

**FRUITLAND PARK CITY COMMISSION MEETING MINUTES
NOVEMBER 13, 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, November 13, 2008 beginning at 7:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE. Pastor Walter Martin of the Trinity Assembly of God Church delivered the invocation followed by the Pledge of Allegiance led by Commissioner Goldberg.

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., Public Works Director (PWD) John Bostic III, and City Clerk (CC) Diane Gibson Smith.

01. APPROVED MINUTES OF THE LOCAL PLANNING AGENCY MEETING HELD OCTOBER 9, 2008. Mayor Bell presented the minutes of the October 9, 2008 Local Planning Agency Meeting for approval.

Commissioner Kelly moved and Vice Mayor Martin seconded to approve the minutes of the October 9, 2008 Local Planning Agency Meeting. The motion carried unanimously with all Commission Members voting aye.

02. APPROVED MINUTES OF THE REGULAR MEETING HELD OCTOBER 9, 2008. Mayor Bell presented the minutes of the October 9, 2008 regular Commission Meeting for approval.

Commissioner Kelly moved and Commission Goldberg seconded to approve the minutes of the October 9, 2008 regular Commission Meeting. The motion carried unanimously with all Commission Members voting aye.

03. SELECTED COMMISSIONER SHARON KELLY AS VICE MAYOR. Mayor Bell thanked Commissioner Martin for serving as Vice Mayor for the past year.

Mayor Bell suggested numbering the Commission seats for ease in determining which seats are up for election. He noted CC Gibson Smith put together a short history on the seat of Vice Mayor and suggested a rotating schedule for Vice Mayor which would allow everyone to serve as Vice Mayor during their term of office. After discussion, the determination was made to not number the seats and to not use a rotating schedule for Vice Mayor.

Vice Mayor Martin moved and Commissioner Gunter seconded to nominate Commissioner Kelly to serve as Vice Mayor for the coming year. The motion carried unanimously with all Commission Members voting aye.

04. AGENDA UPDATE. No update was made to the agenda.

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05. ADOPTED ORDINANCE 2008-016 ANNEXING APPROXIMATELY 1.0 ± ACRES OF PROPERTY GENERALLY LOCATED NORTH OF EAGLES NEST ROAD, WEST OF US HIGHWAY 441, AND SOUTH OF LAKE ELLA ROAD; REZONING THE PROPERTY FROM LAKE COUNTY "C-2" (COMMUNITY COMMERCIAL DISTRICT) TO "C-2" (GENERAL COMMERCIAL). (MICHAEL C. VORCE FOR OWNER FRUITLAND PARK 441, LLC) CA Gerken read Ordinance 2008-016 by title only, as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, AMENDING THE BOUNDARIES OF THE CITY OF FRUITLAND PARK IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN SECTION 171.044, FLORIDA STATUTES, BY INCLUDING WITHIN THE CITY APPROXIMATELY 1.0± ACRES OF PROPERTY GENERALLY LOCATED NORTH OF EAGLES NEST ROAD, WEST OF U.S. HIGHWAY 441, AND SOUTH OF LAKE ELLA ROAD; REZONING THE PROPERTY FROM LAKE COUNTY "C-2" (COMMUNITY COMMERCIAL DISTRICT) TO "C-2" (GENERAL COMMERCIAL) WITHIN THE CITY LIMITS OF FRUITLAND PARK; PROVIDING FOR CONDITIONS AND CONTINGENCIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Mayor Bell asked how Community Development Director Newman was feeling. CM Bowers stated CDD Newman had fallen at home and was experiencing neck pain. She will be having an MRI soon.

CM Bowers restated the background of this parcel. He stated the property owner has no specific ideas for usage.

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

Vice Mayor Kelly moved and Commissioner Martin seconded to adopt Ordinance 2008-016. The motion carried unanimously with Vice Mayor Kelly, Commissioner Martin, Mayor Bell, Commissioner Goldberg, and Commissioner Gunter all voting aye.

