that the City has already invested significant time and money in presenting the ordinance for First and Second Readings and has held the required Public Hearing, Mr. Mitchell recommended approval of an amended Ordinance which removes objectionable passages which the State would have to approve; he then presented the amended ordinance, highlighting the differences which now made Fruitland's ordinance more closely mirror the Model State Ordinance.

On motion made by Councilor Carey which was seconded by Treasurer Kerr and approved by a three to zero vote in favor becoming effective November 9, 2011, Council adopted Public Ethics ordinance No. 254 as presented.

3. Police Building – Furnishings Bid Award – Action Item

City Manager Konrad summarized and presented the bid tabulation for the Police Building furnishings, acknowledging that one (1) bid was rejected because the vendor failed to schedule a required pre-bid conference and also failed to total the bid submission; of the two (2) remaining bids, the apparent low bidder was DCL Office Furniture Solutions at Eighty-Six Thousand Seven Hundred Nine Dollars and Forty-Three Cents (\$86,709.43.)

Mr. Konrad summarized that the United States Department of Agriculture (USDA) will allow the City to claim reimbursement for the land purchase for the site of the new Police Building; the land purchase is then incorporated into the USDA loan and subsequent reimbursed proceeds deposited to the General Fund can then be used to fund the Police Building Furnishings and other projects as needed.

On motion made by Treasurer Kerr which was seconded by Councilor Carey and approved by a three to zero vote in favor, Council approved the bid award to DCL Office Furniture Solutions in the amount of Eighty-Six Thousand Seven Hundred Nine Dollars and Forty-Three Cents (\$86,709.43) as presented, with City Manager Konrad authorized to sign the contract.

4. Other – Towing Agreement

Gary Pusey raised the issue of a Thirty Dollar (\$30.00) administrative fee that was inadvertently excluded from the Fee List when the Towing Agreement was approved by Council at the October 11, 2011 Meeting.

After discussion, on a motion by Treasurer Kerr which was seconded by Councilor Carey and approved by a three to zero vote in favor, Council approved the addition of the Thirty Dollar (\$30.00) administrative fee to the Tow Agreement cost exhibit.

NEW BUSINESS

1. Cross Walk Stop Signs – Discussion Item

City Manager Konrad summarized a citizen complaint lodged against the cross walk stop sign on East Main Street in front of the church, which cited the location of the sign in the middle of the road as a road hazard; he then presented data on the frequency of repair and/or replacement of each of the Three (3) cross walk stop signs in Fruitland, and the costs associated with maintaining each of these signs.

After discussion, on a motion by Treasurer Kerr which was seconded by Councilor Carey and approved by a three to zero vote in favor, Council determined that once the pedestrian signs are damaged and all replacement sign inventory has been exhausted, the signs will no longer be replaced at any location.

2. Planning Commission Re-Appointment – Action Item

City Manager Konrad recommended Derek Bland for re-appointment to a new five-year term on the Planning Commission, summarizing that Mr. Bland's current term of appointment expires December 2011; Mr. Bland is agreeable to a new five-year term on the Commission and has provided for Council consideration, the customary letter of interest for the appointment.

On a motion by Councilor Carey which was seconded by Treasurer Kerr and approved by a three to zero vote in favor, Council re-appointed Derek Plan to the Planning Commission for a new five-year term as recommended.

3. Wicomico County Hazard Mitigation Plan Approval – Action Item

City Manager Konrad provided background information, summarized Fruitland's limited participation in the preparation of the County-wide plan which the County is now requesting each municipality endorse, and then recommended approval of the County's Hazard Mitigation Plan; Messrs. Konrad and Outen acknowledged the merits of the County Plan.

After discussion, **on a motion by Treasurer Kerr which was seconded by Councilor Carey and approved by a three to zero vote in favor, Council approved the Wicomico County Hazard Mitigation Plan as recommended.**

4. Sprinkler Infrastructure Upgrade Cost sharing – Discussion Item

City Manager Konrad summarized that since the passage of the ordinance requiring residential sprinklers in all new construction absent the homeowner opt out provision, circumstances have arisen which have demonstrated the need for the City to establish a cost sharing formula for sprinkler infrastructure upgrades when new construction takes place at an existing service location.

After discussion which included various scenarios, associated costs, and City versus Builder driven needs for minimal as well as major upgrades, Council consensus was to move forward by asking the City Solicitor to draft a resolution for the establishment of a cost sharing formula for sprinkler infrastructure upgrades which may become necessary in order to accommodate installation of required residential sprinkler systems in new construction at existing service locations.

5. Energy Contract – Discussion/Action Item

City Manager Konrad summarized the bid process which resulted in bids from APPI Energy and Total Energy Consultants, with each vendor submitting twelve-month, twenty-four month, and thirty-six month rates from various energy suppliers; the apparent low bidder was APPI Energy with a thirty-six month quote from Direct Energy.

A representative from each vendor was in attendance to participate in general discussion with Council and to field questions specific to his company's bid submission.

After discussion, **on a motion by Councilor Carey which was seconded by Treasurer Kerr and approved by a three to zero vote in favor, Council awarded a three year energy contract to APPI, Energy with Direct Energy the supplier, becoming effective at the end of the existing energy contract.**

Public Comment/General Discussion

Public comment included a question which generated discussion on the status of legislation pertaining to solar panels and windmills within City limits as well as other windmill related issues across the Country.

With no further business to discuss, **Councilor Carey 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, CMC

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

Approved, December 13, 2011 dcn