

FRUITLAND PARK CITY COMMISSION MEETING MINUTES
AUGUST 28, 2008

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, August 28, 2008 beginning at 7:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE. Pastor Mike Fordham of the Community United Methodist Church delivered the invocation followed by the Pledge of Allegiance led by Commissioner Kelly.

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 Sharon Kelly, Vice Mayor Darrel E. Martin, 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., Recreation Director (RD) Sherry Bechtel, Community Development Director (CDD) Peggy Sue Newman, Library Director (LD) Mary Kay McGuire, Public Works Director (PWD) John Bostic III, Tiffany Kapner of LPG Urban Planners, and City Clerk (CC) Diane Gibson Smith.

01. APPROVED MINUTES OF THE JULY 10, 2008 REGULAR MEETING.

Mayor Bell presented the minutes of the July 10, 2008 regular Commission Meeting for approval.

Vice Mayor Martin moved and Commission Gunter seconded to approve the minutes of the July 10, 2008 regular Commission Meeting. The motion carried unanimously with all Commission Members voting aye.

02. APPROVED MINUTES OF THE JULY 31, 2008 REGULAR MEETING.

Mayor Bell presented the minutes of the July 31, 2008 special Commission Meeting for approval.

Commissioner Gunter moved and Commissioner Goldberg seconded to approve the minutes of the July 31, 2008 special Commission Meeting. The motion carried unanimously with all Commission Members voting aye.

03. APPROVED MINUTES OF THE AUGUST 18, 2008 BUDGET MEETING.

Mayor Bell presented the minutes of the August 18, 2008 Budget Meeting for approval. He noted a correction on page 112 from Mayor Bell to Vice Mayor Martin on the discussion regarding Wicks Consulting.

Commissioner Goldberg moved and Vice Mayor Martin seconded to approve the minutes of the August 18, 2008 Budget Meeting as corrected. The motion carried unanimously with all Commission Members voting aye.

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04. PRESENTATION OF CERTIFICATE OF APPRECIATION FOR YEARS OF VOLUNTEER SERVICE TO VERA DAVIS, LIBRARY VOLUNTEER.

LD McGuire introduced Vera Davis who has served as a library volunteer for the past 11 years; having begun at the age of 79. Mayor Bell presented Mrs. Davis with a certificate of appreciation.

05. AGENDA UPDATE. Mayor Bell removed items 6.c. (Public Hearing/Resolution for CDBG grant application), 7.a. (Consideration of water and wastewater utility agreement with Savannah Oaks), 10.d. (Discussion regarding request for reimbursement from Spring Lake Cove developers) and added two items – MPO item under Commissioner Kelly’s comments and a proposed irrigation rule by Lake County under the Mayor’s report.

06. ADOPTED ORDINANCE 2008-013 AMENDING CHAPTER 50, SECTION 50.30(A) AND (B), AND CHAPTER 99, SECTION 99.60(B)(D) TO PROVIDE FOR AN INCREASE IN WATER RATES. Attorney Scott Gerken read Ordinance 2008-013 by title only:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING CHAPTER 50, SECTION 50.30(A) AND (B), AND CHAPTER 99, SECTION 99.60(B)(d) OF THE CODE OF ORDINANCES TO PROVIDE FOR AN INCREASE IN WATER RATES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bell reminded everyone of why this adjustment is being made. He noted the average residential customer using 13,297 gallons of water per month will see an increase of \$1.14. There were no public comments.

Commissioner Kelly moved and Vice Mayor Martin seconded to adopt Ordinance 2008-013. The motion carried unanimously with Mayor Bell, Commissioner Goldberg, Commissioner Gunter, Commissioner Kelly, and Vice Mayor Martin all voting aye.

