

**FRUITLAND PARK CITY COMMISSION MEETING MINUTES  
DECEMBER 9, 2010**

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, December 9, 2010 beginning at 7:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE. Pastor Barry Hayes delivered the invocation followed by the Pledge of Allegiance led by Commissioner Richardson.

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

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

MUNICIPAL OFFICIALS/OTHERS PRESENT. City Manager (CM) Ralph O. Bowers, Public Works Director (PWD) John Bostic III, City Treasurer (CT) Elizabeth Palmer, Community Development Director (CDD) Charlie Rector, and City Clerk (CC) Diane Gibson Smith.

01. PRESENTATIONS

- a.) Mayor Bell presented a Certificate of Achievement for Excellence in Financial Reporting to Elizabeth Palmer. Her entire department came forward to accept the award.
- b.) Mayor Bell presented a Certificate of Completion of the Institute for Elected Municipal Officials to Commissioner Richardson.

02. APPROVED THE CONSENT AGENDA AS PRESENTED.

Mayor Bell presented the Consent Agenda for approval.

Vice Mayor Goldberg moved and Commission Kelly seconded to approve the Consent Agenda as presented. The motion carried unanimously with all Commission Members voting aye. Items approved were minutes of the November 11, 2010 regular meeting and minutes of the November 11, 2010 CRA meeting.

03. AGENDA UPDATE – Mayor Bell pulled the Cost Share Agreement under New Business. Commissioner Richardson requested to add a discussion item regarding the 401-a retirement plan for employees.

04. CITY TREASURER'S REPORTS FOR PERIODS ENDING SEPTEMBER 30, 2010 AND OCTOBER 31, 2010. CT Palmer presented the preliminary report for September 30, 2010 – pending audits and changes. She then reviewed the October report. She noted October begins the new year.

Commissioner Richardson questioned how much was spent on the CUP this year. CT Palmer stated \$8,718 through end of October.

Commissioner Richardson questioned how much more we expect to spend. CM Bowers stated he expects to spend another \$20,000 or more. CT Palmer stated \$25,000 is budgeted.

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Commissioner Richardson stated he was unable to get access to the vendor portion of the report until he arrived at the meeting. MMD stated there is a problem with the VPN.

05. CITY ATTORNEY'S REPORT

- a) CA Gerken stated the main issues on the CUP are the population numbers and the allocation amount. We remain confident that we will be able to come to agreement on the allocation. Some of the expenses incurred have been due to the need to hire experts.

Mayor Bell questioned if we can request a modification in 5 years or so. CA Gerken stated yes.

- b) CA Gerken stated there is a meeting with Lake County regarding CR466A next week to discuss ROW acquisition, etc. We will use the opportunity to voice concerns, etc. The meeting is scheduled December 16<sup>th</sup> 1:30 p.m. at the Public Works office in Eustis.

06. CITY MANAGER'S REPORT

- a) CM Bowers stated we received 2 proposals for CDBG Grant Administration. The Florida firm is less expensive and has more extensive background.

Commissioner Richardson moved and Commissioner Kelly seconded to accept Fred Fox Enterprises' proposal for CDBG Grant Administration. The motion carried unanimously with all the Commissioners voting aye.

David Fox thanked the commission for the support and stated he looks forward to working with the City. CM Bowers noted meetings need to be scheduled.

- b) CM Bowers reported on the FDOT Utility Work Schedule agreement for US Highway 441. He noted the estimate is approximately \$800,000 for the work and \$80,000 for the engineering; all of which is required by April 1, 2011.

CM Bowers stated BESH identified the items for them.

Duane Booth (BESH) stated he provided the information on the backup. He noted all the utility locations in conflict have been identified. There are more water lengths involved but equal numbers of water mains and force mains are in conflict. Most of the conflicts are new drainage structures and may mean lowering swale drains. Mr. Booth stated he produced the estimated cost estimate based on the published DOT numbers. This is a worst case scenario. He hopes to be able to cut this by one third if possible. Pricing is different than normally given to cities.

Mayor Bell stated the City still had some concerns on the plans. Mr. Booth noted this project has been super-accelerated due to found money. The plans are approximately 90% complete.

Commissioner Gunter stated we still had some questions about retention ponds. He noted he assumes the drainage is to the retention ponds. He questioned the linear foot listed. Commissioner Richardson noted those are locations.

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Commissioner Richardson asked if water mains run under US Hwy 441/27. Mr. Booth stated yes and there are three crossings that we are proposing changing.

