

**FRUITLAND PARK CITY COMMISSION SPECIAL MEETING
MINUTES
March 19, 2015**

A special meeting of the Fruitland Park City Commission was held at 506 W. Berckman Street, Fruitland Park, Florida 34731 on Thursday, March 19, 2015 at 5:30 p.m.

Members Present: Mayor Christopher Bell, Vice Mayor Christopher Cheshire, Commissioners John L. Gunter, Jr., Ray Lewis and Rick Ranize.

Also Present: City Manager Gary La Venia, City Treasurer Tannette Gayle, Interim Police Chief Todd English, Lieutenants Dennis Cutter and Beckie Sirolli, Fire Chief George Fernandez and Tim Yoder, Fire Department; Community Development Director Charlie Rector, Public Works Director Dale Bogle, Parks and Recreation Director Michelle Yoder; Finance Clerk Sue Parker, and City Clerk Esther B. Coulson.

1. CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Bell called the meeting to order at 5:30 p.m.; gave the invocation, and led in the Pledge of Allegiance to the flag.

2. ROLL CALL

After Ms. Coulson called the roll, Mayor Bell declared that a quorum was present.

3. PUBLIC COMMENTS

No one from the public appeared before the city commission at this time.

4. DISCUSSION - POLICE SERVICE AND FIRE SERVICE FEES LAWSUIT

Discussion and consideration of a possible settlement and any other matters regarding the police service and fire service fees lawsuit (Case # 2013 CA 400).

Mayor Bell outlined the purpose of this evening's meeting to discuss a possible settlement and any other matters regarding the police service and fire service fees lawsuit and the agreement to resolve motion for contempt; a copy of which is filed with the supplemental papers to the minutes of this meeting.

Mr. Gerken cited the three mutual covenants outlined in the agreement confirming that the city mailed the refund applications on March 16, 2015 to the class members; recognizing that the city would pay \$26,292 to the plaintiff's counsel for attorney's fees, and anticipating the city's written confirmation that the refund applications were made with the expectancy that the plaintiff would withdraw the Motion for Contempt as the city would be in current compliance with the court-approved agreement and all pending issues and claims would be resolved and quoted the footnote and identified that said individuals are the ones the city is disputing:

The city shall pay the pro rata agreed upon refund to all class members who request a refund even if they owe the city money, had a utility bill paid out of the

charity account or the account is in someone else's name, but the class member filing the refund application can prove they paid the police and fire fees.

Mr. Gerken identified the few individuals that the city disputed as they owe the city money and conveyed the request that they not receive a refund and offset same which they are requesting as part of the lawsuit whereby they would receive their refund checks. He explained that anyone receiving refunds would need to establish that they paid the fee and noted that as the proposed settlement that was considered before the city commission at the March 9, 2015 regular meeting.

Mr. Gerken responded to several inquiries posed by Mayor Bell that written confirmation is expected from the plaintiff; in anticipation of the pending motion being complete and other matters not occurring and acknowledged:

- the lawsuit and any pending motions and current disputes would not be complete until October 2015;
- since the mailing of the applications, the utility customers would have until June 27, 2015 to complete same;
- the city would have a 60-day period to process any new applications, and
- after submittal of the check, the close-out hearing with the judge would follow.

After discussion, Mr. Gerken stated the issue is the people who live outside the city and not paid the fees and the following was addressed:

- the mailing of the notices to the utility users;
- the consideration of the established court order at a previous meeting that was entered as Exhibit "A" listing the addresses which included previous utility customers after the refund period passed and the settlement agreement that the attorney sent to city staff who mailed the notices based on the agreement;
- the offer by the city's attorneys relaying the judge's statements to proceed to send additional mailings;
- the January 27, 2015 hearing where the court determined to send out notice to all affected utility customers, which already occurred, was pending and the plaintiff's request to hold the city in contempt of court for violating the order by not sending out the notice, and
- the court transcript received recently outlining the judge's statements.

Mr. Gerken noted the disconnect in communications whereby the mailings went to the present and not the former utility customers which was noticed several months later.

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After much discussion regarding the payment of \$26,292 to the plaintiff's counsel for attorney's fees, Mr. Gerken stated that there should not be any other bills to pay for any other plaintiff's attorneys fees and noted that the timeframe for payment would be on Friday, March 27, 2015.

In response to Vice Mayor Cheshire's statements regarding the request from Mr. Gregory "Gregg" Stuart, attorney at Nabors Giblin & Nickerson, retained by the city to withdraw from the case, Mr. Gerken indicated that the city would be without attorney representation in the subject case. If the settlement was to occur, he stated that there would be nothing of substance that he could not handle in the short period of time and nothing significantly happening in the case until October 2015, after the refund. Whoever the attorney the city hires, if they wish to handle it themselves, they could; thus, the city would not need to retain outside counsel, if all goes well as planned, as it should be a relatively simple procedure.

Subsequent to extensive deliberations, the city commission addressed the opportunity to review and make budget adjustments during the mid-year budget July 1, 2015 to funds allocated towards the police and fire fees.

A motion was made by Commissioner Ranize and seconded by Commissioner Lewis that the city commission accept the settlement and any other matters regarding the police service and fire service fees lawsuit regarding Case No. 2013 CA 400 and divide the payment of \$26,292 with the first to be made to Derek A. Schroth, plaintiff's attorneys, at the end of March 2015 and the second at the end of April 2015.

Mr. Jim Richardson, representative of the class action member, agreed to accept the settlement.

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

Vice Mayor Cheshire	Yes
Commissioner Gunter	Yes
Commissioner Lewis	Yes
Commissioner Ranize	Yes
Mayor Bell	No

The motion was declared carried on a four to one (4-1) vote.

After discussion, Mr. Gerken acknowledged the attorney's request to be withdrawn from the subject lawsuit.

Following further discussion and **on motion of Commissioner Ranize, seconded by Vice Mayor Cheshire and unanimously carried, the city commission terminated its**

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contract with the law firm Nabors Giblin & Nickerson, retained by the city for the lawsuit regarding Case No. 2013 CA 400.

5. OTHER BUSINESS

There was no other business to come before the city commission.

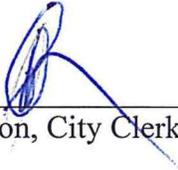
6. ADJOURNMENT

There being no further business to come before the city commission at this time, on motion made, second and unanimously carried, the meeting adjourned at 7:02 p.m.

The minutes were approved at the June 11, 2015 regular meeting.

Signed _____

Esther B. Coulson, City Clerk



Signed _____

Christopher Bell, Mayor

