

**FRUITLAND PARK CITY COMMISSION SPECIAL MEETING MINUTES**  
**November 14, 2013**

A special meeting of the Fruitland Park City Commission was held at 506 W. Berckman Street, Fruitland Park, Florida 34731 on Thursday, November 14, 2013 at 7:00 p.m.

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

**Members Absent:** Mayor Christopher Bell

**Also Present:** City Attorney Scott Gerken, Interim City Manager Rick Conner, City Treasurer Tannette Gayle, Chief of Police Terry Isaacs, Community Development Director Charlie Rector, and City Clerk Esther B. Coulson.

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

Vice Mayor Kelly called the meeting to order at 7:03 p.m. Chaplain Larry Miller, The American Legion, gave the invocation, and Commissioner Goldberg led in the Pledge of Allegiance to the flag.

**2. ROLL CALL**

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

**3. PUBLIC COMMENTS**

There were no public comments at this time.

**4. First Reading, Ordinances 2013-008, Electrical Service Franchise Agreement – City of Leesburg**

The city commission considered its action to approve proposed Ordinance 2013-008 and Vice Mayor Kelly called upon Mr. Gerken to read into the record the title, the substance of which is as follows (no public hearing is required):

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, APPROVING AN AMENDMENT TO FRUITLAND PARK'S ELECTRIC FRANCHISE AGREEMENT WITH THE CITY OF LEESBURG, FLORIDA; EXTENDING THE TERM OF THE FRANCHISE WHILE RETAINING A PURCHASE OPTION; PROVIDING FOR CERTAIN TERMS AND CONDITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT, AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Gerken gave a historical background on the City of Fruitland Park obtaining electricity from Leesburg Electric; referred to the current 1983 electrical franchise agreement which has a 25-year life with the City of Leesburg (the exclusive electric

provider within the municipal limits in the City of Fruitland Park) and noted the common electric franchise agreement which has a purchase option of granting the City of Fruitland Park, at various times, to elect to purchase the system.

When the existing electrical franchise agreement ended around 2009, Mr. Gerken recognized the city commission's decision in notifying the City of Leesburg that the City of Fruitland Park was electing to exercise the option to pursue electricity from Leesburg Electric; outlined the process the City of Fruitland Park Commission undertook in obtaining the appraisal, and noted the breakdown of negotiations over time where the purchase did not take place. He explained that the current lease is on a year-to-year basis; noted Leesburg Electric's continued service in providing the city with electricity, and mentioned the payment of franchise fees according to the agreement recognizing that there is no long term agreement.

Mr. Gerken referred to a recent meeting held among executives from The Villages, City of Leesburg and Leesburg Electric; explained how Leesburg arrived at the estimated infrastructure costs of \$7.5 million to serve The Villages' project, and noted Leesburg Electricity's reluctance to provide electricity without an existing franchise agreement. He conveyed Leesburg's intent to embark on the project and extend the franchise agreement and Leesburg's request that the City of Fruitland Park defer its purchase option for five-years and thereafter a series of five-year increments in order to receive a return on the investment. Mr. Gerken explained that the city retained its purchase option with the same valuation provision and the same language of its current agreement and that if the city decides not to purchase at the end of the initial five-year period, the franchise would be extended for an additional 30 years with an option for every five years with automatic extensions and the same terms. (Copies of the proposed Ordinance 2013-008 and First Amendment to the Electric Franchise Agreement are filed with the supplemental papers to the minutes of this meeting.)

Mr. Gerken explained that the request on the 30-year period came from the City of Leesburg; conveyed their agreement with the City of Fruitland Park's intent to elect the purchase option, and addressed the need for the City of Fruitland Park to have the valuation provision which has been reached. He explained that Leesburg obtains its electrical utility services from the Florida Municipal Power Association (FMPA) and that high prices in the past made a purchase compelling. He recognized that prices have stabilized since 2009 and noted that consultants have not been engaged on the subject issue for the last several years.

