

**FRUITLAND PARK CITY COMMISSION MINUTES
OCTOBER 12, 2006**

MEETING STATISTICS. A regular meeting of the Fruitland Park City Commission was conducted in the Commission Chambers of City Hall, 506 W. Berckman Street on Thursday, October 12, 2006 beginning at 7:00 p.m.

INVOCATION AND PLEDGE. Misses Katie Sutton and Lauren Genter delivered the invocation and the Pledge of Allegiance was led by Teen Miss Katie Sutton, Preteen Miss Lauren Genter, Little Miss Kati Ankrom and Tiny Miss Gretchen Weimer.

ELECTED OFFICIALS PRESENT. Commissioner Darrel E. Martin, Vice Mayor John L. Gunter, Jr., Commissioner Sharon A. Kelly.

ELECTED OFFICIALS ABSENT. Commissioner Albert O. Goldberg and Mayor Christopher J. Bell were absent and excused from attending the meeting.

MUNICIPAL OFFICIALS/OTHERS PRESENT. City Manager Ralph O. Bowers, City Clerk Linda S. Rodrick, City Attorney Scott A. Gerken, Community Development Director Peggy Sue Clark, Public Safety Director J. M. Isom, Sr., Recreation Director Gregg Tye, Mrs. Jackie Hindbaugh and the Fruitland Park Pageant winners.

1. APPROVED/MINUTES OF THE AUGUST 24, 2006 REGULAR MEETING. Vice Mayor Gunter presented the minutes of the August 24, 2006 regular meeting for approval.

Whereupon, Commissioner Martin moved and Commissioner Kelly seconded to approve the minutes of August 24, 2006. The motion carried unanimously with all Commissioners voting aye.

2. AGENDA UPDATE. There were no updates to the agenda.

3. ADOPTED ON FINAL READING/ORDINANCE 2006-020 AMENDING SECTION 159.080 OF THE LAND DEVELOPMENT REGULATIONS RELATING TO UTILITY LINES; REQUIRING THE INSTALLATION AND DESIGN OF DRY LINES WITHIN THE CITY. City Attorney Gerken read Ordinance 2006-020 by title only:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA; AMENDING SECTION 159.080 OF THE CITY OF FRUITLAND PARK LAND DEVELOPMENT REGULATIONS RELATING TO UTILITY LINES; REQUIRING THE INSTALLATION AND DESIGN OF DRY LINES WITHIN THE CITY; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR INCLUSION IN THE LAND DEVELOPMENT REGULATIONS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Gunter presented Ordinance 2006-020 for public hearing. There were no public comments.

Whereupon, Commissioner Martin moved and Commissioner Kelly seconded to accept Ordinance 2006-020. The motion carried unanimously upon roll call with Vice Mayor Gunter, Commissioners Kelly and Martin voting aye.

**FRUITLAND PARK CITY COMMISSION MINUTES
OCTOBER 12, 2006**

4. INTRODUCTION OF FRUITLAND PARK PAGEANT WINNERS AND APPROVAL TO USE CASINO FOR THE 2007 PAGEANT. Mrs. Jackie Hindbaugh, Director of the Fruitland Park Pageant, introduced Teen Miss Katie Sutton, Preteen Miss Lauren Genter, Little Miss Kati Ankrom and Tiny Miss Gretchen Weimer. She stated the girls have represented the City is several events and are available anytime the City needs them to represent the City.

She stated they are seeking permission to use the Casino on March 6, 2007 for practice and on March 10, 2007 for the Pageant.

Vice Mayor Gunter stated the City has provided the Casino in the past for the Pageant.

Whereupon, Commissioner Kelly moved and Commissioner Martin seconded to allow the Pageant to use the Casino, at no cost. The motion carried unanimously with all Commissioners voting aye.

