CITY OF APOPKA

Minutes of the City Council regular meeting held on May 3, 2017, at 1:30 p.m., in the City of Apopka Council Chambers.

PRESENT:	Mayor Joe Kilsheimer Commissioner Diane Velazquez Commissioner Doug Bankson Commissioner Kyle Becker City Attorney Cliff Shepard City Administrator Glenn Irby
ABSENT;	Commissioner Billie Dean
PRESS PRESENT:	Teresa Sargeant - The Apopka Chief Steve Hudak, Orlando Sentinel Reggie Connell, The Apopka Voice Wesh 2 News

INVOCATION: Mayor Kilsheimer introduced Pastor Don Yates of Northside Baptist Church, who gave the invocation.

PLEDGE OF ALLEGIANCE: Mayor Kilsheimer said on May 9, 1914, President Woodrow Wilson issued a presidential proclamation establishing the second Sunday in May as the National Mother's Day holiday to celebrate America's mothers. In his Mother's Day proclamation, President Wilson said the holiday gave us the opportunity to publicly express our love and reverence for the mothers of our country. Many years prior, President John Quincy Adams paid tribute to his mother when he stated "All that I am, my mother made me." He asked everyone to reflect upon the unconditional love of our own mothers and upon the role mothers have played in shaping our great nation as he led in the Pledge of Allegiance.

APPROVAL OF MINUTES:

1. City Council workshop meeting March 29, 2017.

MOTION by Commissioner Becker, and seconded by Commissioner Bankson to approve the City Council minutes of March 1, 2017. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Velazquez, Becker, and Bankson voting aye.

AGENDA REVIEW: Mr. Irby announced there were no changes.

PUBLIC COMMENT/STAFF RECOGNITION AND ACKNOWLEDGEMENT

Public Comment:

Ray Shackelford expressed disappointment that no member of the City Council participated in the May Day March and Rally sponsored by the Farmer's Association. He said we need to support efforts and protect all communities and people against greed, fear, racism, crime, and justice. He stated each City Council member was elected to represent all communities and people in Apopka.

He again called upon the 25% reserve fund balance proposed by Commissioner Bankson. He made a public record request for the city reserve fund balance as started on October 1, 2016, and the current balance as of May 3, 2017. He called upon using the $150,000 for the Council Gospel Fest to waive the recreation fees for Apopka youth sports programs. He inquired what the status was for the $150,000 for the Gospel Festival and the $250,000 for the Old Florida Outdoor Festival. He called upon no new funds for the "A" program in its current format. He asked if the citizens were paying for any legal fees for the ethics complaint against the Mayor.

Mayor Kilsheimer said with regards to Dr. Shackelford's last question, the answer is no.

Pat McGuffin said he was speaking with reference to the 100 plus or minus acres the City owns on Lake Marshall and considering selling as surplus land. He stated some years ago the property was sold to be developed into 90 homes. The homeowners that lived on the lake asked that the existing ramp on that property would not be utilized as a public boat ramp. He said the Council voted at that time that it would be a safety issue to have the boat ramp open to all homes in the development He said he had no problem with any of the homeowners on the lake using it for their own boats. He stated if opening it to the entire community, it would be a safety disaster and asked that the prior vote be upheld.

Proclamations:

1. **National Police Week Proclamation presented to Chief Mike McKinley.**
   Mayor Kilsheimer read a proclamation recognizing National Police Week and presented it to Chief McKinley.

2. **Building Safety Month Proclamation.**
   Mayor Kilsheimer read a proclamation acknowledging Building Safety Month and presented the proclamation to Ray Marsh, Building Official.

Employee Recognition:

Ten Year Service Award – Dan Garcia – Police/Investigative Services - Police Sergeant – Dan began working for the City on November 20, 2006 as a Police Officer, on September 11, 2016, he was promoted to Police Sergeant which is his current position. The Commissioners joined Mayor Kilsheimer in congratulating Dan for his years of service.

