

FRUITLAND PARK CITY COMMISSION MEETING MINUTES

March 8, 2012

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, March 8, 2012 beginning at 7:02 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE. Police Chief Terry Isaacs delivered the invocation followed by the Pledge of Allegiance led by Vice Mayor 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 Albert O. Goldberg, Vice Mayor Jim Richardson, Mayor Christopher J. Bell

MUNICIPAL OFFICIALS/OTHERS PRESENT. City Manager (CM) Ralph Bowers, Police Chief (PC) Terry Isaacs, Assistant Police Chief (APC) David Borst, Public Works Director (PWD) John Bostic III, City Treasurer (CT) Jeannine Racine Michaud, Community Development Director (CDD) Charlie Rector, and City Clerk (CC) Diane Gibson Smith.

01. HEARD PRESENTATION ON ELECTRIC SYSTEM UPGRADES BY CITY OF LEESBURG STAFF. Leesburg staff made up of City Manager Jay Evans, Director of Natural Gas Jack Rogers, Customer Service Manager Lori Beach, and Director of Electric Paul Kalv provided information regarding changes being made to the electric system this summer and fall and how they are looking to “beat the peak” through the use of smart grids. CM Evans stated 50% of each electric bill is based on a one hour time frame (peak hour – this is the hour during the month when the most electricity is being used by the entire system – not just in Leesburg area but within the 14 different municipalities included in the system; the difference of 4.5 cents versus \$20).

ED Kalv explained the process used in determining the peak hour and the optimization of the electric system. The next step is to engage the customers in this process through empowerment, information, and allowing them to participate. Rates will be made to fit different lifestyles.

CSM Beach stated there will be three types of pricing plans offered to customers - status quo and two time-of-use plans. A web portal will be available which will allow customers access over the internet through home computers or cell phones. A prepaid option will also be available with credit card payment and same day turn on.

Commissioner Kelly asked about peak hours. CM Evans noted they are in the afternoon on a hot day usually between 3 pm and 5 pm or 6 pm. On cold days, they are typically in the morning between 6 am and 8 am or 9 am. Peaks are harder to determine in fall and spring.

Commissioner Gunter noted he already uses high electric usage appliances at off hours and questioned if the smart grid would save him anything. CM Evans stated not all customers are equally positioned to save the same amount of money.

Commissioner Gunter also questioned who determines the peak hour price. CM Evans stated Florida Municipal Power Agency (FMPA) determines the peak hour and the cost based on the usage of the 14 municipalities.

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Commissioner Goldberg questioned if more tiers would be put in place as the peak time changes. Also, he questioned the possibility of the programs being hacked into by someone since they are accessible remotely. CM Evans stated the technologies use the same encryption as banks. Usually encrypted data is not tapped into. CM Evans stated peak is determined collectively through all the FMPA municipalities so the peak time probably will not change. The greater threat is if FMPA changes the methodology currently used.

Commissioner Goldberg also questioned if FMPA restructures the timeframes and shifts the peak. CM Evans noted the best benefit to Leesburg is entering the program early, receiving a grant, and being able to possibly free up resources. The savings will be less as more municipalities take advantage of the technology. Leesburg customers still benefit the most as they received a large grant for the program.

Mayor Bell asked if Fruitland Park will be included in the deployment in summer and fall. CM Evans stated yes.

Mayor Bell questioned financing of the meters and if there will be payments due in the future. CM Evans stated there are no fees or assessments for the meters built into the fees to cover the costs of the program. The payments are made through the savings. He noted they expect a six year pay back with 11% of customers participating.

Mayor Bell questioned what the average customer may expect to save. CM Evans stated they are trying not to say how much the savings will be per customer. He noted he expects the average customer to save somewhere between \$7 to \$25 range depending on many variables.

Commissioner Goldberg questioned if the new meters were more accurate. ED Kalv stated they have the same accuracy as the current electronic meters.

CM Bowers stated he applauds Leesburg's efforts.

02. CONSENT AGENDA

Mayor Bell presented the consent agenda for approval.