5. ADOPTED ON FIRST READING/ORDINANCE 2006-021 AMENDING THE PERSONNEL POLICIES AND PROCEDURES MANUAL RELATING TO TRAVEL EXPENSE AND MILEAGE REIMBURSEMENT. City Attorney Gerken read Ordinance 2006-021 by title only:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, PERTAINING TO THE CITY OF FRUITLAND PARK PERSONNEL POLICIES AND PROCEDURES MANUAL; AMENDING THE PERSONNEL POLICIES AND PROCEDURES MANUAL RELATING TO TRAVEL EXPENSE AND MILEAGE REIMBURSEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

City Manager Bowers stated the State Legislature changed the travel and mileage reimbursement schedule and this ordinance aligns the City's Personnel Policies and Procedures manual with the State schedule.

Vice Mayor Gunter asked if there were any public comments. There were none.

Whereupon, Commissioner Kelly moved and Commissioner Martin seconded to accept Ordinance 2006-021. The motion carried unanimously upon roll call with Commissioners Kelly, Martin and Vice Mayor Gunter voting aye.

6. ACCEPTED/CITY TREASURER'S REPORT FOR THE PERIOD ENDING AUGUST 31, 2006. City Treasurer Palmer was absent this evening due to illness.

Commissioner Kelly stated the report looks good and all departments are under budget. She moved and Commissioner Martin seconded to approve the City Treasurer's report. The motion carried unanimously with all Commissioners voting aye.

7. CITY ATTORNEY'S REPORT REGARDING SCHOOL CONCURRENCY AGREEMENT. City Attorney Gerken stated the City of Leesburg has voted down the School Concurrency Interlocal Agreement; however, they are working to resolve the issues. He stated their two main concerns are:

**FRUITLAND PARK CITY COMMISSION MINUTES
OCTOBER 12, 2006**

- a) The School Board has too much power to control growth;
- b) Impact fees paid in Leesburg should stay in Leesburg .

He stated Minneola is sending a letter to the School Board with the same issues. He recommended Fruitland Park wait for awhile before making a decision on the interlocal agreement. He stated, by law, the City does not have to adopt the interlocal until 2008. The County is part of a Pilot Program and that is why they want to adopt it this year.

Commissioner Martin stated aren't there six pilot programs in Florida.

City Attorney Gerken stated yes and Lake County is one of them.

Commissioner Martin asked, how do the programs compare.

City Attorney Gerken stated he doesn't know how they compare. He stated concurrency is done on a County basis. Each county has its own issues.

Commissioner Martin thought the issue should be held off until after the election.

City Attorney Gerken stated he thought that would be done.

City Manager Bowers stated if we build a school or give land to the School Board for a school it doesn't mean they have to accept it.

City Attorney Gerken stated a school would have to be in the 3-Year Plan but the School Board doesn't have to put it in the Plan.

City Manager Bowers stated everyone thinks all the costs will be borne by developers but the homeowners are the ones paying.

City Attorney Gerken stated the issue is the School Board being able to control growth, and the School Board is saying trust us.

Mr. Charlie Rector stated the School Board can't decide anything – they don't need the control!

Vice Mayor Gunter stated there are questions that haven't been answered. Commissioner Kelly had a solution; to add on to the lunch rooms because students are calculated on lunch room capacity.

He stated one of his concerns is the developers are paying impact fees and they still have the expense of schools.

8. CITY MANAGER BOWERS THANK YOU FOR ASSISTANCE FROM STAFF MEMBERS.

City Manager Bowers stated he would like to publicly thank City Clerk Rodrick, City Treasurer Palmer, Community Development Director Clark and Administrative Secretary Azzolino for taking care of things while he was sick.

9. CITY MANAGER'S COMMENTS REGARDING SEWER PROJECT. City Manager Bowers stated the sewer project is moving forward and he would have a report for the next meeting.

**FRUITLAND PARK CITY COMMISSION MINUTES
OCTOBER 12, 2006**

10. APPROVED WITH CONDITIONS/PRELIMINARY PLAT FOR SPRING LAKE COVE DEVELOPMENT. Community Development Director (CDD) Clark's testimony was sworn into the record.

CDD Clark stated a revised map had been placed on the Commission desk this evening. She stated this is an application for preliminary plat for Spring Lake Cove Development. It consists of 155 lot townhome development off Spring Lake Road, south to Lake Geneva.

Mr. Steve Jose and Mr. Chad Morehead are here this evening to answer questions.