Mayor Bell asked what would be happen if we do not have the funds. Mr. Booth stated there is hardship paperwork that stretches payments to 15 years. CM Bowers stated we have received the hardship paperwork and need to review further.

Commissioner Kelly asked if any lines were abandoned. Mr. Booth stated there are no abandoned lines.

Commissioner Gunter stated we should continue if there is any way we can get this hardship loan.

Mayor Bell questioned when we need to make the decision. CM Bowers stated we need to go ahead and file the hardship paperwork. The problem is adding this debt may cause problems with the electric system purchase.

Commissioner Richardson questioned Duane Booth on whether having FDOT bid out the project is usually cheaper. Duane Booth stated no, in some cases that is not the case. In this case, Duane Booth recommends the JPA as the better way to go on this project.

CA Gerken stated if bids come in and we determine the price is too high, we may still have an option to opt out.

Commissioner Kelly moved and Vice Mayor Goldberg seconded to pursue the hardship loan process. The motion carried unanimously with all the Commissioners voting aye.

CT Palmer stated the paperwork does state if the hardship is severe, then a longer time frame can be requested. The consensus was to go further out if possible.

Vice Mayor Goldberg questioned the start date. Duane Booth stated start date is expected around June 1<sup>st</sup>.

The Commission asked if FDOT will bring in plans in January. CC Gibson Smith will check on setting this up.

c) Miscellaneous items

- 1) Change Order #2 for generator with South Lake. CM Bowers stated he has authorized South Lake Electric to do this work for the price noted.
- 2) Potential changing in funding 401a – Commissioner Richards stated 5% is already budgeted for the 401a. He stated he would like to automatically contribute the 5% to 401a for all employees.

Commissioner Kelly questioned how long before they join. CT Palmer 90 days.

Commissioner Richardson noted cliff vesting. CT Palmer stated this has 5 year cliff vesting.

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Mayor Bell asked for the difference between what would be currently spent versus making this change. Mayor Bell suggested to perhaps use the funds elsewhere for the employees. Review further next meeting.

Commissioner Gunter noted the retirement plan is set up to encourage employees to set some funds away.

- 3) Contract renewal in March – CM Bowers stated if you want a performance review, then a form will need to put together.
07. UNFINISHED BUSINESS - none
08. NEW BUSINESS
- a) Consideration of Resolution 2010-035 amending the budget for the FY 2009-2010 year to appropriate \$19,052 to eliminate the deficit in the legal budget. CA Gerken read Resolution 2010-035, by title only, as follows:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF  
FRUITLAND PARK, FLORIDA, AMENDING THE BUDGET FOR THE 2009-  
2010 FISCAL YEAR TO APPROPRIATE \$19,052 TO ELIMINATE A  
DEFICIT IN THE LEGAL BUDGET, PROVIDING FOR THE AMENDMENT  
OF THE 2009-2010 BUDGET; PROVIDING FOR AN EFFECTIVE DATE.**

Commissioner Kelly moved and Commissioner Gunter seconded to adopt Resolution 2010-035 .

The motion carried with Commissioner Gunter, Vice Mayor Goldberg, Commissioner Kelly, and Mayor Bell voting aye and Commissioner Richardson voting nay.

Commissioner Richardson stated most of the legal over-run was due to legal fees for Mark Isom. He noted the way he reads the statute the funds could be used to defend him in the normal course of his duties, but these were not in the course of normal duties.

CA Gerken stated the Florida Statutes have an express permissive clause to allow us to pay the fees. It is within the home rule powers to decide how to spend money. CA Gerken stated there is nothing to restrict the City's ability to pay the fees. This is discretionary spending.

Commissioner Kelly noted this was discussed when it first came up and the Commission approved spending the funds.

- b) Consideration of agreement with LPG Urban & Regional Planners, Inc. for professional services for Comprehensive Plan updates.

Greg Beliveau, of LPG, state he has sent the EAR off to State and received one comment – population projections are different than those used by another agency. DCA has asked this issue to be resolved. Mr. Beliveau is suggesting since this problem is being rectified, and in the interest of time, we need to get started on the Comp Plan

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amendment. We have comprehensive plans in limbo. Economic growth, land use, recreation, etc are all clean-house amendments. These can be done now and then do the remainder once the population issue is resolved. Next year, we will get the comp plan amendment caught up to date. Staff is also look at including enclaves or abutting properties and looking at bringing them into the city at this time.

Greg Beliveau stated he has some changes to the proposal. There will be five meetings instead of two meetings with the Commission – 3 workshops and 2 meetings. Mr. Beliveau stated he doesn't know how long this will take as we don't know where DCA is headed with the new administration.