06. ADOPTED ORDINANCE 2008-017 AMENDING THE FUTURE LAND USE DESIGNATION FROM LAKE COUNTY "URBAN" TO "COMMERCIAL" ON THE FUTURE LAND USE MAP OF FRUITLAND PARK FOR APPROXIMATELY 1.0 ± ACRES LOCATED NORTH OF EAGLES NEST ROAD, WEST OF US HIGHWAY 441, AND SOUTH OF LAKE ELLA ROAD (MICHAEL C. VORCE FOR OWNER FRUITLAND PARK 441, LLC) CA Gerken read Ordinance 2008-017 by title only, as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, PROVIDING FOR A COMPREHENSIVE PLAN AMENDMENT AMENDING THE FUTURE LAND USE DESIGNATION FROM LAKE COUNTY "URBAN" TO "COMMERCIAL" ON THE FUTURE LAND USE MAP OF THE CITY OF FRUITLAND PARK'S COMPREHENSIVE PLAN FOR APPROXIMATELY 1.0± ACRES OF PROPERTY GENERALLY LOCATED NORTH OF EAGLES NEST ROAD, WEST OF U.S. HIGHWAY 441, AND SOUTH OF LAKE ELLA ROAD; PROVIDING FOR CONTINGENCIES; DIRECTING THE CITY CLERK TO TRANSMIT THE AMENDMENT TO THE

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APPROPRIATE GOVERNMENTAL AGENCIES PURSUANT TO CHAPTER
163, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING
FOR AN EFFECTIVE DATE.

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

Commissioner Martin moved and Vice Mayor Kelly seconded to adopt Ordinance 2008-017. The motion carried unanimously with Commissioner Martin, Mayor Bell, Commissioner Goldberg, Commissioner Gunter, and Vice Mayor Kelly, all voting aye.

07. ADOPTED FIRST READING OF ORDINANCE 2008-023 CREATING SECTION 102-1 IN THE CODE OF ORDINANCES RELATING TO THE PAYMENT OF PROFESSIONAL AND CONSULTANT SERVICE FEES AND COSTS ASSOCIATED WITH DEVELOPMENT APPLICATIONS. CA Gerken read Ordinance 2008-023 by title only, as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF
FRUITLAND PARK, FLORIDA AMENDING THE CITY OF FRUITLAND
PARK CODE OF ORDINANCES TO CREATE SECTION 102-1 RELATING TO
THE PAYMENT OF PROFESSIONAL AND CONSULTANT SERVICES FEES
AND COSTS ASSOCIATED WITH DEVELOPMENT APPLICATIONS;
PROVIDING FOR CONFLICT WITH EXISTING ORDINANCES; PROVIDING
FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR
SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

CM Bowers stated this topic was discussed about a month ago.

Vice Mayor Kelly questioned if the developers would pay only after incurring an expense. CM Bowers stated certain estimated costs are paid in advance. This ordinance allows the City to collect the total amount due before the final approval.

CA Gerken explained this ordinance affirms the pass-through system of paying certain fees. No further approvals are given until all fees are paid up to date.

Mayor Bell questioned if the certificate of occupancy was included. CA Gerken stated yes; also this ordinance will mean the developer will need to pay all the fees in order to pull permits.

Vice Mayor Kelly questioned if the developers could walk away from the project with fees owed? CA Gerken stated that is possible but the city could choose to go after the payment of the fees.

Mayor Bell questioned if this will be coordinated through Finance. CM Bowers stated the process has not yet been determined. CM Bowers and CT Palmer will determine how to coordinate this process.

Vice Mayor Kelly moved and Commissioner Martin seconded to approve the first reading of Ordinance 2008-023. The motion carried unanimously with Mayor Bell, Commissioner Goldberg, Commissioner Gunter, Vice Mayor Kelly, and Commissioner Martin all voting aye.

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08. CITY TREASURER'S REPORT FOR PERIOD ENDING SEPTEMBER 30, 2008. CT Palmer stated 435 invoices were processed for a total of just over \$802,000 for the month of September. CT Palmer stated 97% of the ad valorem taxes, 95% of the state revenue sharing, 93% of the half-cent sales tax, 78% of court fines, 148% of forfeitures, and 140% of the budgeted police impact fees were collected. This is a preliminary report – prior to the budget adjustments to be approved later and the audit adjustments. The current estimate is for approximately \$241,000 will be transferred in from the General Fund Balance.

