

**FRUITLAND PARK CITY COMMISSION MEETING MINUTES
JANUARY 8, 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, January 8, 2009 beginning at 5:30 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE. Pastor George Mulford of the Grace Bible Baptist Church delivered the invocation followed by the Pledge of Allegiance to the Flag led by Commissioner Darrel Martin.

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, and Mayor Christopher J. Bell.

MUNICIPAL OFFICIALS/OTHERS PRESENT. City Manager (CM) Ralph O. Bowers, City Treasurer (CT) Elizabeth P. Palmer, Public Safety Director (PSD) J. M. Isom, Sr., Community Development Director (CDD) Peggy Sue Newman, Library Director (LD) Mary Kay McGuire, Public Works Director (PWD) John Bostic III, and City Clerk (CC) Diane Gibson Smith.

01. APPROVED MINUTES OF THE DECEMBER 11, 2008 REGULAR MEETING. Mayor Bell presented the minutes of the December 11, 2008 regular Commission Meeting for approval.

Commissioner Gunter moved and Commission Goldberg seconded to approve the minutes of the regular Commission Meeting. The motion carried unanimously with all Commission Members voting aye.

02. PRESENTATIONS

a) Government Finance Officers Association Award of Financial Reporting Achievement to Elizabeth Palmer - Mayor Bell presented CT Palmer with the GFOA award of Financial Reporting Achievement. This is the ninth year in a row the City and CT Palmer have received this recognition.

b) State of Florida Department of Environmental Protection Drinking Water Treatment Plant Operator, Level B license to John Bostic III – Mayor Bell presented PWD Bostic this award for obtaining his Water Treatment Plant Operator, Level B license.

03. Agenda Update. None

04. INTRODUCED AND APPROVED FIRST READING OF ORDINANCE 2008-021 ANNEXING APPROXIMATELY 1± ACRES OF PROPERTY GENERALLY LOCATED AT 35117 GRAYS AIRPORT ROAD; REZONING THE PROPERTY FROM LAKE COUNTY “R-1” (RURAL RESIDENTIAL) TO C-2 (GENERAL COMMERCIAL) WITHIN THE CITY LIMITS OF FRUITLAND PARK. (CTA TRANSPORTATION, INC.) CA Gerken read Ordinance 2008-021 by title, only as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND
PARK, FLORIDA, AMENDING THE BOUNDARIES OF THE CITY OF

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FRUITLAND PARK IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN SECTION 171.044, FLORIDA STATUTES, BY INCLUDING WITHIN THE CITY APPROXIMATELY 1± ACRES OF PROPERTY GENERALLY LOCATED AT 35117 GRAYS AIRPORT ROAD; REZONING THE PROPERTY FROM LAKE COUNTY "R-1" (RURAL RESIDENTIAL) TO C-2 (GENERAL COMMERCIAL) WITHIN THE CITY LIMITS OF FRUITLAND PARK; PROVIDING FOR CONDITIONS AND CONTINGENCIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bell noted the Local Planning Agency (LPA) met earlier and recommended bringing this item forward to the Commission for approval.

CDD Newman gave the background on the project and stated the LPA approved bringing the parcel into the City. Staff, LPG Urban and Regional Planners, and the Planning & Zoning Board also approved this annexation.

CA Gerken swore in the testimony of CDD Newman.

Commissioner Goldberg moved and Commissioner Martin seconded the motion to approve the first reading of Ordinance 2008-021. The motion carried with Commissioner Gunter, Vice Mayor Kelly, Commissioner Martin, Mayor Bell, and Commissioner Goldberg all voting aye.

