

**FRUITLAND PARK CITY COMMISSION MEETING MINUTES**  
**AUGUST 27, 2009**

MEETING STATISTICS. A regular meeting of the Fruitland Park City Commission was conducted in the Commission Chambers of City Hall, 506 West Berckman Street, Fruitland Park, Florida on Thursday, August 27, 2009 beginning at 7:01 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE. Pastor Mulford from the Grace Bible Baptist Church delivered the invocation followed by the Pledge of Allegiance led by Commissioner Gunter.

ROLL CALL. Mayor Bell asked City Clerk Diane Gibson Smith to call the roll.

ELECTED OFFICIALS PRESENT. Commissioner Albert O. Goldberg, Commissioner John L. Gunter, Jr., Commissioner Darrel E. Martin, Vice Mayor Sharon Kelly, Mayor Christopher J. Bell

MUNICIPAL OFFICIALS/OTHERS PRESENT. City Manager (CM) Ralph O. Bowers, City Treasurer (CT) Elizabeth Palmer, Recreation Director (RD) Sherry Bechtel, Public Safety Director (PSD) J. M. Isom, Sr., Community Development Director (CDD) Peggy Sue Newman, and City Clerk (CC) Diane Gibson Smith.

01. HEARD PRESENTATION BY GAI CONSULTANTS AND GRAY ROBINSON REGARDING THE PURCHASE OF THE ELECTRIC UTILITY SYSTEM.

Tom Cloud, attorney with Gray Robinson, spoke regarding the purchase of the electric system. He noted the purpose of this meeting is to approve the appraisal, accept the separation and reintegration report, and approve moving forward with the purchase of the electric. Attorney Cloud noted all electric purchases have been upheld in a court of law. Attorney Cloud stated Jerry Hartman would be giving expert testimony.

Jerry Hartman, GAI Consultants, stated he is an ASA (accredited senior appraiser) for utilities. The documents to be reviewed include: appraisal, April 9<sup>th</sup> letter, upgraded separation and reintegration report by WHH, and various information. Mr. Hartman distributed and reviewed a handout presentation (copy attached). He noted utility systems are long term investments.

Vice Mayor Kelly questioned the bottom line. Mr. Hartman stated the appraised price is \$2.95 million and \$1.5 million for contingencies.

Vice Mayor Kelly questioned the total costs for the system. Mr. Hartman stated the total amount to be financed is slightly less than \$5 million – this includes working capital needed while getting the system up and running.

CM Bowers stated this appraised price includes the entire city. We may want to purchase a few other areas outside the city limits. We will work with Leesburg on these items.

Attorney Cloud shared an experience in Winter Park where 54 homes were left out. He noted the severance and reintegration has been updated to include all the members.

CA Gerken stated this has been a long process. Fruitland Park is very lucky to have two of the best experts in this field. There was a lengthy time in getting information from Leesburg. The appraisal has been accurate, but the separation and reintegration report was not inclusive.

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Vice Mayor Kelly questioned if the City will go in the "red" the first couple of years. Mr. Hartman stated this depends on how the rates are set. A higher working capital can be financed to offset losses. Alternative financing options can also be reviewed.

CM Bowers stated what he visualizes is getting the O & M costs, financial cost information, etc., and then look at various scenarios to determine the best way to move forward for the City.

Attorney Cloud stated this will come back before the Commission to review the options at every significant step. This is a public purchase and everyone needs to keep their eyes wide open.

Vice Mayor Kelly stated during the process, the expectation is the State will be realigning US Highway 27 and the power lines will need to be realigned. She questioned if this scenario has been included. PWD Bostic stated he believes the lines will not have to be moved. CM Bowers added this will be defined before moving forward.

Vice Mayor Kelly noted all the utility lines need to be located before then also.

Mayor Bell requested comments from the public. Jimmy Posse, a concerned citizen, stated electric costs are very high. Attorney Cloud stated FMPA is the cause. This is one of the driving forces that makes this acquisition so positive to do right now. Attorney Cloud noted currently the electric is purchased through a cooperative. Purchasing the system will allow Fruitland Park to purchase from another source.

Charlie Rector questioned what is being considered tonight. Attorney Cloud stated tonight we are approving going forward to Leesburg with a value of the system. The acquisition of the system is not being authorized tonight.

CA Gerken stated the resolution approves the appraisal and authorizes the transmittal of such to Leesburg to begin the negotiations.