Mayor Bell noted normally only 97% of the ad valorem taxes are budgeted, but this year 100% was budget. He questioned where the other 3% of ad valorem taxes go. CT Palmer stated delinquent taxes come in when the properties are sold. There is a line item for delinquent ad valorem taxes.

Mayor Bell stated the one half sales tax was \$14,000 less; he questioned if more or less was budgeted for this year. CT Palmer stated the amount is projected by the state and the figure went down this year.

09. CITY ATTORNEY'S REPORT. CA Gerken stated, as follow-up on the Oaktree Terrace property discussed at the last meeting, he has determined the property owner has the responsibility to maintain the lot. CA Gerken recommended the city take some action and possibly use the stormwater fund to purchase the property.

Mayor Bell suggested the city not do anything at this time.

10. CITY MANAGER'S REPORT

a) Discussion of Odor Problems at Well Number 6 and approval of proposal from SMW Geosciences for assessing the well and water chemistry. CM Bowers stated staff had assumed the odor problem was caused by hydrogen sulfide so chlorine was being used for treatment. Tests showed hydrogen sulfide was not the problem. Treating incorrectly could create additional problems. CM Bowers stated he secured two proposals for investigating the problem. CM Bowers recommends using SMW Geosciences to determine the source of the problem.

Mayor Bell questioned if the problem will be determined from the assessment. CM Bowers stated yes.

Vice Mayor Kelly questioned if suggestions on fixing the problem would also be part of the assessment. CM Bowers stated yes.

Commissioner Gunter questioned the cost to fix the problem and whether putting in a new well would be less expensive. There have been problems with that well since it was drilled. CM Bowers stated the first step is to determine the problem.

Mayor Bell questioned how long the well had been in service. The well has been in service approximately 5 years. CA Gerken noted the timeframe is well beyond the maintenance bonds or warranties, and perhaps outside of the statute of limitations.

Vice Mayor Kelly questioned where the funding will come from for this proposal. CT Palmer stated there is a contingency fund in the Utility Department. A budget amendment will be needed.

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Vice Mayor Kelly moved and Commissioner Goldberg seconded to engage the services of SMW Geosciences. The motion carried unanimously all Commission Members voting aye.

b) Discussion of Public Participation at Meetings. CM Bowers stated he received an email from the Florida League of Cities regarding protocol for public participation at meetings. If the city has no protocol, the State will make the rule. CM Bowers stated Fruitland Park has no written policy and has the most liberal public participation he has seen.

Mayor Bell stated the copy from Hallandale is the shortest and most general.

Vice Mayor Kelly noted the copy from Daytona Beach was very short.

CA Gerken stated he could put something general together, but suggests keeping things the way they are with no written policy. If the protocol passes, which it may, time will be given for the cities to put a policy together. CA Gerken suggests waiting until then to put a policy together.

Charlie Rector reminded the Commission of the positive response of people from The Glen when they were allowed to participate at a meeting.

c) Discussion and consideration of Resolution No. 2008-025 removing a break in continuous service from the personnel record of Amanda Perez. Mayor Bell requested a recommendation from CT Palmer. CT Palmer stated Amanda is a good and valuable employee and she has helped out whenever she has been asked.

Commissioner Martin noted bridging of service has been done for other employees. Commissioner Martin questioned how well Ms. Perez was doing. CT Palmer stated she is doing well.

CA Gerken stated the policy does state this can be done when an employee returns within a year. Amanda has returned slightly outside the parameter of the policy, but the Commission can decide to do this. Commissioner Martin stated this needs to be done on a case by case basis.

CA Gerken read Resolution 2008-025 by title only as follows:

A RESOLUTION OF THE CITY OF FRUITLAND PARK, FLORIDA,
REMOVING A BREAK IN CONTINUOUS SERVICE FROM THE PERSONNEL
RECORD OF AMANDA PEREZ; PROVIDING FOR AN
EFFECTIVE DATE.

Commissioner Martin moved and Vice Mayor Kelly seconded to adopt Resolution 2008-025. The motion carried unanimously with Commissioner Goldberg, Commissioner Gunter, Vice Mayor Kelly, Commissioner Martin, and Mayor Bell, all voting aye.

d) CM Bowers stated the city ran a line extension for a house on Poinsettia built by Charlie Rector. CM Bowers stated he verbally promised the owner a pro rata share returned when others hooked up to the line. CM Bowers stated he is requesting the authority to refund \$500.