Commissioner Gunter clarified on page 73 that he was in favor of giving Mr. Isom the plaque. He stated he has heard a rumor, and wanted to clarify, that he is not in support of bringing Mr. Isom back into the Fire Department.

CA Gerken noted a scrivener's error on the bottom of page 68 should read plans are now at 100% instead of not.

Commissioner Gunter moved and Commissioner Goldberg seconded to approve the Consent agenda with the scrivener's error corrected. The motion carried with all Commissioners voting aye. The minutes of the February 23, 2012 City Commission meeting were approved.

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03. CITY ATTORNEY'S REPORT

- a. CA Gerken noted Commissioner Kelly questioned, at the last meeting, how the Wick's litigation was going. CA Gerken stated we now have the reports we have been waiting for and should have final damage estimates within a week or so to move forward.
- b. CA Gerken noted he is behind on bringing back information on the City Manager's vehicle and the need for a contract adjustment. The majority of the Commission is okay with what has been going on. CA Gerken stated he talked with CM Bowers who noted he may have a few other issues to address. CA Gerken stated he will bring back the contract at the next meeting.

Vice Mayor Richardson stated that was not what he remembered. He remembered it was supposed to have been brought back in January. CA Gerken stated a good portion of the delay is his fault. His intention is to bring this back as a discussion item. If other commissioners have items, please bring them to his attention.

Mayor Bell stated the contract includes the word alternatively which could be struck out to take care of the issue.

Commissioner Gunter noted he would like to see everything brought back at one time.

Vice Mayor Richardson noted the contract has already been renewed. An exchange on when the city vehicle was discussed ensued.

CA Gerken stated he will not be here at the next meeting. He clarified he will bring back the contract to the meeting after that.

- c. CA Gerken stated one of the concerns on the electric system was whether the meters should be installed or not in Fruitland Park as they may drive the cost up.

Commissioner Gunter noted personally he is not interested in the meters. Mayor Bell agreed stating the savings will not be very high.

Vice Mayor Richardson noted the savings realized so far are due to changes Leesburg has made by running generators.

Mayor Bell noted Leesburg will be using the savings to rebuild their systems.

CA Gerken noted possible purchase of the system should be addressed prior to the meters being installed.

04. CITY MANAGER'S REPORT

- a. CM Bowers provided an update on the US Highway 441/27 and Merchant meeting. He noted FDOT has given a turn lane to the property and business owners and has agreed to pay for the changes.

Commissioner Kelly questioned why FDOT has blocked off the deceleration lane onto CR25A. APC Borst noted this is part of their safety plan. PWD Bostic will look into this.

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- b. CM Bowers stated RD Bechtel distributed an update on Fruitland Park Day.
- c. CM Bowers stated the City rental property at 508 Berckman has problems with sewer and PWD Bostic recommends connecting it to sewer using CRA funds. All were in agreement to have this done. Any needed approvals will be brought back
- d. CM Bowers stated Pete Noel has reported his mother is terminally ill. He has applied for money, but if he needs to leave quickly CM Bowers would like the authority to issue a check with promissory note for payback.

Vice Mayor Richardson suggested taking a collection.

CT Michaud stated ICMA has stated Mr. Noel will get the money as soon as his mother passes.

Commissioner Kelly moved and Commissioner Gunter seconded to front the money to Noel Pierre upon the signing of a promissory note. The motion carried with all members of the Commission voting aye.

Mayor Bell noted a collection can be done in addition.

05. PUBLIC HEARINGS

- a. Tabled Ordinance 2011-014 pertaining to cross connections until May 10, 2012. CA Gerken read Ordinance 2011-014, by title only, as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, REVISING CHAPTER 51 ENTITLED PLUMBING OF THE CODE OF ORDINANCES ADOPTED BY ORDINANCE 90-027 AND REPLACING WITH THE CROSS-CONNECTION CONTROL PROGRAM PROVIDED HEREIN; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Gunter moved and Vice Mayor Richardson seconded to table Ordinance 2011-014 until May 10, 2012. The motion carried with all Commissioners voting aye.