07. ADOPTED ORDINANCE 2008-014 AMENDING THE COMPREHENSIVE PLAN PURSUANT TO THE STIPULATED SETTLEMENT AGREEMENT RELATED TO THE COMPREHENSIVE PLAN AMENDMENTS ADOPTED BY ORDINANCES 2007-011. Attorney Scott Gerken read Ordinance 2008-014 by title only:

AN ORDINANCE OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING ITS COMPREHENSIVE PLAN PURSUANT TO THE STIPULATED SETTLEMENT AGREEMENT RELATED TO THE COMPREHENSIVE PLAN AMENDMENTS ADOPTED BY ORDINANCE 2007-011; ADOPTING A REVISED FUTURE LAND USE MAP; PROVIDING FOR CONFLICT WITH EXISTING ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONTINGENCIES; DIRECTING THE CITY CLERK TO TRANSMIT THE AMENDMENT TO THE APPROPRIATE GOVERNMENTAL AGENCIES PURSUANT TO CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR AN EFFECTIVE DATE.

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Tiffany Kapner, LPG Urban Planners, restated the reasons for the settlement agreement with DCA. She noted each property was given its own policy stating what can be done on the property and the policy will be added to the LDR. This ordinance adopts the changes to the Land Use Element and the Land Use Map.

Commissioner Kelly questioned what happens if a developer decides to sell the property. Ms. Kapner stated the new owners will still have the land use, zoning, and PUD. If changes are needed to the PUD, those changes will be an amendment to the Future Land Use Element and will be sent to DCA.

Commissioner Gunter asked if all changes, minor or major, will be sent to DCA. Ms. Kapner stated a change in the density or intensity will probably be a major change. CA Gerken stated the decision on whether a change is minor or major is made at the local level. Major changes will be submitted to DCA.

Mayor Bell asked if policy specific amendments are common. Ms. Kapner stated this solution is relatively new, but policy specific amendments are being seen more often.

Commissioner Kelly questioned the additional costs associated with these amendments. Ms. Kapner stated additional time is required. To combat that expense, five properties are being sent up at one time instead of individual properties.

Mayor Bell opened the discussion for public comments.

Charlie Rector asked if policy specific amendments are the result of something the City is doing differently. Ms. Kapner stated no; the discrepancy in the density requested and land use was large so the policy specific amendments made sense.

Mayor Bell asked if the additional costs can be captured. Ms. Kapner stated the justification to DCA may not require additional costs.

Commissioner Kelly asked Ms. Kapner to estimate how much extra the policy amendments will cost. Ms. Kapner stated she will get an estimate.

Mayor Bell noted the fees may need to be reviewed. Commissioner Kelly agreed.

Mr. Rector asked if the discrepancies triggered the review by DCA. Ms. Kapner stated DCA is closely scrutinizing any changes in density.

Commissioner Kelly questioned if the LDR's need to be adjusted. Ms. Kapner state no.

Commissioner Kelly moved and Commissioner Gunter seconded to adopt Ordinance 2008-014. The motion carried unanimously with Commissioner Goldberg, Commissioner Gunter, Commissioner Kelly, Vice Mayor Martin, and Mayor Bell all voting aye.

Commissioner Gunter questioned who sets the policy at DCA. CA Gerken stated the Secretary yields the control. Every time there is a changeover, the rules change.

08. Mayor Bell stated he received a letter indicating the School agreement was in compliance with the minimum requirements.

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09. CITY ATTORNEY'S REPORT. No report.

10. CITY MANAGER'S REPORT. CM Bowers reported on the following:

a) ADOPTED RESOLUTION 2008-010 AMENDING FY 2007-2008 BUDGET TO ELIMINATE A \$380 DEFICIT AND APPROPRIATE \$528 FUNDING FOR REPAIRS TO AED UNITS AS SHOWN IN EXHIBIT A. CA Gerken read Resolution 2008 by title only as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING THE BUDGET FOR THE 2007-2008 FISCAL YEAR; PROVIDING FOR THE AMENDMENT OF THE 2007-2008 BUDGET; PROVIDING FOR AN EFFECTIVE DATE.