5) INTRODUCED AND APPROVED THE FIRST READING OF ORDINANCE 2008-022 A COMPREHENSIVE PLAN AMENDMENT AMENDING THE FUTURE LAND USE DESIGNATION FROM LAKE COUNTY "URBAN" TO "COMMERCIAL" ON THE FUTURE LAND USE MAP OF THE CITY OF FRUITLAND PARK'S COMPREHENSIVE PLAN FOR APPROXIMATELY 1.0 ACRE OF PROPERTY GENERALLY LOCATED AT 35117 SOUTH GRAYS AIRPORT ROAD (CTA TRANSPORTATION, INC.) CA Gerken read Ordinance 2008-022 by title only, as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, PROVIDING FOR A COMPREHENSIVE PLAN AMENDMENT AMENDING THE FUTURE LAND USE DESIGNATION FROM LAKE COUNTY "URBAN" TO "COMMERCIAL" ON THE FUTURE LAND USE MAP OF THE CITY OF FRUITLAND PARK'S COMPREHENSIVE PLAN FOR APPROXIMATELY 1.0 ACRE OF PROPERTY GENERALLY LOCATED AT 35117 SOUTH GRAYS AIRPORT ROAD; PROVIDING FOR CONTINGENCIES; DIRECTING THE CITY CLERK TO TRANSMIT THE AMENDMENT TO THE APPROPRIATE GOVERNMENTAL AGENCIES PURSUANT TO CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

CDD Newman stated this is the companion ordinance to the annexation previously read. The requested use is no more intense than the current use.

Commissioner Martin moved and Commissioner Gunter seconded to approve the first reading of Ordinance 2008-022. The motion carried with Vice Mayor Kelly, Commissioner Martin, Mayor Bell, Commissioner Goldberg, and Commissioner Gunter all voting aye.

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06. CITY ATTORNEY'S REPORT

a) Consideration of fee agreement with Dellecker, Wilson, King, McKenna, & Ruffier, LLP – CA Gerken stated he has known the firm for many years and the firm does good work. The fee agreement is a contingency fee agreement which means if there is no recovery, then there is no fee. CA Gerken stated he highly recommends approving the agreement.

Vice Mayor Kelly stated she appreciated CA Gerken stating he highly recommends this firm as she was questioning whether the City should be using a corporate attorney. CA Gerken stated professional liability is a specialty in the law field. Having someone from outside the area may also be good.

Commissioner Gunter questioned if the percentage the law firm receives is above what the City would get from the customer or does the percentage come out of the funds received. CA Gerken stated the law firm's 25% comes out of the recovery. If there are no fees awarded, the percentage will be deducted from the amount awarded. Fees may be allowed on top of the award.

Commissioner Gunter questioned the point at which there is a cap. CA Gerken stated if there is a settlement opportunity, the City will know in advance whether to accept the settlement or not. If this goes to trial, the City will need to accept whatever a judge awards.

Commissioner Gunter questioned if there was any chance of a countersuit. CA Gerken stated he could not think of a reason for this to happen.

Vice Mayor Kelly moved and Commissioner Martin seconded to approve the agreement with Dellecker, Wilson, King, McKenna, & Ruffier, LLP.

Mayor Bell stated he is torn about this as Wicks has worked well with the City in the past and he is not sure what happened in this instance. CA Gerken noted he has proposals from engineers to evaluate the situation and determine exactly what is needed and establish what went wrong with the system.

Mayor Bell asked if the intent is to still investigate. CA Gerken stated yes.

Vice Mayor Kelly questioned if the lawsuit will include the onsite engineer. CA Gerken stated he will look into this. The onsite engineer may have been an employee of Wicks.

Charlie Rector questioned if, after investigating, the decision is made not to pursue even though a valid cause is shown, will the City owe the law firm any money. CA Gerken stated in that case, the City will need to pay the firm's expenses.

The motion carried with all Commissioners voting aye.

b) CA Gerken stated the Statute of Limitations is that claims must be made within two years from the time a problem is determined. The first material upset was the overflow on US 441 which occurred January 25, 2007. Although at that time there was no way of knowing the extent of the problem the City is now facing, CA Gerken recommends an initial claim against the potential people

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involved be made before January 25, 2009 in order to preserve the right. The intent is to continue investigating and continue looking for an amicable solution.

Vice Mayor Kelly moved and Commissioner Martin seconded to approve moving forward with the initial claim before January 25, 2009. The motion carried with all Commissioners voting aye.

07. CITY MANAGER'S REPORT

a) CM Bowers stated he met with representatives from Lake County and the Villages regarding the Villages taking over the building of CR466 and Lake County transferring funds from CR466 over to CR466A. This is subject to approval by the County Commission. A workshop will be held on January 13th regarding this proposal.

