

## **FRUITLAND PARK CITY COMMISSION REGULAR MEETING MINUTES**

**October 10, 2013**

A regular meeting of the Fruitland Park City Commission was held at 506 W. Berckman Street, Fruitland Park, Florida 34731 on Thursday, October 10, 2013 at 7:00 p.m.

**Members Present:** Mayor Christopher Bell; Vice Mayor Sharon Kelly; Commissioners John L. Gunter, Jr.; Christopher Cheshire and Albert O. Goldberg.

**Also Present:** City Attorney Scott Gerken, Interim City Manager Rick Conner, City Treasurer Tannette Gayle, Chief of Police Terry Isaacs, Captain David Borst, Community Development Director Charlie Rector, Parks and Recreation Director Michelle Yoder, Deputy City Clerk/Human Resources Administrator Marie Azzolino, and City Clerk Esther B. Coulson.

**1. CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE**

Mayor Bell called the meeting to order at 7:03 p.m. Pastor Barry Hayes, Freedom Community Church, gave the invocation, and Commissioner Gunter led in the Pledge of Allegiance to the flag.

**2. ROLL CALL**

Mayor Bell requested that the city clerk call the roll and a quorum was declared present.

Mayor Bell introduced the new city clerk and welcomed her to this evening's meeting.

**3. PROCLAMATIONS/SPECIAL RECOGNITION**

**(a) Special Presentation - Florida League of Cities, 20 Years of Elected Service**

Mr. John Lagon, Florida League of Cities Inc., on behalf of the Board of Directors of the Florida League of Cities, read into the record resolutions of the Board of Directors of the Florida League of Cities Inc. honoring Mayor Christopher J. Bell and Commissioner John L. Gunter, Jr., for their 20 years of elected service and commending them for their unselfish commitment to municipal leadership and governance.

Mr. Lagon presented Mayor Bell and Commissioner Gunther with the league's resolutions adopted on August 16, 2013 honoring them for their dedication to the city and their outstanding public service in Florida.

After Mayor Bell and Commissioner Gunther accepted their resolutions with much gratitude, the city commission extended congratulations.

**(b) Proclamation - "Red Ribbon Week", October 13-31, 2013**

Mayor Bell read into the record a proclamation recognizing October 23-31, 2013 as "Red Ribbon Week" and recognized the presence of Lance Corporal Osteen, Ms. Sally Osteen, and representatives from the Young Marines at this evening's meeting.

On behalf of the Young Marines, Ms. Osteen accepted the proclamation with appreciation. She read into the record a Certificate of Appreciation to the city commission and thanked them for their time and energy in supporting the Orlando Devil Dog Young Marines and the Young Marines' Red Ribbon Week Campaign promoting drug awareness.

Ms. Osteen presented the Certificate of Appreciation to the city commission and commended them for their commitment in making today's youth tomorrow's leaders.

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#### **4. PUBLIC COMMENTS**

There were no public comments at this time.

#### **5. CONSENT AGENDA**

**On motion of Commissioner Goldberg, seconded by Vice Mayor Kelly and unanimously carried, the city commission approved the following Consent Agenda Items 5.(a)-(c):**

**(a) Transmitted League of Cities' Resolutions:**

- recognizing the Week of October 20-26, 2013 as "Florida City Government Week";
- commemorating the 500<sup>th</sup> Anniversary of Juan Ponce De León's arrival on Florida's east coast;
- commending the Florida Association of City Clerks for its 40<sup>th</sup> Anniversary;
- urging the Obama Administration and Congress to preserve the current tax-exempt status of municipal bonds and reject any proposal that would reduce or eliminate the federal tax exemption on interest earned from tax-exempt municipal bonds;
- urging Congress to pass legislation that would grant states the authority to compel online and catalog retailers to collect sales tax, and
- urging Congress to maintain funding for the Community Development Block Grant program.

**(b) Granted the Request for Personnel Protective Equipment** - an application for a 50/50 matching grant through the Florida Department of Agriculture by October 4, 2013 for the purchase of personnel protective equipment (the amount of the grant returned to the City of Fruitland Park is two thousand dollars (\$2,000.00) after purchase and no additional cost or funds are needed).