Commissioner Gunter stated one question he has is how this will be governed for residential houses which are older.

- b. Adopted Ordinance 2012-019 pertaining to Florida Friendly Landscape requirements. CA Gerken read Ordinance 2012-019, by title only, as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING CHAPTER 101 OF THE CITY OF FRUITLAND PARK CODE OF ORDINANCES ENTITLED "WATER CONSERVATION"; SPECIFICALLY CREATING SECTION 101.10 TO INCORPORATE WATERWISE AND FLORIDA FRIENDLY LANDSCAPING REQUIREMENTS; ADOPTING A PLANT LIST FOR THE CITY OF FRUITLAND PARK; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING

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

Vice Mayor Richardson moved and Commissioner Gunter seconded to adopt Ordinance 2012-019.

Mayor Bell requested comments from the Public. There were none.

The roll call vote was as follows:

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| Commissioner Gunter | aye |
| Vice Mayor Richardson | aye |
| Mayor Bell | aye |
| Commissioner Goldberg | aye |
| Commissioner Kelly | aye |

The motion carried unanimously.

06. INTRODUCTION OF ORDINANCE

- a. Approved first reading/introduction of Ordinance 2012-020 correcting scrivener's errors in several annexation ordinances. CA Gerken read Ordinance 2012-020, by title only, as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, CORRECTING SCRIVENER'S ERRORS IN THE LEGAL DESCRIPTIONS ATTACHED TO ORDINANCE 2011-030 AND ORDINANCE 2012-007; CORRECTING THE LEGAL DESCRIPTIONS FOR CERTAIN PROPERTIES ANNEXED PURSUANT TO ORDINANCE 2011-030 AND ASSIGNED FUTURE LAND USE DESIGNATIONS PURSUANT TO ORDINANCE 2012-007; CORRECTING A SCRIVENER'S ERROR ON THE ZONING DESIGNATION FOR A PORTION OF PROPERTY ANNEXED PURSUANT TO ORDINANCE 2011-032; CORRECTING A SCRIVENER'S ERROR IN THE LEGAL DESCRIPTION FOR PROPERTY ANNEXED PURSUANT TO ORDINANCE 2011-029; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Kelly moved and Vice Mayor Richardson seconded to approve the first reading of Ordinance 2012-020. The roll call vote was as follows:

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| Commissioner Kelly | aye |
| Commissioner Gunter | aye |
| Vice Mayor Richardson | aye |
| Mayor Bell | aye |
| Commissioner Goldberg | aye |

The motion carried unanimously.

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07. Adopted the Comprehensive Annual Financial Report (CAFR) for 2011.

Chet Ross, city auditor, presented the CAFR for 2011. He discussed the new accounting policy change for fund balances (GASB 54) which notes the City needs a fund balance policy on how to assign fund balances. Mr. Ross noted he doesn't recommend minimum fund balances.

The second issue is a sensitive disclosure. This year he had to disclose the utility fund was over spent by \$133,000 partly due to an error in one of the budget amendments (\$105,000 transfer) and more expenses in the consumptive use than expected.

Mr. Ross then gave highlights from the report. He noted the net assets have decreased by \$432,000 over the past 2 years as the City has not been able to invest in itself with capital assets that have a long, useful life. We have expensed out the CUP. The unassigned fund balance went up by \$85,000 to three months of expenses. Mr. Ross noted he would like to see six months. The General Fund is still over spending by about \$300,000 – this is improving by making cuts. The City is still in good shape with very little debt on the General Fund. We just need to watch revenues coming in to make sure we are not spending over and above expenditures,

Utility fund has \$72,000 unrestricted to the good and the operating loss is going down.

CM Bowers stated the operations need to be revenue centric. We are holding back on expenditures to ensure revenues are coming in.

Commissioner Kelly questioned if some of the leftover money can be given to the employees as a bonus since they have not had a raise in three years. She suggested \$1000. Mr. Ross stated that is entirely up to the City Manager and the Commission.