Jim Stivender, Lake County Public Works Director, stated he received a draft document from the Villages on Tuesday regarding the proposal to take over the building of CR466. Lake County has also been in contact with FDOT regarding the \$5 million dedicated for CR466 and making the money available for CR466A. The problem is revenue income for this year is way down so many projects have been taken off the table. The January 20, 2009 Board of County Commissioners agenda is a recommendation to have a second public hearing adopting impact fees in February. Lake County hoped to have the dollars moved from CR466 to CR466A, but due to revenue shortfalls there may not be as much money. Lake County wants to do ROW acquisition later this year instead of in 2011. Funds are still not available for construction. The County could be billing against that \$5 million based on the funds spent by the Villages, but that has not been done yet. By doing that billing, the money the County has set aside for the project will be freed up. Will have a more accurate dollar figure for ROW acquisition in February.

Vice Mayor Kelly stated President-elect Obama is planning on transportation as one of his main focuses. Mr. Stivender stated the County has applied for \$40 million in federal funding.

Mayor Bell questioned the picture for CR466A if money was not going to move around. Mr. Stivender stated the Villages have taken the position with DCA and FDOT that they do not impact CR466A.

Vice Mayor Kelly questioned if the City will still receive the credit for what has been done on CR466A. Mr. Stivender stated yes. The County can bill against that \$5 million for that credit.

CA Gerken stated the key for Fruitland Park is the \$5M which was to go to CR466 was to move over to CR466A. Obviously, the Villages are trying to state they do not impact CR466A, but reasonable minds would differ on that. Fruitland Park is okay with not charging the Villages for impact on CR466A as long as the \$5 million originally planned for CR466 is shifted to CR466A.

CM Bowers stated the County can go ahead and use the \$5 million on CR466 and Fruitland Park will request \$5 million from the Villages to do CR466A. Mr. Stivender stated he has a memo from the Villages indicating they do not believe they impact CR466A. At least the County has brought the Villages to the table.

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Mayor Bell stated ROW acquisition will be done on properties in-town first and then continue in phases. Mr. Stivender stated yes, the first phase will be from US Highway 27 to a mile and a half west.

Charlie Rector stated Mr. Stivender referenced a change from four lanes to two lanes. Mr. Rector stated he thought the project was to be all four lanes. Mr. Stivender stated the project is to be done in phases. Eventually the entire roadway will be four lanes.

b) Consideration of return of maintenance of improvement funds for Oak Forest Subdivision (\$27,895) CM Bowers stated he received a letter from Leading Edge Builders to install the sidewalk on the side of Urick Street on Monday, January 12th. CM Bowers stated he recommends releasing all but \$2,000 and returning the \$2,000 upon completion of the sidewalk. CDD Newman stated the sidewalk is to be completed on Friday. The Commission approved holding the entire check until Monday after the sidewalk is completed and inspected.

c) Community service awards – CM Bowers requested the Commission think about who to nominate for this award.

d) Sewer failure at 206 W Berckman Street – CM Bowers stated the City will be paying \$12 - \$20k worth of damages for this failure. This is an insurance claim.

Commissioner Goldberg questioned if this could be included in the lawsuit if there is one. CM Bowers stated yes.

e) Update on Spring Lake Cove Apartments – CM Bowers stated he released the COs as the developers put money in an account for the fence and a police officer was allowed to move into the development.

Commissioner Gunter questioned who is responsible for following up on things negotiated with the builders. CM Bowers stated the Planning and Zoning Department is responsible but ultimately the responsibility falls with the City Manager. A tracking mechanism is being worked on.

Commissioner Kelly questioned the gap proposed in the fence. Charlie Rector noted the gap is to allow the big trucks to pull up to the current gate.

08. CITY TREASURER'S REPORT FOR PERIOD ENDING OCTOBER 31, 2008 CT Palmer stated this report is for approximately 8% of the fiscal year. She noted the Finance Department process 273 invoices totaling just over \$305,000. CT Palmer stated six departments are over budget, mainly due to routine purchases made early in the year. The Electric Department did not have a budget and had two uncompleted purchase orders in FY 2008 for \$39,000 – those purchase orders have expired and will need to re-appropriated. The Fire Department is over due to the lease payment on pumper and SCUBA (last payment). State revenue sharing will be reduced by \$9,000. Also, the communications tax will be reduced.

Commissioner Martin questioned the 5% increase in employee wages. CT Palmer stated during the budgeting process, the former City Clerk provided a listing of salaries at the end of the year. During the interim, three Public Works employees were hired at a lower amount and adjusted up at the end of the probation period by 5%.