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Commissioner Gunter noted, in the past, people were charged by lineal foot.

Charlie Rector stated when the line was installed, the owner was told he would be credited back on a pro rata share. One person has connected and the owner does not want to wait for future connections. CM Bowers offered the owner a fair amount of \$500.

Vice Mayor Kelly moved and Commissioner Martin seconded to approve refunding \$500 of the water line installation. The motion passed with all Commission members voting aye.

11.ADOPTED RESOLUTION 2008-023 AMENDING THE FY 2007-2008 BUDGET BY \$21,000 BASED ON BUILDING & ZONING REVENUES COLLECTED AS OF SEPTEMBER 2008. CA Gerken read Resolution 2008-023 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.

CT Palmer stated this budget amendment is due to more building permits being issued than budgeted so revenues were up and the inspector is paid based on the permits issued so expenditures were up. This restores the Building and Zoning budget.

Vice Mayor Kelly moved and Commissioner Goldberg seconded to adopt Resolution 2008-023. The motion carried unanimously with Commissioner Gunter, Vice Mayor Kelly, Commissioner Martin, Mayor Bell, and Commissioner Goldberg all voting aye.

12.ADOPTED RESOLUTION 2008-024 AMENDING THE FY 2007-2008 BUDGET BY \$4,651 FOR THE FIRE PENSION FUND. CA Gerken read Resolution 2008-024 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.

CT Palmer stated this is a housekeeping item. The Fire Pension Fund does need to be run through the General Fund. An additional \$4,600 was received.

Mayor Bell questioned where the tax comes from. Chief Isom stated this comes from the business premiums and more was received by the City due to the ISO rating being lower last year.

Commissioner Kelly moved and Commissioner Martin seconded to adopt Resolution 2008-024. The motion carried unanimously with Commissioner Kelly, Commissioner Martin, Mayor Bell, Commissioner Goldberg, and Commissioner Gunter all voting aye.

13.ADOPTED RESOLUTION 2008-026 AMENDING THE FY 2007-2008 BUDGET BY \$1,500 TO COVER DEFICIT IN THE EXECUTIVE BUDGET. CA Gerken read Resolution 2008-026 by title only, as follows:

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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.

CT Palmer noted the Executive budget went over by about \$1500 in fuel and vehicle repairs and maintenance. Chief Isom noted most of this was on the Taurus.

Commissioner Martin moved and Commissioner Gunter seconded to adopt Resolution 2008-026. The motion carried unanimously with Commissioner Martin, Mayor Bell, Commissioner Goldberg, Commissioner Gunter, and Commissioner Kelly all voting aye.

14. ADOPTED RESOLUTION 2008-027 AMENDING THE FY 2007-2008 BUDGET BY \$500 TO COVER THE DEFICIT IN THE LEGAL BUDGET. CA Gerken read Resolution 2008-027 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.

CT Palmer stated the Legal budget was over due to an increase in legal advertising and recording fees.

Commissioner Martin questioned if the ordinance to collect the fees from developers would offset this in the future. CM Bowers stated the overage will still be shown in the advertising budget.

Commissioner Martin moved and Commissioner Goldberg seconded to adopt Resolution 2008-027. The motion carried unanimously with Mayor Bell, Commissioner Goldberg, Commissioner Gunter, Commissioner Kelly, and Commissioner Martin all voting aye.

15. CITIZENS' COMMENTS - Chief Isom noted Coach Buddy Lowe passed away this morning.

16. COMMISSIONERS' COMMENTS

a) Commissioner Martin - Thanked the Commission for their support during his treatments. He has 10 more treatments and should be completed by December 2nd. He noted it was a pleasure to serve as the Vice Mayor this past year.

b) Commissioner Gunter - Stated he had a nice trip. The world is smaller than you think. Egyptians were nice and they know more about US politics than most US citizens do. He noted Australians are fined \$200 if they do not vote.

c) Vice Mayor Kelly - none

d) Commissioner Goldberg - none