**(c) Granted the Request for a Thermal Imager** – an application for a free grant through the federal government, funded by private insurance companies, for the purchase of a new thermal imager to replace the current device that is in need of replacement for an approximate grant value of seven thousand five hundred dollars (\$7,500.00) (no funds are required from the city).

## **6. REGULAR AGENDA**

### **(a) Proposed Pay Plan**

The city commission considered its action to adopt a proposed pay plan and direct staff to move forward on presenting a step-plan that will then become an official part of the step-pay-plan.

Mr. Conner referred to the city commission's direction at its previous budget workshop on the structure and administration of salaries and reviewed the Employee Pay Plan reflected in his memorandum dated September 30, 2013 as well as the Step Program for Pay Grades reflecting requirements for a step-pay-plan increase. (Copies of these documents are filed with the supplemental papers to the minutes of this meeting.)

Mr. Conner conveyed staff's recommendation to allocate sixty percent (60%) of the budgeted funds towards employee salary increases (retroactive October 1, 2013) with the remaining forty percent (40%) for one-time payment as bonuses and to authorize staff to develop a criteria over the next six months on the adoption of an employee step-pay-plan including other incentives.

After ensuing discussions, a motion was made by Commissioner Gunter and seconded by Commissioner Goldberg that the city commission authorize staff to proceed in working on the development of the step-pay-plan and report back to the city commission.

Mayor Bell called for a roll call vote on the motion with the city commission members voting as follows:

<b>Commissioner Cheshire</b>	<b>Yes</b>
<b>Commissioner Goldberg</b>	<b>Yes</b>
<b>Commissioner Gunter</b>	<b>Yes</b>
<b>Vice Mayor Kelly</b>	<b>No</b>
<b>Mayor Bell</b>	<b>Yes</b>

The motion was declared carried on a four to one vote.

### **(b) Legal Representation for the Police and Fire Service Fee Class Action Lawsuit**

The city commission considered its action to retain legal representation on the fire and police fee lawsuit.

Mr. Gerken referred to the supplemental information on the police and fire fees. He explained that the insurance company selected, assigned and is paying the law firm Bell & Roper, P.A.; noted that with the settlement of the recent lawsuit -- the other matter the firm was involved with -- the insurance company sent notice to

the city that the subject case will no longer be covered under the insurance policy; and by the end of October 2013, the city, and not the insurance company, will be paying for the case.

Mr. Gerken mentioned his contacts with attorneys in the area who suggested Nabors, Giblin & Nickerson, P.A., attorneys; recommended that the city commission retain said law firm to represent the city, and stated that he spoke with the firm's partner, Mr. Greg Stewart, who will be handling the case.

Mr. Gerken explained that it will not be necessary for Mr. Stewart to talk to the city commission; however, they could meet him in a shade-meeting in the future to receive their thoughts and direction. Mr. Gerken stated that Mr. Stewart has been provided with the transcripts and other issues relating to the subject case and anticipated that small matters will arise in the future that Bell & Roper will continue to handle. Mr. Gerken noted that there is no long term commitment to retain Nabors, Giblin et. al., who will be substituted on October 14, 2013, if hired by the city commission.

After discussion, and **on motion of Commissioner Goldberg, seconded by Commissioner Gunter and unanimously carried**, the city commission approved the city attorney's recommendation to retain the law firm of Nabors, Giblin & Nickerson, P.A. to represent the City of Fruitland Park in **James Richardson, et al. v. City of Fruitland Park, Florida Case No. 2013 CA 400 in the Circuit Court, Fifth Judicial District.**

(c) **Proposed Charter Amendment to Adopt District**

The city commission considered its action to direct staff to begin the process of creating commission districts.

Mr. Gerken referred to the city commission's previous discussions on the creation of commission districts; recognized the current ability to elect individuals residing on the same street and requested the city commission's direction.