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09. UNFINISHED BUSINESS

a) Discussion of letter from City of Leesburg Director of Gas Jack Rogers regarding new contract. Mayor Bell stated requesting a 25-year term is excessive. He agrees a year to year contract is not good; Mayor Bell stated a 10-year contract would be good. CM Bowers stated he will bring the contract to the Commission when received.

Commissioner Gunter stated we need to add the phrase that City of Fruitland Park residents will be charged the same fees as residents of Leesburg for activities to this agreement.

10. NEW BUSINESS

a) Consideration of proposed revisions to Lake County Policy LCC-11, Lake County Library System Collection Development Policy – LD McGuire stated this is a draft and is not a formal policy. Page 4 is where most of the additions are added. Policies for donated materials and collection maintenance are included in this draft.

Vice Mayor Kelly questioned if there are any money changes. LD McGuire stated this is simply a housekeeping policy change.

Vice Mayor Kelly moved and Commissioner Gunter seconded to approve the proposed revisions to Lake County Policy LCC-11. The motion carried with all Commissioners voting aye.

Ms. McGuire thanked the Commission for the confidence shown to her during her tenure in Fruitland Park.

Mayor Bell stated under Mary Kay McGuire's leadership, the Library has become very professional and has grown. The rest of the Commission thanked Ms. McGuire for her work at the Library.

b) Selection of sign posts for street and speed signs on Berckman – Mayor Bell stated the Lake Easy style post matches the street light posts. All agreed in the selection. CM Bowers noted a proposal will be brought in front of the Commission for approval in the future.

11. CITIZENS' COMMENTS - None

12. COMMISSIONERS' COMMENTS

a) Vice Mayor Kelly - none

b) Commissioner Martin – asked for an update on the grant for Planet 5. CC Gibson Smith noted several houses need to be demolished prior to filing for the grant.

c) Commissioner Gunter - none

d) Commissioner Goldberg - none

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13. MAYOR BELL'S COMMENTS. Mayor Bell stated the League of Cities wants support for "Building Citizenship in the Community: Back to Basics" initiative. He read Resolution 2009-001 in its entirety, as follows:

**A RESOLUTION OF THE CITY OF FRUITLAND PARK RECOGNIZING
THE "BUILDING CITIZENSHIP IN THE COMMUNITY: BACK TO
BASICS" INITIATIVE OF THE FLORIDA LEAGUE OF CITIES, INC.,
PLEDGING SUPPORT FOR THIS STATEWIDE EFFORT; AND PROVIDING
FOR AN AFFECTIVE DATE.**

WHEREAS, municipal government is the government closest to most citizens, with tremendous daily impact upon its residents; and

WHEREAS, city government is administered for and by its citizens, and is dependent upon public commitment to, and understanding of, its many responsibilities, and city government officials and employees share the responsibility to pass along their understanding of public services and their benefits; and

WHEREAS, Florida's citizenry receives public services from state, county, school district, and other government levels, educating Florida's citizens of all ages as to the structure and function of all the levels of government, and how to be wise consumers of such services is therefore critically important; and

WHEREAS, the Florida League of Cities and its member cities have joined together to teach students and all citizens about municipal government through a variety of different projects, resources, and information;

WHEREAS, this initiative will make resources available to cities and their citizens to utilize in further their goals for civic education;

NOW, THEREFORE BE IT RESOLVED BY THE CITY OF FRUITLAND PARK AS FOLLOWS:

Section 1. That the City of Fruitland Park does hereby encourage all citizens, city government officials and employees to utilize the opportunities and resources available through this initiative.


Section 2. That the City of Fruitland Park does encourage educational partnerships between city government and schools, as well as civic groups and other organizations.

Section 3. That the City of Fruitland Park does support and encourage all city governments to activity promote the "Building Citizenship in the Community: Back to Basics" initiative.

Vice Mayor Kelly moved and Commissioner Martin seconded to approve Resolution 2009-001. The motion carried with all Commissioners voting aye.


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14. ADJOURNMENT. There being no further business to discuss, Commissioner Goldberg moved to adjourn. The meeting adjourned at 6:45 p.m.



Christopher J. Bell, Mayor

Attest:



Diane L. Gibson Smith, CMC, City Clerk