CA Gerken read Resolution 2009-016, by title only, as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, PROVIDING FOR CERTAIN FINDINGS; APPROVING THE APPRAISAL PREPARED BY GAI CONSULTANTS, INC.; APPROVING THE SEVERANCE AND REINTEGRATION PLAN FOR THE CITY OF FRUITLAND PARK, AS AMENDED, BY WHH ENTERPRISES; APPROVING AND AUTHORIZING THE EXERCISE OF THE CITY'S RIGHT TO PURCHASE THE ELECTRIC DISTRIBUTION FACILITIES UNDER ORDINANCE NO. 303 AND THE OCTOBER 10, 1983 ELECTRICAL FRANCHISE AGREEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Kelly moved and Commissioner Goldberg seconded to adopt Resolution 2009-016. The motion carried unanimously with Commissioner Goldberg, Commissioner Gunter, Vice Mayor Kelly, Commissioner Martin, and Mayor Bell all voting aye.

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**02. CONSENT AGENDA.**

Commissioner Gunter moved and Commissioner Goldberg seconded to approve the consent agenda as presented. The motion carried unanimously with all Commission Members voting aye.

**03. AGENDA UPDATE – none**

**04. CITY TREASURER'S REPORTS.**

City Treasurer Palmer stated she will review the July report which is 10 months (83% )into the fiscal year. She noted 97% of ad valorem taxes have been collected, building permits will be adjusted down, and State revenues have been reduced. She further noted the mid-year review will be finished soon. CT Palmer noted legal expenses are high and we will need to increase by \$20,000. She reviewed the reasons for some of the other increases.

Vice Mayor Kelly noted we will try to recover sewer expenses through the lawsuit.

**06. CITY ATTORNEY'S REPORT**

- a) Issue on local preference - CA Gerken stated this item was discussed in 2002. He noted the law has not changed and this can still be considered. The ordinance gave up to a 3% preference to local (Lake County or within 25 miles of Fruitland Park) companies.

CM Bowers noted if stimulus money is received for the Public Safety complex, we will be bound by federal guidelines.

Vice Mayor Kelly questioned if this can be looked at for services. CA Gerken stated yes, CCNA states you can look at location during the consideration.

CA Gerken noted this is would be discretionary, not mandatory. CM Bowers noted the key is consistency.

The consensus was to bring back to a future meeting for consideration.

- b) Meeting with Lake County regarding CR 466A – CA Gerken stated the meeting went well. Lake County discovered a number of Murphy Deeds (old mineral rights, ROW rights) along CR 466A so acquisition price will be much lower. Lake County has begun acquisition and continues to deal with people who have property listed.

CM Bowers noted we are having a hard time getting definitive answers from the Dairy. Planet 5 is interested in building the line for us so we will need to coordinate with Lake County and Planet 5 so they can build on the north side of CR 466A.

Vice Mayor Kelly noted TRIP funding is no longer available to fund this project. CA Gerken stated hopefully there is enough funding from CR 466 to do this.

- c) Senatore contract – CA Gerken stated they are still working on this contract. If anything is needed for grant support, Mr. Senatore is willing to supply the necessary items even without a contract.

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- d) Update on SB360 – CA Gerken noted others have joined the lawsuit which is gaining momentum. Eventually this bill will probably stall and the legislature will handle next year.

**07. CITY MANAGER'S REPORT**

- a) CUP – CM Bowers stated extensions from DEP and St. Johns River Water Management for the CUP have been requested so we can complete or resubmit. CM Bowers stated he has a proposal from SMW GeoSciences for a fee not to exceed \$29,500. CM Bowers stated he recommends moving forward and will place this proposal on future meeting for consideration. CM Bowers noted WRA appears to have a language barrier with St. Johns. The Commission's consensus was to approve the proposal at this meeting.

Commissioner Goldberg moved and Commissioner Gunter seconded to approve the proposal for SMW GeoSciences. The motion carried with all commissioners voting aye.

- b) Well #4 problem – CM Bowers stated this problem was handled completely by PWD Bostic. He noted PWD Bostic did a good job.
- c) Letter from Ms Kling - CM Bowers stated he received a letter regarding Chief Isom . All congratulated Chief on another great job.
- d) CM Bowers reiterated scenarios will be evaluated before moving ahead with the electric purchase.

Mayor Bell questioned when bulk power rates would be received. CM Bowers stated the resolution needed to be approved prior to going out to get costs. CM Bowers noted he is planning to negotiate first with Leesburg for maintenance of the system.