Noted the city's imminent growth and the process involved to prepare, make choices in drawing lines in certain districts and transition elected officials from their current seats and mentioned the involvement of the interim city manager and himself to proceed working on the issue, if it is the city commission's desire.

Mr. Gerken noted the deadlines to review the city's charter and getting citizens involved. If approved by the city commission, he addressed the procedures to hold a special election for a referendum, amend the charter, and create district seats within the city or use the November 2014 election deadline to have the districting in place by January 2015. Mr. Gerken anticipated

the extra requirement to conduct a study to review the subject issue and explained that the city commission would need to determine equal representation in population throughout the city where the process would take more than a few months and less than a year.

**By unanimous consent, the city commission agreed with the city attorney's request for staff to begin the process of creating commission districts in the City of Fruitland Park and establish a Charter Review Commission.**

On behalf of the developer for The Villages, Mr. Gary L. Moyer, thanked the city commissioners for the opportunity.

**(d) Approval of a Conflict Attorney**

The city commission considered its action to appoint an attorney to represent the city with regards to matters involving The Villages Center Community Development District (VCCDD) and North Sumter County Utility Development District (NSCUDD).

Mr. Gerken addressed the imminent proposed "Villages of Fruitland Park" project; acknowledged Lewis Stone, his partner, as the general counsel for the subject districts, and indicated that the city does not represent The Villages project or is involved with any utility agreements. He mentioned negotiations with The Villages' developer; the likelihood of the proposed project, if approved, involving the two districts, and that Mr. Stone or himself cannot become involved with such negotiations.

In order to avoid the appearance of a conflict of interest, he explained that Mr. Bob Williams declined his request to represent the city on issues relating to The Villages project and utility agreements and recommended Ms. Anita Geraci-Carver, City Attorney for the Cities of Mount Berg and Groveland.

After discussion and **on motion of Commissioner Cheshire, seconded by Commissioner Goldberg and unanimously carried, the city commission approved the city attorney's recommendation to retain Ms. Anita Geraci-Carver as an independent attorney to represent the City of Fruitland Park with regards to matters involving The Villages Center Community Development District and North Sumter County Utility Development District at the same hourly rate as the city attorney.**

**(e) Agreement with The Villages – Pine Ridge Dairy Property Possible Development**

The city commission considered its action to approve a Letter of Agreement between the City of Fruitland Park and The Villages of Lake-Sumter Inc. to construct the extension of "The Villages" and the possible development of the Pine Ridge Dairy property.

Mr. Gerken reviewed the agreement which has since been executed by the developer and described the purpose and the forthcoming process involved.

After extensive discussions on concerns regarding the collection of fees, the water and sewer wastewater lines, and related costs, Mr. Gerken explained that provisions on the cost overruns could be drafted to the pioneer agreement.

A motion was made by Vice Mayor Kelly, seconded by Commissioner Cheshire that the city commission approve the agreement as previously cited. Mayor Bell called for a roll call vote on the motion with the city commission members voting as follows:

Commissioner Gunter	Yes
Commissioner Goldberg	Yes
Commissioner Cheshire	Yes
Mayor Bell	Yes
Vice Mayor Kelly	Yes

Mayor Bell declared the motion unanimously carried.

Mr. Gary L. Moyer, developer representing The Villages of Lake-Sumter Inc., conveyed The Villages' appreciation to staff and thanked the city commission.

- (f) **Resolution 2013-022 – 2013-2014 Budget - Correction**  
On motion of Vice Mayor Kelly, seconded by Commissioner Gunter and unanimously carried, the city commission adopted Resolution 2013-022 clarifying the actual budget dollar amount in Fiscal Year 2013 - 2014 City Budget Resolution as five million, five hundred and twenty-three thousand, four hundred and ninety dollars (\$5,523,490).

- (g) **Decommissioning of Fire Department Rolling Stock Units, Woods-56 and AIR-56**  
On motion of Commissioner Gunter, seconded by Commissioner Cheshire and unanimously carried, the city commission approved the sale of the units designated as Woods-56 (1978 GMC) and Air-56 (1991 F-250) and approving using the revenues from the sale for additionally needed safety equipment.