She stated some concerns were brought up at the Planning & Zoning meeting regarding the townhouses and the setback by Mr. Rector and she had spoken with the Attorney about them. She stated it has been resolved. The outer perimeters of the building will be the setbacks until some adjustments can be made to the LDR's.

Vice Mayor Gunter asked for clarification.

CDD Clark stated Mr. Rector has questions about single-family setbacks for the sides of the buildings. There was concern about the front and side setbacks. The question of the front setback was resolved by moving the sidewalk closer to the street which gave room to park two vehicles. Mr. Rector was concerned that the setback requirements are for individual units and these are five and six unit clusters. She stated she and Attorney Gerken went over the regulations and felt comfortable that they could look at the setbacks for the entire building as opposed to each unit. She stated there is 20' between each building. The front setback is, she believes, 23'.

Mr. Chad Morehead's testimony was sworn into the record. Mr. Morehead stated he is with Madden Engineering, 431 E. Horatio Avenue, Maitland, Florida. He stated they way we discussed this is the front setback would still be 20' but the sidewalk would be moved closer into the street so essentially there would be 23' from the back of the sidewalk to the face of the building.

City Attorney Gerken stated the notice with the setbacks is the Code is a little blurry in that area and it allows attached units in R-3 zoning but the same section mentions side setbacks of 10' between units. He stated when you look at that, you say, how can you have attached units if you have a 10' setback? We tried to reasonable construe that to say the side setbacks are really between buildings. He stated he has talked with Peggy about meeting with LPG and having them clean up the language for future use so the question doesn't arise again.

Commissioner Martin asked if you move the sidewalk closer to the road what is the distance between the sidewalk and the road.

Mr. Morehead stated 4'. They can go to a minimum of 4'. That meets the Code.

Mr. Charlie Rector, 304 N. Iona Avenue, Fruitland Park wished to speak and his testimony was sworn into the record. He asked what is this map (the map on the overhead)? This is not what we looked at and it isn't close to what we looked at.

CDD Clark stated this is a general idea. It is not the approved one.

**FRUITLAND PARK CITY COMMISSION MINUTES
OCTOBER 12, 2006**

Mr. Rector stated this resembles nothing that Planning & Zoning Board looked at, at any time.

City Attorney Gerken held up a map and Mr. Rector stated that looks more like it. Mr. Gerken clarified that CDD Clark did not have an electronic file to display on the overhead.

It was clarified that the overhead map is not what is being considered. The map at the Commission desk is the correct map.

Mr. Rector stated if you look on the drawing the typical section of the sidewalk was at the 20' front setback line and after discussion with Mr. Morehead they agreed to put the sidewalk four feet over which will give them 23' or 24'. That is how we ended up with more footage. He stated his question involved R-3 zoning. The LDRs say there will be 30' front setback, 25' rear and 10' side setbacks. He stated I understand the building concept of six units or whatever and a separation between them of 10' gives you 20' between the two. However, the front setback in R-3 is 30', not 20' and he doesn't think the 10' rear setback involves anything except the perimeter. He personally doesn't have a problem with this. His problem is if something happened and this developer doesn't build the development and it is zoned R-3, are we setting a precedent basically by not maintaining the proper setbacks in that R-3 zone. The City Attorney looked at it and they came to some conclusion.

City Attorney Gerken stated he didn't realize the issue was 20' versus 30'. Technically they need to get a variance to allow this within the R-3 zone. He was looking at what was allowed versus the attached and side setbacks.

Mr. Rector stated he doesn't have a problem with the attached townhomes being considered a single unit with 10' side setback on each side of the clusters. The 30' front setback is his concern and it would have given more parking and everything out front.

Vice Mayor Gunter asked, what is the rear setback on R-3 zoning.

Attorney Gerken stated 25'.

Vice Mayor Gunter stated and they have 10'.

Mr. Morehead stated he had met with Ms. Clark and City Manager Bowers regarding the setbacks. If they were building apartments you would look at the front setback as a setback along Spring Lake Road and the rear setback would be along the Lake and side setbacks are side setbacks. In discussing the project they were adhering to the setbacks for the entire parcel and it was discussed that the project would come forward as it is since the R-3 section of the Code was not necessarily set up for townhomes. He stated we thought we were meeting the intent of the Zoning Code by having the 30' setback off of Spring Lake Road and the building setbacks on the property.