After discussion, the city commission agreed with the suggestions made by Messrs. Gerken and Conner to begin the evaluation process well before the end of the five-year term. Mr. Gerken referred to the proposed ordinance with the one-year purchase period and noted the closing by the end of December 31, 2019 -- recognizing that the property would be a depreciated purchase by the city which is whatever the assets would be worth at that time. He stated that at the end of the five-year period, if the City of Fruitland Park decides not to purchase, the agreement would roll-off to an additional five years.

Mr. Gerken confirmed that the City of Leesburg Commission will be considering, at its November 18, 2013 Regular Meeting, the execution of the First Amendment to the Electric Franchise Agreement with the City of Fruitland Park. He relayed The Villages' concurrence that they would not ask to extend their closing date at the meeting but that, depending on the City of Fruitland Park's action at its November 21, 2013 meeting, they would be ready to close. Mr. Gerken explained that the agreement extends for another 30 years to the year 2043, if the City of Fruitland Park elects not to purchase the system but recognized the current plan to buy at the end of five years.

**A motion was made by Commissioner Gunter and seconded by Commissioner Cheshire that the city commission approve proposed Ordinance 2013-008 Electric Franchise Agreement with the City of Leesburg, Florida as previously cited.**

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

<b>Vice Mayor Kelly</b>	<b>Yes</b>
<b>Commissioner Cheshire</b>	<b>Yes</b>
<b>Commissioner Goldberg</b>	<b>Yes</b>
<b>Commissioner Gunter</b>	<b>Yes</b>

**Vice Mayor Kelly declared the motion unanimously carried.** (The second reading and public hearing will be held on Thursday, November 21, 2013 at 7:00 p.m.)

## **5. OFFICERS' REPORTS**

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

Mr. Conner stated that he has nothing to report at this time.

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

#### **i. Legal Representation for the Police and Fire Service Fee Class Action Lawsuit – Case No. 2013 CA 400 in the Circuit Court, Fifth Judicial District**

Mr. Gerken referred to a previous city commission meeting regarding the retention of the law firm, Nabors, Giblin & Nickerson, P.A., to represent the city in the police and fire service fee class action lawsuit. He requested holding a closed attorney-client meeting in order for the law firm to provide their views and obtain the city commission's input on the subject pending litigation, (Case Number 2013 CA 400).

Mr. Gerken explained that Ms. Coulson will make arrangements with the city commissioners to establish a date to hold the session before the end of 2013.

Mr. Gerken and the city commission discussed generally the lawsuit. Concerns were expressed on the appearance of the class action notices

previously mailed to the residents and discussion was held on holding a shade meeting if it is city commission's desire. Further discussions ensued on the settled James Richardson case, the alleged accusations made recently in a newspaper whereby Vice Mayor Kelly requested that the attorney review the issue on slander and libel.

**9. COMMISSIONERS' COMMENTS**

**(a) Vice Mayor Kelly**

Later in the meeting, Vice Mayor Kelly referred to the announcement sent by email on November 13, 2013 regarding the Lake-Sumter Metropolitan Planning Organization's Seventh Annual Horizon Awards Dinner reception at 5:30 p.m. to be held on Wednesday, January 22, 2014 at the Clermont Community Center with Congressman Daniel Webster as the keynote speaker.

**(b) Commissioner Goldberg**

Commissioner Goldberg stated that he has no comments at this time.

**(c) Commissioner Cheshire**

Commissioner Cheshire stated that he has no comments at this time.

**(e) Commissioner Gunter**

Commissioner Gunter commented that he understood there was a 2014 legislative proposal on the utility tax which will impact all municipalities and conveyed the Lake County Municipal Leagues' opposition and the league's lobbyists efforts on their behalf.

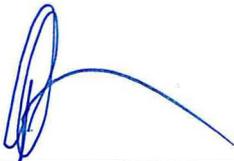
**10. MAYOR'S COMMENTS**

There were no comments to submit at this time.

**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 7:40 p.m.

The minutes were approved at the December 12, 2013 regular city commission meeting.

Signed   
\_\_\_\_\_  
Esther B. Coulson, City Clerk

Signed   
\_\_\_\_\_  
Christopher Bell, Mayor