#### PUBLIC HEARING

By unanimous consent, Mayor Bell opened the public hearing.

- (h) **Second Reading, Ordinances 2013-006 and 2013-007 – Scrivener's Errors**  
It now being the time advertised to hold a public hearing to consider the enactment of proposed Ordinances 2013-006 and 2013-007, Mr. Gerken read into the record the titles of which are as follows, Mayor Bell called for interested parties to be heard:

An ordinance of the City Commission of the City of Fruitland Park, correcting a scrivener's error in the legal description attached to city Ordinance 2004-027, which annexed property generally located on Myrtle Lake Road southeast of the Glen subdivision, rezoned such property from County "A" (Agriculture) to "R-1" (Single-Family Low Density Residential) within the city limits of Fruitland Park, and approved a lot split (minor subdivision) of the property into five (5) lots, providing for severability, providing for repeal of conflicting ordinances and providing for an effective date. (Ordinance 2013-006)

An ordinance of the City Commission of the City of Fruitland Park, correcting a scrivener's error in the legal description attached to city Ordinance 2004-028, which provided for a comprehensive plan amendment assigning a future land use designation of "single-family low density residential" on the future land use map element of the City of Fruitland Park's Comprehensive Plan for property generally located on Myrtle Lake Road, southeast of the Glen Subdivision; providing for severability; providing for repeal of conflicting ordinances, and providing for an effective date. (Ordinance 2013-007)

There being no comments from the public and by **unanimous consent**, Mayor Bell closed the public hearing and the city commission agreed to take action on the ordinances as a separate motion.

Commissioner Cheshire	Yes
Commissioner Goldberg	Yes
Commissioner Gunter	Yes
Vice Mayor Kelly	Yes
Mayor Bell	Yes

Mayor Bell declared the motion unanimously carried.

A motion was made by Commissioner Goldberg and seconded by Commissioner Gunter and unanimously carried that the city commission enact Ordinance 2013-006 as previously cited to become effective immediately. Mayor Bell called for a roll call vote on the motion with the city commission members voting as follows:

Commissioner Goldberg	Yes
Commissioner Gunter	Yes
Vice Mayor Kelly	Yes
Mayor Bell	Yes
Commissioner Cheshire	Yes

**Mayor Bell declared the motion unanimously carried.**

A motion was made by Commissioner Goldberg and seconded by Vice Mayor Kelly that the city commission enact Ordinance 2013-007 as previously cited to become effective immediately.

END OF PUBLIC HEARING

(i) **First Reading, Ordinance 2013-003A - Clarifying Scrivener's Errors**

The city commission considered its action to approve the proposed ordinance. Mr. Gerken read into the record the title of proposed Ordinance 2013-003A, which explains previously enacted Ordinance 2013-003A which clarifies Ordinance 2013-13 that set the 2013 – 2014 Fiscal Year Water Rates (no public hearing is required).

**A motion was made by Vice Mayor Kelly and seconded by Commissioner Cheshire that the city commission approve proposed Ordinance 2013-003A as previously cited. Mayor Bell**

**Mayor Bell called for a roll call vote on the motion with the city commission members voting as follows:**

Vice Mayor Kelly	Yes
Mayor Bell	Yes
Commissioner Cheshire	Yes
Commissioner Goldberg	Yes
Commissioner Gunter	Yes

**Mayor Bell declared the motion unanimously carried.**

(j) **Designate a Records Management Liaison Officer**

After discussion and on motion of Commissioner Gunter and seconded by Vice Mayor Kelly and unanimously carried, the city commission approved Esther Coulson, City Clerk, as the records management liaison officer to serve as primary contact between the City of Fruitland Park and the Division of Library and Information Services' records management program in accordance with the law and authorize the mayor to sign the designation form to the division.

**7. NEW BUSINESS – Fruitland Park Cleanup Day**

In preparing a newsletter, Mr. Rector explained that he has spoken with Waste Management Inc. earlier this day regarding future dates for cleanup in the city similar to what the city had in the past. He conveyed Waste Management's request that residents not place everything in their dumpsters and leave them out and open in locations around the city as the Waste Management uses their resources to sort all types of waste;

expressed their the public works and waste management concerns not do that. He relayed their desire to schedule annual regular weekly cleanups for anyone who wants to move garbage in front of their properties.