Vice Mayor Gunter asked if the lots were going to be sold as individual units. He was advised, yes.

City Attorney Gerken stated the setbacks are 30' front; 10' side and 20' in the rear. Mr. Rector's point is well taken that technically the development needs to get a variance or bring the project through as a PUD to allow the smaller setbacks.

**FRUITLAND PARK CITY COMMISSION MINUTES
OCTOBER 12, 2006**

Mr. Morehead stated their intent is variance.

Mr. Rector reiterated that he doesn't have a problem with the development but that the City doesn't set a precedence.

City Attorney Gerken suggested the developer apply for a variance and the Commission can either approve the preliminary plat based on the granting of a variance or wait to approve the plat until the variance has been obtained. He stated the preliminary plat allows the Development to proceed with construction plans. The variance process is a quasi judicial hearing and notices have to be sent to adjoining property owners. He stated the development does not seem to meet the front and rear setback requirements of the Code. The Developer can get relief through a variance or PUD. The variance would be easier. He stated without a variance there is a possibility a disgruntled person could file an injunction stating the setbacks do not meet the Code and proper authorization has not been granted to deviate from the Code.

Mr. Rector stated he assumes the roads are going to have a name and therefore each unit will have an address therefore you have a setback issue. He stated the simplest way is a variance.

City Attorney Gerken stated these are going to be private roads and maintained by an association. Mr. Morehead stated yes.

Vice Mayor Gunter recommended tabling the plat until the variance is obtained.

City Attorney Gerken stated it can be brought through with the variance. TRC has already discussed the issue so the Developer can start with P&Z.

Mr. Rector stated this is a preliminary plat. Can't it be approved contingent upon final approval with having the variance in place? This way the developer won't be slowed-up with the project.

City Attorney Gerken stated yes they can do that but it will be at their risk on the construction plans. He didn't think the City would want them to put in any infrastructure until the variance was obtained.

Mr. Steve Jose of Winter Park, FL asked what the variance procedures were and the timing.

CDD Clark stated it takes about two months.

Commissioner Kelly stated there is a lot of open space on Tract C & F. Is this for recreation?

Mr. Morehead stated retention and what is not used for retention for tot lots. Right now they aren't sure how much retention they will need so the parcels are identified as retention/recreation so the tracts can be used as both. They will be owned and maintained by the Homeowners Association. He stated there is 4.73 acres of open space in the development for retention and recreation. This does not include the grass on the lots.

Commissioner Kelly stated don't we have a requirement that a certain amount of recreation has to be provided when developments like this are approved.

**FRUITLAND PARK CITY COMMISSION MINUTES
OCTOBER 12, 2006**

CDD Clark stated not on a preliminary plat. There is a requirement for the PUD process.

Mr. Rector stated he looked that up in the Code and under R-3 zoning the Code does not spell out how much recreation has to be provided. The development meets the requirements.

CDD Clark states the Code states minimum open space.

Commissioner Kelly stated the map shows all traffic exiting the development on Spring Lake Road.

Mr. Morehead stated that is the only place.

Commissioner Kelly asked if they had done a traffic study.

Mr. Morehead stated that is next; they will have to do that to make the City and Lake County happy.

City Attorney Gerken asked if there were going to be any public dedications.

CDD Clark stated utility easements and the lift station. The developer concurred.

Mr. Morehead stated the roads will be built to City standards but will be privately maintained.

City Attorney Gerken asked if the development was going to be gated.

Mr. Morehead stated they would like to have the option.

City Attorney Gerken stated the City has adopted some standards for gated communities.

Commissioner Kelly asked if they planned to develop the property?

Mr. Jose stated we own the property and we plan to develop it.

Commissioner Kelly asked if the townhomes had balconies. She was advised no, but they have a back porch. They also have a garage.

Commissioner Martin asked how many parking spaces are provided per unit.

Mr. Jose stated one in the garage and one in the driveway; or two per unit. They have added one space for every three units for overflow parking.