Commissioner Richardson noted the proposal is for \$42,250 but we only have a budget of \$11,000 for comprehensive plan amendments. Mr. Beliveau stated that will only get you two large scales, not a city-wide comprehensive plan amendment.

Commissioner Richardson stated a number of potential applicants were noted in the report for other projects. Mr. Beliveau stated we will be sending out 85 letters to the enclaves; we have Pine Ridge Dairy, Bouis, Logan, and one other on south CR468 still on hold.

Greg Beliveau stated we can bill 60% this year and 40% next year. Expenses will be capped at \$5,500 and also be split 60/40.

CT Palmer noted there is \$11,000 in the budget for the comprehensive plan amendments which is included in \$29,000 for planning services total. With the 60/40 split, the 60% would be \$25,350 not including expenses.

Commissioner Kelly moved and Commissioner Richardson seconded to approve the LPG proposal with 60% being billed this year and 40% being billed next year (to include the billable expenses). The motion carried unanimously with all the Commissioners voting aye.

c) Consideration of agreements with BESH

- 1) Capital Water & Sewer System Extension Design for CDBG Project – this item is tabled as we will need to find funding.

Commissioner Richardson noted the document has items in the scope that need to be corrected. This was a cut and paste document. Duane Booth stated the dollar amount is correct. The contract will be corrected before being brought back.

- 2) Capital Water & Sewer System Extension Construction Services for CDBG Project - CM Bowers stated this is a reimbursable expense of the grant.

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

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- d) Consideration of Water Conservation Cost-Share Agreement with SJRWMD – this item was tabled until further notice. We have enough money in Capital Improvements to do this, but the contract needs to be reviewed further.
09. Citizens' comments: Mayor Bell stated we will accept only comments at this meeting and will not be answering any questions. Please keep the comments short.
- 1.) Rick Roderick – stated Chief Isom's resignation is final and questioned if there is anything else the City can do for this individual who has devoted his life to the City. He noted he would like to see the City keep this man employed.
  - 2.) Gene Cushing stated he has been a resident since 1985. Pride got him in trouble. Not police business. Mr. Cushing stated he doesn't like the position of taking the Sergeant over the Major. The Major has done administration duties for many years. During the past couple of years, the younger guys have acted like a bunch of cowboys. He noted the problem comes from the top down. You can't run renegade and run a police department. Mr. Cushing stated he is concerned his money was being used for Mark Isom's defense. He has a concern that it took so long to take a stand.
  - 3.) Rick Ranize thanked the Commissioners Goldberg, Richardson and Mayor Bell for returning calls and emails. He noted he has known Mark many, many years. Was told a story by Mark about his degrees. Put his integrity on the line only the find out he had been lied to by Mark. His findings were disappointing - why did Mark need a degree? Because Mark had plans to run for Sheriff. If he attended college why were there no downloads, no research materials, etc. Mr. Ranize stated he understands the City Manager has a degree and the City Manager performed the investigation. The City Manager should have known better. Mr. Ranize requested two things: 1. Wants investigation file sent to Sheriff's office; and 2. Wants the City to begin looking for a new City Manager. Mr. Ranize stated he is doing what he feels is right for citizens of the city.
  - 4.) Mike Goss thanked Mr. Richardson and Mr. Goldberg. He stated he comes on his own free will. Come in as a citizen of Fruitland Park. He stated he ignored all this until recently until City Manager addressed Sergeant Borst as replacement. He has a problem with a short tenured employee being appointed over a long term employee. This is disrespect to him and shenanigans are ridiculous. Why was his position thrown out in the budget hearings. Why was there no cease and desist to stop the payment of the legal fees - Mark lied and that is wrong. Why was he not suspended or terminated – that is poor leadership and management. This is an embarrassment to those of us who have lived our entire lives in the city. I will continue to ask and send emails to the Commissioners, the press, and the State Attorney's office.
  - 5.) Dan Cangiloshi stated he did not need to speak as all was covered in previous statements.
10. Commissioners' comments
- a) Vice Mayor Goldberg - stated has been on the Commission for 6 years, and has never had an email from anyone before. Lately he has been receiving quite a few. Have concerns with topics and will be meeting with people in the future to get an educated opinion. Thanked citizens for input. Appreciate that you do send out emails and have concerns for the city.

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b) Commissioner Gunter – stated people should call him, not email. His number is: 787-0115.