- e) CM Bowers state a new business is looking at the former Old World Pottery building.
- f) Vice Mayor Kelly noted CM Bowers spoke up at the MPO. Myregion.com is putting together a water advisory task force. Nancy Clutts and Welton Cadwell are on the governing board. CM Bowers stated due to his speaking up, he is now on the advisory board.

**07. FIRST READING OF ORDINANCES**

- a) APPROVED FIRST READING OF ORDINANCE 2009-011 KNOWN AS THE RED LIGHT CAMERA ORDINANCE. CA Gerken read Ordinance 2009-011, by title only, as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING THE CITY CODE OF ORDINANCE TO CREATE CHAPTER 72 ENTITLED "DANGEROUS INTERSECTION SAFETY"; PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT INFRACTIONS; PROVIDING FOR RELATED PROCEDURES AND PROVISIONS; AMENDING CHAPTER 35, "CODE ENFORCEMENT," BY CREATING SECTION 35.11 ENTITLED "ADMINISTRATIVE CHARGES; COLLECTION OF FINES; PENALTY," TO FACILITATE USE OF CODE ENFORCEMENT MECHANISM FOR DANGEROUS INTERSECTION SAFETY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR

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INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY;  
PROVIDING FOR AN EFFECTIVE DATE.

CA Gerken noted this is a standardized ordinance used throughout the state. Sample contracts are included in packet. CA Gerken stated a number of lawsuits challenging the validity of these ordinances have come forward. The issues include a pre-emption issue and a due process issue. CA Gerken stated he believes the city has the right to do this. Some lawsuits have already been thrown out. CA Gerken stated he will hopefully have more information before final reading.

Steve Richey stated other cities that have passed the ordinance include Groveland, Lady Lake, and Clermont. The main differences are in the fees charged. Lady Lake passed an ordinance with escalated fees and then amended the ordinance to the same fee no matter how many infractions. Mr. Richey noted the City would not be involved in a lawsuit until the cameras are in place. Fruitland Park has 4 intersections to be studied prior to putting in the lights. The contract is standardized but a mechanism can be included to not enforce until the studies are completed. This is being recommended as a way to reduce infractions, not increase revenues. The cameras do not cost the city, instead a percentage of collected fees is given to the company.

Vice Mayor Kelly moved and Commissioner Goldberg seconded to approve the first reading of Ordinance 2009-011. The motion passed unanimously with Commissioner Gunter, Vice Mayor Kelly, Commissioner Martin, Mayor Bell, and Commissioner Goldberg all voting aye.

b) APPROVED FIRST READING OF ORDINANCE 2009-012 ADJUSTING FEES FOR CEMETERIES, RECREATION, AND BUSINESS TAX RECEIPTS, ADJUSTING BUSINESS TAX RECEIPTS FOR 10%. CA Gerken read Ordinance 2009-012, by title only, as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING CHAPTER 99 OF THE CITY OF FRUITLAND PARK CODE OF ORDINANCES; SPECIFICALLY SECTION 99.50 ENTITLED "CEMETERY FEES;" SECTION 99.80 ENTITLED "BUSINESS TAX RECEIPT FEES;" AND SECTION 99.90 ENTITLED "RECREATION FEES;" PROVIDING FOR CONFLICT WITH EXISTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

CM Bowers noted some of these fees were discussed at the budget workshop.

Charlie Rector noted he only remembered talking about the recreation fees.

Commissioner Gunter moved and Vice Mayor Kelly seconded to approve the first reading Ordinance 2009-012 with the business tax receipts going up 10%. The motion passed unanimously with Vice Mayor Kelly, Commissioner Martin, Mayor Bell Commissioner Goldberg, and Commissioner Gunter all voting aye.

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09. UNFINISHED BUSINESS - None

10. NEW BUSINESS

- a.) APPROVED CITY AUDITOR PROPOSAL FOR CLOSEOUT AUDIT ON SEWER LOAN. Chet Ross, city auditor, stated this is being requested by DEP on the State Revolving Loan Fund. Mr. Ross noted he has already audited this loan. DEP is requesting an audit on the entire loan. CM Bowers recommends accepting this proposal.

Commissioner Gunter moved and Vice Mayor Kelly seconded to approve the proposal. The motion carried with all the Commissioners voting aye.