Vice Mayor Richardson stated give employees a \$1000 to include social security and Medicare costs per employee.

Commissioner Goldberg stated bonuses are always taxed heavier.

Mayor Bell questioned how much this would cost the City. CT Michaud stated approximately \$40,000.

Commissioner Gunter suggested allowing the employees to determine if they want income taxes taken out or not.

Vice Mayor Richardson moved to give the employees a \$1000 net one-time bonus after social security and Medicare taxes with the employees being responsible for their own income taxes. Commissioner Goldberg seconded the motion. The roll call vote was as follows:

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|-----------------------|-----|
| Commissioner Goldberg | aye |
| Commissioner Kelly | aye |
| Commissioner Gunter | aye |
| Vice Mayor Richardson | aye |
| Mayor Bell | aye |

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The motion carried unanimously.

CM Bowers noted we will issue a separate check for the bonus instead of direct deposit.

Mr. Ross noted this CAFR has been a learning curve for CT Michaud and she has done a good job.

Commissioner Gunter moved and Vice Mayor Richardson seconded to approve the CAFR. The motion carried unanimously with all the Commissioners voting aye.

08. NEW BUSINESS

- a. Adopted Resolution 2012-010 amending Section 504 plan. CA Gerken read Resolution 2012-010, by title only, as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND
PARK, FLORIDA, AMENDING THE SECTION 504 COMPLIANCE POLICY
PERTAINING TO THE COMMUNITY DEVELOPMENT PLAN FOR THE CITY OF
FRUITLAND PARK; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Gunter noted he was told the changes being made are to the buildings in the last 6 pages.

CM Bowers stated this amendment will help with the next monitoring visit being held on March 9th.

Commissioner Kelly moved and Commissioner Goldberg seconded to approve Resolution 2012-012. The roll call vote was as follows:

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| Mayor Bell | aye |
| Commissioner Goldberg | aye |
| Commissioner Kelly | aye |
| Commissioner Gunter | aye |
| Vice Mayor Richardson | aye |

The motion carried unanimously.

- b. Approved request to put items into surplus. Mayor Bell stated CT Michaud has requested to add 2 Genicom printers to the list of surplus that was provided by PWD Bostic.

Several other items will be sent to be recycled.

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

- c. Commissioner Kelly stated CDD Rector checked on the liquor sales of other cities and found all are allowing sales from 7 am – 2 am except us.

CDD Rector stated the most amazing thing is the Police/Sheriff's departments do not know the hours.

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Mayor Bell stated he is proud that we don't sell alcohol on Sunday morning. He suggested bringing this back later on. He also suggested asking the businesses to send a letter requesting it. This could then be advertised as being on the agenda.

CA Gerken noted this would be an ordinance change so there would be a public hearing on this.

Commissioner Kelly made a motion to move forward and bring back for discussion to allow alcohol sales as Lady Lake, Leesburg, and Lake County from 7 am – 2 am, 7 days a week. Commissioner Gunter seconded the motion. The roll call vote was as follows:

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|-----------------------|-----|
| Vice Mayor Richardson | aye |
| Mayor Bell | nay |
| Commissioner Goldberg | aye |
| Commissioner Kelly | aye |
| Commissioner Gunter | aye |

The motion carried with a vote of 4 to 1.

- d. CDD Rector stated he would like clarification on whether time payments are being allowed for the water impact fees on the newly annexed parcels. The consensus was to allow this if they sign-up within the next two years and allow up to 36 months to pay with monthly payments on the utility bill.

Currently we offer time payments of 24, 36, or 60 months. CT Michaud stated we have added the payments to the utility bills.

CDD Rector noted the 48 month term was skipped. This will be corrected.

Commissioner Gunter moved and Commissioner Kelly seconded to allow monthly time payments be placed on the utility bill. The motion carried unanimously.

09. CITIZENS' COMMENTS - none

10. COMMISSIONERS' COMMENTS

- a. Vice Mayor Richardson – stated he had some questions. His first question was when A Code of Conduct for Elected Officials was discussed. CA Gerken stated our Labor Attorney has suggested this. This was also discussed several years ago. CC Gibson Smith stated she was fact gathering for the City Commission.