CM Bowers stated the older units have serious problems. Repairs are costing almost a third of the cost of a new unit. CM Bowers stated a request for a new unit will be made before the end of the year. Chief Isom stated new units cost approximately \$2100. Chief Isom is looking for grants to use for purchasing new units but has been unsuccessful thus far.

Commissioner Kelly moved and Vice Mayor Martin seconded to adopt Resolution 2008-010. The motion carried unanimously with Commissioner Gunter, Commissioner Kelly, Vice Mayor Martin, Mayor Bell, and Commissioner Goldberg all voting aye.

b) ADOPTED RESOLUTION 2008-011 AMENDING FY 2007-2008 BUDGET TO APPROPRIATE THE STATE FARM GRANT RECEIVED BY THE LIBRARY JULY 31, 2008 TO BE USED TO PURCHASE A DOOR COUNTER AND POSTERS/FRAMES FOR THE NEW DESIGNATED TEEN AREA. CA Gerken read Resolution 2008-011 by title only, as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING THE BUDGET FOR THE 2007-2008 FISCAL YEAR; PROVIDING FOR THE AMENDMENT OF THE 2007-2008 BUDGET; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Kelly moved and Commissioner Goldberg seconded to adopt Resolution 2008-011. The motion carried unanimously with Commissioner Kelly, Vice Mayor Martin, Mayor Bell, Commissioner Goldberg, and Commissioner Gunter all voting aye.

c) Discuss proposed agreement with City of Leesburg to purchase the electric system. CM Bowers stated he met with the City Manager of Leesburg to propose moving the purchase to early 4th quarter of the next fiscal year. In return, the City of Leesburg will not raise any of the time issues.

Commissioner Gunter asked when the appraisal is due. If the appraisal comes in now, does the City get to use this appraisal for the purchase or will the appraisal need to be adjusted. CA Gerken stated the original agreement had a time frame included. If any adjustments are needed, those adjustments would not slow the process down. CA Gerken stated there have been delays in getting the appraisal completed – some of the issues are due to the City of Leesburg. The purchase date is now expected in the early 4th quarter.

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CA Gerken stated a draft of the letter agreement is almost complete. Dates still need to be confirmed. This agreement will be completed by the next Commission meeting.

Commissioner Kelly questioned if the City will have any penalties if the purchase is delayed or is there a benefit to wait. CM Bowers stated the City still needs financing in place, etc. which will take several months. CA Gerken stated even if the appraisal was completed now, the sale would not close before April 2009.

Vice Mayor Martin stated the City should begin looking for funding. Commissioner Gunter noted all the numbers are needed before a final decision to purchase is made.

Commissioner Goldberg questioned if the City of Leesburg keeps the liability risk until the system purchase is complete. CA Gerken stated yes, the risk of loss stays with Leesburg until the after closing.

d) Set December 13, 2008 at Vics Embers as the date and location for Christmas Luncheon. CM Bowers stated CT Palmer contacted Vics Embers. Vics Embers has given a good price of only 50 cents more per person than last year. Vics Embers also will give two gift certificates for four Sunday brunches. The restaurant offers good food and good service. By consensus, the luncheon will be held December 13, 2008.

e) CM Bowers announced the Lake County League of Cities Sponsor's Night, Wednesday, September 17, 2008 at 6:00 p.m., Lake Reception, Mount Dora, FL. A listing of attendees was taken.

f) CM Bowers stated he received a request from Michael Nemecek of Margheric Construction to expedite the permitting process. CM Bowers requested the Commission approve a special P & Z meeting so this project can be brought back before the Commission on September 11th. The special P & Z meeting will be to review the major site plan change only.

Commissioner Kelly moved and Commissioner Goldberg seconded approving a special P & Z meeting on September 4, 2008. The motion carried unanimously with all the Commissioners voting aye.