- b.) APPROVED RESOLUTION 2009-015 AUTHORIZING A BUDGET AMENDMENT FOR THE LIBRARY. CA Gerken read Resolution 2009-015 by title only, as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING THE BUDGET FOR THE 2008-2009 FISCAL YEAR TO APPROPRIATE \$500 IN GRANT FUNDS RECEIVED FROM STATE FARM TO LIBRARY SUPPLIES, PROVIDING FOR THE AMENDMENT OF THE 2008-2009 BUDGET; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Goldberg moved and Vice Mayor Kelly seconded to approve Resolution 2009-015. The motion carried unanimously with Commissioner Martin, Mayor Bell, Commissioner Goldberg, Commissioner Gunter, and Vice Mayor Kelly all voting aye.

- c.) APPROVED CONTRACT WITH TYLER FOR THE AMOUNT OF \$143,930 AND AMENDMENT WITH TYLER FOR \$6996.50. CT Palmer noted she felt the stated amounts in the contract and amendment were incorrect and should be \$143,930 and \$6,996.50 for the five years. Commissioner Gunter moved and Vice Mayor Kelly seconded to approve the contract and amendment with the changed amounts. The motion carried unanimously with Mayor Bell, Commissioner Goldberg, Commissioner Gunter, Vice Mayor Kelly, and Commissioner Martin all voting aye.

- d.) TABLED UNTIL THE NEXT MEETING A CONTRACT WITH SOUTHWEST DIRECT FOR PRINTING UTILITY BILLS, NEWSLETTER, AND CCR WATER REPORT. Mayor Bell noted he was surprised to see a contract so quickly.

CT Palmer stated she has been working with this company on this project for the past couple of months. CT Palmer noted Commissioner Goldberg had mentioned another company to check into.

Commissioner Martin moved and Commissioner Gunter seconded to table until the next meeting so a second proposal can be received for comparison. Mayor Bell requested references as well.

- e.) APPROVED RESOLUTION 2009-017 APPROVING ADDING THE COST OF A SOFTBALL FIELD TO THE CAPITAL IMPROVEMENT PLAN IF A FRDAP GRANT IS RECEIVED. CA Gerken read Resolution 2009-017, by title only, as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, AUTHORIZING AN AMENDMENT TO BE MADE TO THE 2009-2010

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CAPITAL IMPROVEMENT PLAN FOR THE CONSTRUCTION OF A SOFTBALL FIELD ON THE FORMER BAUGH PROPERTY IF A FLORIDA RECREATION DEVELOPMENT ASSISTANCE GRANT IS AWARDED; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Martin questioned if there was room enough for a softball field, three tennis courts, and soccer fields on the property. Mayor Bell stated yes, but before any construction is done the best use of the site needs to be determined.

Mayor Bell stated he met someone at the recent Florida League of Cities conference who would be able to do a site plan for this property.

Commissioner Martin moved and Commissioner Gunter seconded to adopt Resolution 2009-17. The motion carried unanimously with Commissioner Goldberg, Commissioner Gunter, Vice Mayor Kelly, Commissioner Martin, and Mayor Bell all voting aye.

- f) APPROVED RESOLUTION 2009-018 APPROVING ADDING THE COST OF THREE TENNIS COURTS TO THE CAPITAL IMPROVEMENT PLAN IF A FRDAP GRANT IS RECEIVED. CA Gerken read Resolution 2009-018, by title only, as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, AUTHORIZING AN AMENDMENT TO BE MADE TO THE 2009 – 2010 CAPITAL IMPROVEMENT PLAN FOR THE CONSTRUCTION OF THREE TENNIS COURTS ON THE FORMER BAUGH PROPERTY IF A FLORIDA RECREATION DEVELOPMENT ASSISTANCE GRANT IS AWARDED; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Kelly questioned how many courts the City would use for its programs and if one would be left available for the citizens to use during the programs. RD Bechtel stated all the courts would be used during the programs.

Commissioner Gunter noted ball fields are not available during programs. He questioned the times of the programs. RD Bechtel stated youth programs are 2 days a week from 3:30 – 5:30; and adult programs are on Monday from 4:00 – 6:00.

Commissioner Goldberg suggested putting signs up showing the times the courts are not available. RD Bechtel stated that is currently done.

Commissioner Gunter moved and Vice Mayor Kelly seconded to adopt Resolution 2009-018. The motion carried unanimously with Commissioner Gunter, Vice Mayor Kelly, Commissioner Martin, Mayor Bell, and Commissioner Goldberg all voting aye.

**11. CITIZENS' COMMENTS**

CM Bowers stated he received a call from the Orlando Sentinel questioning why the taxes were being raised. He stated he told them they were not being raised and no people were being laid off. The reporter from the Orlando Sentinel questioned how this was accomplished. He stated the Commission and Staff worked together well and put only the necessary items in the budget.