Mayor Bell asked about presenting these questions in advance.

Vice Mayor Richardson stated last Wednesday, Channel 9 provided a public records request for everything on the allegations of misconduct by him. CM Bowers stated they came in and asked what he had on this, not for everything. CM Bowers stated he gave them what he had.

Vice Mayor Richardson stated the sworn statements he read at the last CC meeting were not provided.

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CM Bowers stated he did not have sworn statements – he has requested certified copies which have not been provided.

CC Gibson Smith added she was not in the office when the request came in so the documents were not available.

Vice Mayor Richardson stated Mayor Bell made a comment at the last meeting when Mark Isom was discussed that one Commissioner had a problem with the plaque and mentioned calling Channel 9. Vice Mayor Richardson stated the memo was sent to Lauren Ritchie by the City Clerk prior to it being aired as a records request was made, yet Vice Mayor Richardson says he has been accused of sending the memo to Channel 9. Vice Mayor Richardson questioned how everyone knew he had an objection to the plaque.

After a short discussion, Vice Mayor Richardson stated he did object but wanted to know how Mayor Bell knew about his objection.

CM Bowers stated he had informed Mayor Bell that someone had objected to the plaque.

Vice Mayor Richardson questioned if Channel 9 had been mentioned. CM Bowers stated he did not remember.

Vice Mayor Richardson stated he made several records request where there were six documents that were not included.

Mayor Bell stated this is supposed to be a time of comments and not fact finding.

CM Bowers suggested having the concerns examined by the Ethics Committee.

Commissioner Kelly stated all this has to do with personal things and not city business.

Vice Mayor Richardson asked if anyone had listened to the tape. Commissioner Gunter stated he had listened to the tape.

CA Gerken stated the Mayor had asked a pertinent question. In the past, a lot of leeway has been allowed in letting commissioners speak and question things during this time. CA Gerken noted he does not believe people should be inquisitioned and no one should be put on the spot to answer questions. All commissioners should have the ability to state concerns but in a civilized manner. There is an inquiry being done, not an official investigation, into things that have happened with the ultimate goal to look at how to move forward and take care of the problems. It is always a good thing to let people know what questions you have in advance.

Vice Mayor Richardson stated he thought if it had happened to anyone else, he is 99% sure they would have been called.

- b. Commissioner Gunter – no comments.
- c. Commissioner Kelly – no comments.

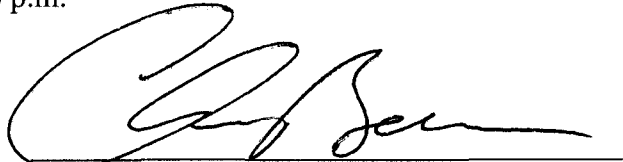
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d. Commissioner Goldberg – stated he has one observation – the process of elimination tells who was involved in the incident as no one else is in real estate.

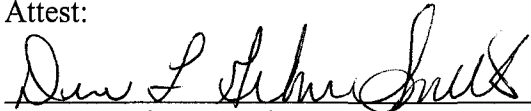
11. MAYOR BELL'S COMMENTS. Mayor Bell stated he did listen to the tape and felt he agreed with other people's thoughts that the lady was creditable. He supports the actions taken by the City Manager. If the actions had not been taken, something would have come back at us. He is fine that FDLE did not find a reason for charges. He is not sure if an ethics violation occurred. If anything on that tape is true, he would be embarrassed if that were him. He would like to hold Commissioner Comments to comments, not question and answer sessions. Mayor Bell then reviewed the upcoming events. Clean-up Fruitland Park is Saturday, March 10 from 9 – 11 at Gardenia Park.

12. ADJOURNMENT. There being no further business to discuss, Commissioner Richardson moved to adjourn. The meeting adjourned at 9:40 p.m.



Christopher J. Bell, Mayor

Attest:



Diane L. Gibson Smith, CMC, City Clerk