11. UNFINISHED BUSINESS - none

12. NEW BUSINESS

a) ADOPTED RESOLUTION 2008-012 APPROVING FDOT SUBORDINATION OF CITY UTILITY INTEREST FOR PARCEL 104.3, SECTION 11040, F.P. NO. 238395 4, STATE ROAD 500. CA Gerken read Resolution 2008-012 by title only, as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPROVING THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION SUBORDINATION OF CITY UTILITY INTERESTS FOR PARCEL 104.3, SECTION 11040, F.P. NO. 238395 4, STATE ROAD 500, COUNTY OF LAKE, PROVIDING FOR A CERTIFIED COPY TO BE

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FORWARDED TO THE STATE OF FLORIDA DEPARTMENT OF
TRANSPORTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

CA Gerken stated the subordination allows FDOT to make the changes needed along US Highway 441 and to pay for the moving of any utilities required for these changes.

Commissioner Gunter questioned if all the utilities along US Highway 441 within Fruitland Park were located in easements. CA Gerken stated he is not certain.

Mayor Bell suggested looking into obtaining any additional easements prior to this work being done.

CD Newman stated these easements were initially collected for the sewer line project.

Commissioner Goldberg moved and Commissioner Gunter seconded approving Resolution 2008-012. The motion carried unanimously with Vice Mayor Martin, Mayor Bell, Commissioner Goldberg, Commissioner Gunter, and Commissioner Kelly all voting aye.

b) RESOLUTION 2008-013 APPROVING FDOT SUBORDINATION OF CITY UTILITY INTEREST FOR PARCEL 105.4, SECTION 11040, F.P. NO. 238395 4, STATE ROAD 500. CA Gerken read Resolution 2008-013 by title only, as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND
PARK, FLORIDA, APPROVING THE STATE OF FLORIDA DEPARTMENT OF
TRANSPORTATION SUBORDINATION OF CITY UTILITY INTERESTS FOR
PARCEL 105.4, SECTION 11040, F.P. NO. 238395 4, STATE ROAD 500,
COUNTY OF LAKE, PROVIDING FOR A CERTIFIED COPY TO BE
FORWARDED TO THE STATE OF FLORIDA DEPARTMENT OF
TRANSPORTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Kelly stated the map shows the property off the road. CM Bowers stated this subordinates the westerly 20 ft.

Commissioner Gunter moved and Vice Mayor Martin seconded approving Resolution 2008-013. The motion carried unanimously with Mayor Bell, Commissioner Goldberg, Commissioner Gunter, Commissioner Kelly, and Vice Mayor Martin all voting aye.

c) ADOPTED RESOLUTION 2008-014 APPROVING FDOT SUBORDINATION OF CITY UTILITY INTEREST FOR PARCEL 800.4, SECTION 11040, F.P. NO. 238395 4, STATE ROAD 500. CA Gerken read Resolution 2008-014 by title only, as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND
PARK, FLORIDA, APPROVING THE STATE OF FLORIDA DEPARTMENT OF
TRANSPORTATION SUBORDINATION OF CITY UTILITY INTERESTS FOR
PARCEL 800.4, SECTION 11040, F.P. NO. 238395 4, STATE ROAD 500,
COUNTY OF LAKE, PROVIDING FOR A CERTIFIED COPY TO BE
FORWARDED TO THE STATE OF FLORIDA DEPARTMENT OF
TRANSPORTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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Commissioner Kelly moved and Commissioner Goldberg seconded approving Resolution 2008-014. The motion carried unanimously with Commissioner Goldberg, Commissioner Gunter, Commissioner Kelly, Vice Mayor Martin, and Mayor Bell all voting aye.

11. Citizens' comments

a) A concerned citizen stated the developers of the Spring Lake Cove project do not clean the road and questioned if there is a time limit when work can start in the morning. He noted concrete is being poured at 5:00 a.m. Mayor Bell stated he can understand the concrete due to rains, etc. Other work can be done between the hours of 7:00 a.m. and 7:00 p.m. CM Bowers stated he will look into this.

b) A concerned citizen questioned Oaktree Terrace Subtract C. The recent purchaser of the property is going door to door to adjacent property owners. Mayor Bell stated CM Bowers is contacting the owner. CA Gerken stated the parcel was platted as a water retention area. The City has maintained the area for a number of years. The property is still subject to the same rules as before it was sold. CM Bowers stated the current owner is looking to possibly sell the property to the City. The City is finding out what the owner paid for the parcel at the tax sale. CM Bowers stated part of the problem is with the County Road. Commissioner Kelly questioned if the retention pond was cleaned. Chief Isom stated yes.