Commissioner Martin asked about pricing of the townhomes.

Mr. Jose stated they don't have pricing. The units will be two and three bedrooms. The end units may have four bedrooms. Price will be based on the market.

Whereupon, Commissioner Kelly moved and Commissioner Martin seconded to approve the preliminary plat for Spring Lake Cove contingent on the development obtaining a variance for the setbacks. (as needed). The motion carried unanimously upon roll call with Commissioner Martin, Vice Mayor Gunter and Commissioner Kelly voting aye.

**FRUITLAND PARK CITY COMMISSION MINUTES
OCTOBER 12, 2006**

It was clarified that the developer could move forward on the process but not break ground until the variance has been obtained.

11. APPROVED/AMENDMENT TO CONTRACT WITH BAUGH TRUST FOR PROPERTY LOCATED AT SHILOH STREET AND NORTH DIXIE AVENUE AND RESOLUTION 2006-031 AMENDING THE BUDGET \$11,400 TO PURCHASE ADDITIONAL 0.19 ACRES OF THE PROPERTY. City Manager Bowers stated the survey was wrong and there is an additional 0.19 acres that wasn't included. He stated he wanted eight acres but the Baugh's wanted to keep ten acres. The fence is where the property line is. He recommended approval to purchase the additional 0.19 acres.

City Attorney Gerken stated we are looking at purchasing 6.69 acres. He explained how the difference came about during the survey. He stated the total price is \$401,400. He stated the City needs to adopt the Resolution and amend the contract.

City Attorney Gerken read Resolution 2006-031 by title only:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING THE BUDGET FOR THE 2006-2007 FISCAL YEAR; PROVIDING FOR THE AMENDMENT OF THE 2006-2007 BUDGET; PROVIDING FOR AN EFFECTIVE DATE.

Whereupon Commissioner Kelly moved and Commissioner Martin seconded to approve Resolution 2006-031 and the addendum to the contract with the Baugh's. The motion carried unanimously upon roll call with Vice Mayor Gunter, Commissioners Kelly and Martin voting aye.

12. CITIZEN'S COMMENTS REGARDING PURCHASING GAS FROM CITGO, FIRE INSPECTIONS, AND SEWER CONNECTION. Mr. George Utz stated Citgo is owned by Venezuela and he doesn't think the City should be buying gas from them.

Chief Isom stated that is where the City has gas cards.

Mr. Utz stated he gets two fire inspections. Is this necessary? He files his taxes under one name.

CDD Clark stated you have two businesses in two separate buildings. Fire inspections are performed on each business.

Mr. Utz stated he has one business on the property with one fire extinguisher in one building and six in another.

Vice Mayor Gunter stated he used to have vending machines in the County and he paid \$5 to \$10 for each. He felt that was unfair.

Commissioner Kelly stated businesses can file only one tax return and still have subsidiaries.

Mr. Utz stated he has a light and a pole for the sewer, what is it for?

He was advised that it is a warning light that alerts the owner when the sewer is not working properly.

**FRUITLAND PARK CITY COMMISSION MINUTES
OCTOBER 12, 2006**

Mr. Utz stated the tank is next to his driveway and it has already been broken once. Why was it put next to his driveway where big trucks come in making deliveries?

Mr. Rector stated it was put in the wrong place.

Mr. Utz stated it was put in and he was not asked about where to put it. He gave the City a 15' easement, why was it not put in the easement.

Mr. Utz stated on the back of his property (coming off Dixie Avenue) a T was put on the waterline. He stated he has no more pressure than he had before. In other words, the City teed off a ¾" line and expected more pressure.

City Manager Bowers stated if you will call me with your concerns I can address them. I was unaware of your concerns.

13. COMMISSIONER KELLY'S COMMENTS REGARDING THE LAKE-SUMTER METROPOLITAN PLANNING ORGANIZATION (MPO). Commissioner Kelly stated the Transit Division of the MPO has a bus route that goes south on Dixie, by the Library, along Mirror Lake Drive to Fruitland Street and back to Dixie. When going north it is not scheduled to stop in Fruitland Park but it will stop. The fare is free until July of 2007. They are working on creating an entire route through the County.