After Mr. Rector expressed concerns on the scheduled timeframes for announcements relating to the subject issue to be placed in the city's fall newsletter, Mayor Bell recognized Waste Management's offer to send out notices as part of the city's cleanup and suggested that he will place the issue on the agenda and invite them to discuss same.

Commissioner Gunter recognized the ongoing complaints from residents and business owners on the city's appearance and questioned the city commission's consideration of placing more emphasis in the Code Enforcement Board on code enforcement issues and methods of encouraging citizens to cleanup their properties.

Mr. Rector addressed the intent to appear before the city commission at a future meeting on recommended changes to the Code Enforcement Board and will be meeting with Mr. Conner regarding same.

After questioning whether the Code Enforcement Board is included in the city's charter, Mayor Bell requested that Mr. Gerken provide information on the charter process for the next meeting.

## **8. OFFICERS' REPORTS**

### **(a) City Manager's Report**

- **Training**

Mr. Conner announced that the city commission inform him if they require additional training with their tablets as André Maillard, Samsung® Electronics, is available.

- **Fruitland Park Days**

After much discussion, the city commission agreed with the Ms. Yoder's suggestion to hold Fruitland Park Days on March 15, 2014.

### **(b) City Attorney's Report – Police and Fire Lawsuit**

Mr. Gerken referred to his report to the city commission that the judge had certified the class on the police and fire case; noted the city's option to appeal the judge's ruling, and voiced his recommendation that the city not expend funds and belabor the issue. He referred to his discussions with the new counsel; relayed his confirmation that the matter would not be worth pursuing, and described the process involved if the city commission decides to appeal. Unless the city commission feels otherwise, he relayed his support of the counsel's recommendation to have the issue determined.

## **9. COMMISSIONERS' COMMENTS**

### **(a) Vice Mayor Kelly**

Vice Mayor Kelly stated that she has nothing to report at this time.

(b) **Commissioner Goldberg**

Commissioner Golberg recognized the service of Mayor Bell and Commissioner Gunter to the citizens and their tenure on the city commission. He stated that he is proud to be on the city commission and that he looks forward to remaining.

(c) **Commissioner Cheshire**

In concurring with Commissioner Goldberg's comments, Commissioner Cheshire extended congratulations and appreciation to Mayor Bell and Commissioner Gunter for their services.

(e) **Commissioner Gunter**

Commissioner Gunter referred to a previous city commission meeting and comments made by a representative from Brown and Brown Insurance Inc. on the insurance rate increase. Commissioner Gunter reviewed the personal liability claims costs filed in the city for the years 2007 – 2008 to 2012 – 2013; questioned the insurance company's predicted payout in claims which the city did not have, and voiced concerns on the insurance company's calculated rate and increase in insurance premiums based on their predictions of payouts in the claim noting that, the city does not get a refund.

**10. MAYOR'S COMMENTS**

Mayor Bell reiterated his appreciation that it has been a pleasure serving the city.

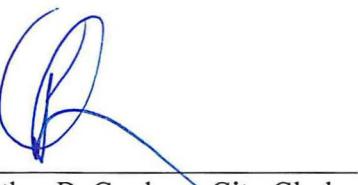
Mayor Bell announced that on October 11 city manager interviews will be held during the day with one-and-one interviews with each city commissioner and a reception will be held at 4:30 p.m. followed by a formal interview process with the candidates and on October 17, 2013 at 6:00 p.m., the city commission will select the candidate.

**11. ADJOURNMENT**

There being no other business to come before the city commission at this time, on motion of Commissioner Cheshire, seconded and unanimously carried, the meeting adjourned at 9:14 p.m.

The minutes were approved at the November 21, 2013 meeting.

Signed

  
Esther B. Coulson, City Clerk

Signed

  
Christopher Bell, Mayor