12. Commissioners' comments

a) Vice Mayor Martin asked about the possibility of charging back costs to Mr. Wick. CA Gerken stated yes, this is a possible if there was professional liability. CA Gerken's experience has been that type of litigation costs a lot of money. Success will be dependent on what another expert will say. Not all the costs are attributable to the engineering problems. CA Gerken suggested entering into discussions with Mr. Wick to determine the best resolution.

Commissioner Kelly suggested a letter from the City explaining the costs the City is experiencing to make the design work.

Vice Mayor Martin stated the City is still spending a lot of money for an inadequate system.

Commissioner Kelly suggested Mr. Wicks' errors and omissions insurance could be used. CA Gerken stated this could be reviewed. CA Gerken will review the basic contract to start.

Mayor Bell noted price was a big part of making the original decision.

Vice Mayor Martin stated the Commission was told people could be deferred and a profit would still be made. We now know if everyone in the City hooked up to the system, there would not be a profit.

Vice Mayor Martin questioned if ties were cut with Mr. Wick. CM Bowers stated Mr. Wick is still be used for the Technical Review Committee. Mayor Bell added Mr. Wick knows all of the water lines.

Commissioner Kelly stated Mr. Wick was to have done as-built maps showing cut offs and all the lines. PWD Bostic stated the City received the maps without showing the cut offs.

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Commissioner Gunter questioned if Mr. Wick is representing the new company or himself. CM Bowers stated he represents the new company which has all the data. Much of the data has been given to the City electronically.

Commissioner Kelly stated ties will not be totally cut until a decision is made on the situation.

Mr. Rector stated the decision was made by the Commission to accept the plans.

Commissioner Kelly stated she would like a letter sent to Mr. Wick to see if he is willing to return some of the fees collected. CA Gerken stated he will review the contract prior to a decision being made on sending a letter.

b) Commissioner Gunter - none

c) Commissioner Kelly announced the following:

1. LSMPO Our Community-Our Future session September 29, 2008 from 6 to 8 p.m.
2. The next area MPO meeting is being held September 10, 2008.
3. A Lake County Local Government Workshop on Low Impact Development and Water Resource Development will be held Friday, September 19, 2008. RSVP by September 12th.

CM Bowers stated he attended a water reuse meeting in Orlando and talked to Hal Wilkernon about developing an equity position in Coquina Coast project and selling the reuse water there instead of pumping the water here. Bob Martinez thought that was a good idea. Mr. Wilkernon is now contacting others to get participation in this idea. Timing is everything. Pure luck to talk to Bob Martinez.

Commissioner Kelly asked CM Bowers for his comments on the meeting in Wildwood. CM Bowers stated the plan is to run along CR466A to US Highway 301. No commitments for ROW money have been made by anyone. The PDE study is being done.

d) Commissioner Goldberg – none.

13. MAYOR BELL'S COMMENTS. Mayor Bell stated he received an email from Jim Myers of Lake County regarding proposed changes to the irrigation amendment. He stated the changes will affect Fruitland Park if the potential amendment is put in place. CA Gerken noted a similar amendment was adopted by the City of Eustis and St. Johns River Water Management District made them rescind the amendment. Lake County should contact St. Johns before a decision is made.

14. ADJOURNMENT. There being no further business to discuss, Commissioner Goldberg moved to adjourn. The meeting adjourned at 8:35 p.m.

Christopher J. Bell, Mayor

Attest:

Diane L. Gibson Smith, CMC, City Clerk