It was noted that there are two buses; one is on-demand and the other is the fixed route bus.

14. APPROVED/CITY MANAGER TO EXPLORE THE POSSIBILITIES OF CHANGING GAS COMPANIES. Commissioner Martin stated he would like to address the gas again. He doesn't think the City needs to buy gas from Citgo. He stated the Chief needs gas 24-hrs. a day. He would like to see the City move to the Circle K and buy gas from Union 76.

Chief Isom stated he would like to buy gas at Wal-Mart. He stated Citgo is on the State reserve list in case of an emergency.

It was the consensus of the Commission for the City Manager to explore the possibilities of buying gas other than at the Citgo.

Commissioner Martin stated he didn't want to deal with Citgo or the terrorist in Venezuela.

City Manager Bowers stated I am so instructed to explore the possibilities and will bring information back to the Commission.

15. COMMENTS REGARDING PHILLIPS DEVELOPMENT LOCATED ON HIGHWAY 441-27. Commissioner Martin stated we have received information on the Phillips property and difficulties regarding the lift station or connections. Have the problems been resolved.

City Manager Bowers stated Phillips stated there were three connections. He stated he thinks the City can connect without any prejudice to the station. His talked to Mike Sapp this afternoon and he is going to expose the ends of the pipe for us. As for the electrical problem there is a transformer about ten feet from the station that they are going to put in a sub-panel and they are going to save us a

**FRUITLAND PARK CITY COMMISSION MINUTES
OCTOBER 12, 2006**

couple breakers. He is hoping by the end of the week all of that will be settled unless ya'll have a problem with me drilling two holes in the station.

Commissioner Martin stated Phillips has paid impact fees to the City and will be contributing more to the City. We need to get things squared away for him.

City Manager Bowers stated we just need to make two connections. We are doing everything we can to work with him. In response to a question, he stated he didn't talk to Mr. Phillips, Peggy had spoken with him.

Commissioner Kelly stated the memorandum says Mr. Phillips was offensive in his conversation.

Mr. Rector stated the City has one connection to the sewer. Has the sewer made it to the plant?

16. VICE MAYOR GUNTER'S COMMENTS REGARDING THE WATER ALLIANCE MEETING. Vice Mayor Gunter stated he attended the Water Alliance meeting. They are saying that by 2013 we will be at capacity for pumping ground water.

He stated DeLand and Volusia County are going to be pumping 16 mgpd from other sources and it is going to cost them \$89,000,000. Lady Lake, Fruitland Park and Leesburg need to put in a plant near the north end of Lake Griffin and the Ocklawaha River by 2025. This is a 16 mgpd plant and it will cost \$150,000,000 and we will be short 19 mgpd.

He stated the cities need to get together and discuss the issue. He stated there is a question about the data SJRWMD is using. He stated it is a 7-year process.

17. VICE MAYOR GUNTER TO BE ABSENT DURING THE NEXT MEETING. Vice Mayor Gunter stated he will be out of town during the next meeting and asked to be excused.

18. STATUS OF RECREATION PROGRAMS/EVENTS. Recreation Director Gregg Tye stated he is making preparation for the soccer program. Hometown Christmas is coming along. He stated the City can purchase 26 Christmas decorations due to a sale. The decorations include fixture and fittings.

Commissioner Kelly asked how long with the decorations last.

Recreation Director Tye stated they have a life span of ten to twenty years.

Commissioner Kelly asked if the decorations could be moved to another pole.

Recreation Director Tye stated yes. In answer to a question about warranty he stated he would check with the company.

Vice Mayor Gunter stated the dock is shaky. Someone needs to check it out. He stated the City needs to check with the Fish & Game Commission to see if they will stock the lake.

FRUITLAND PARK CITY COMMISSION MINUTES
OCTOBER 12, 2006

19. ADJOURNMENT. There being no further business to discuss, Commissioner Kelly moved to adjourn. The meeting adjourned at 8:23 p.m.

Christopher J. Bell, Mayor

Attest:

Linda S. Rodrick, CMC, City Clerk