Mayor Bell stated this leads to an email issue. He stated since these emails are public records, please send a copy to our city clerk.

c) Commissioner Kelly – stated she is not good about emails. Call 267-3548 to reach her. She requested to be excused from hometown Christmas. The Commission excused her.

d) Commissioner Richardson – stated he is extremely concerned about the Police Department. He proposes we ask the Sheriff to loan us a commander as interim Police Chief to give us credibility. This has been done in the past. He noted he feels we were misled. He grew up with Mark Isom. Everything the Commission did was done as there was no reason to doubt his integrity. We need to bring credibility back to our Police Department. We don't have credibility right now. He noted he does not understand why Chief Isom is not on administrative leave. The chief works for the City Manager, the City Manager works at the will of the Commission. If he doesn't do what we wish, then we look for a new city manager. We don't have a credible leader in our Police Department at this point. Sheriff Borders has already said he would send a team in here to audit the department and send someone in as an interim Chief.

11. MAYOR BELL'S COMMENTS. Mayor Bell thanked everyone for coming out. Mayor Bell stated the ideas were discussed with the City Manager and he is running things as he sees fit. Commissioner Richards stated we need to address this now. CM Bowers stated from the very first, this has always been part personnel and part policy. He is noted he does not have a degree from anywhere so he does not know who has said he does. CM Bowers stated he moves slowly for a reason. He has no agenda. There is no written investigative file as things were only reviewed as far as finding out the degrees were non-accredited. CM Bowers stated he is being criticized for not looking at the longevity of an employee on one side (Rob's) and looking at it on the other (Mark's) – that is a double standard.

Mayor Bell stated he invites everyone to Hometown Christmas – December 14<sup>th</sup> beginning at 6:30 p.m. The next City Commission meeting is scheduled for January 13, 2011 at 7:00 p.m.

CA Gerken stated one of the difficult issues in this is there is an ongoing investigation from FDLE and we are not able to discuss all of the issues. It is better for everyone to have respect for the judicial process because this has see-sawed back and forth over the time frame. We have urged for a conclusion to this soon as this is not healthy for the City. The conclusion is out of the hands of everyone on this Commission. Not everything has been resolved yet. No final personnel issues have been made. Many issues still have not come out.

Commissioner Richardson stated everything that is coming out right now is in favor of Chief Isom not the City. He noted he has suggested we bring in the Sheriff's office. The only place this can be talked about is right here. Commissioner Richardson noted he does not know how the other commissions feel and this is the only place it can be discussed.

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Mayor Bell stated he did not feel the City is at this point yet. CM Bowers has that in his ammunition and will pull it out if needed.

Commissioner Gunter asked CA Gerken where we would stand if we brought in someone from the Sheriff's office. CA Gerken stated you can certainly do that on an interim basis. This should be resolved by next week.

Commissioner Gunter stated he would like to propose a special meeting as soon as we find out what decision they are coming up with and then we can proceed with bringing in the Sheriff's department. Commissioner Gunter stated he feels it is a good idea to bring the Sheriff's department in for the time being until we decide on the position.

Mayor Bell stated as soon as we have the final decision, we can look at calling a special meeting.

Vice Mayor Goldberg stated he has a problem with that.

Commissioner Richardson noted he knows the final decision is the City Manager's decision. What we are doing now is in the favor of Chief Isom. We need to start moving forward. CA Gerken stated he does not believe it is in the best interest of Mark Isom. It is in the best interest of the City to have all the facts before any decision is made.


Commissioner Richardson stated his concern is the decision will be delayed. The City Manager is accountable to the five of us; we are accountable to the 4300 citizens. It is how we move forward that we are going to be judged on.

CA Gerken stated if you are going to bring in Sheriff Border's office into this, you need to hear from him and find out who he has available, etc. CA Gerken stated he does not know what has been done in that regard.

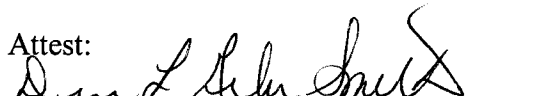
CM Bowers stated if the Commission indicates that they want to bring the Sheriff's office in, then he will begin making plans to do that. It would be in his anticipation that if the Chief is going to be stepping down, then we will seek the most qualified candidate for the job. I am not saying we will promote from within; we will seek the most qualified candidate and the people from within can apply. Commissioner Gunter noted that is normal procedure. CM Bowers again reiterated this is only partly personnel and part policy.

Mayor Bell stated if we do not hear anything before next week, we will call a special meeting to decide what the options are.

12. ADJOURNMENT. There being no further business to discuss, Commissioner Richardson moved to adjourn. The meeting adjourned at 9:29 p.m.

  
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Christopher J. Bell, Mayor

Attest:

  
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Diane L. Gibson Smith, CMC, City Clerk