Five Year Service Award – Lanay Rodriguez – Police/Support Services - Records Clerk – Lanay began working for the City on April 16, 2012, as a Records Clerk, which is her current position. The Commissioners joined Mayor Kilsheimer in congratulating Lanay on her years of service.

Five Year Service Award – Roger Stewart – Public Services/Utility Maintenance - Utility Service Worker II – Roger began working for the City on April 24, 2012, as a Utility Service Worker I. On July 25, 2016, he was promoted to Utility Service Worker II, which is his current position. Roger was not present and will be presented his award another time.

Ten Year Service Award – Nicholas "Nick" Elrod – Fire/EMS - Fire Fighter 1st Class – Nick began working for the City on April 6, 2007, as a Fire Fighter 1st Class, which is his current position. The Commissioners joined Mayor Kilsheimer in congratulating Nick on his years of

service.

Twenty Year Service Award – Steven "Steve" Gideon – Police/Support Services - Traffic Infraction Enforcement Officer –Steve began working for the City on April 28, 1997, as a Police Officer. On December 1, 2016, he was reclassified to Traffic Infraction Enforcement Officer, which is his current position. The Commissioners jointed Mayor Kilsheimer in congratulating Steve on his years of service.

Twenty-Five Year Service Award – R. John Dufresne – Finance/Accounting - Purchasing Manager –John began working for the City on April 29, 1992, as a Data Entry Clerk. On October 1, 1992, he was reclassified to Inventory Control Specialist. On November 2, 1997, he was reclassified to Accountant II and on October 2, 2000, he was reclassified to Purchasing Supervisor. He was reclassified on May 26, 2002, to Pension/Financial Applications Manager, which was later shortened to Financial Applications Manager. On April 1, 2016, he was reclassified to Purchasing Manager, which is his current position. The Commissioners joined Mayor Kilsheimer in congratulating John on his years of service.

Presentations:

1. **Presentation of Professional Standards Investigator of the Year Award to Sgt. Dan Garcia.**
   Chief McKinley said Sergeant Garcia was deployed for the last twelve months at Guantanamo Bay in the Coast Guard Reserves. While he was gone, Sergeant Garcia was selected as the Professional Standards Investigator of the Year for the State of Florida. Chief McKinley presented Sergeant Garcia with this award. In addition, when he left, he was a patrol officer in the criminal investigation division, and during his deployment he was promoted to Sergeant. He was recognized for this promotion, presented a certificate, and his wife pinned his badge on his uniform.

2. **Comprehensive Annual Financial Report from Moore Stephens Lovelace CPAs and Advisors**
   Eduardo Castaneda, Moore Stephens Lovelace CPAs and Advisors, reviewed the CAFR report and the auditor's responsibility. He advised the planned scope and timing of the audit went as planned and all audit findings are in the report. He reported prior year audit findings have been cleared and the only comment is in regards to cross training of employees. He advised the City's internal controls were evaluated and they did not find any material weaknesses or significant deficiencies.

   Commissioner Bankson inquired if there was a scrivener's error on page 15, second to last paragraph, the last statement reads "the unassigned fund balance increased" and this should read "decreased" in order to match the $1.3 million.

   Mr. Castaneda said he would check on this and get it corrected.

   MOTION by Commissioner Bankson, and seconded by Commissioner Becker, to approve the CAFR, subject to the correction on page 15. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Velazquez, Becker, and Bankson voting aye.

CONSENT (Action Item)

1. Approve an annual fuel contract renewal with Petroleum Traders Corporation.
2. Award a roadway improvement contract to Providence Construction & Development Company for E. 6th St.
3. Award a roadway extension contract to Providence Construction & Development Company for Brush Drive.
4. Authorize the disposal of surplus equipment/property.

In response to Commissioner Velazquez's inquiry on whether she should abstain on this item do to her living in Rock Springs Ridge, City Attorney Shepard said the requirement for a conflict to exist in an HOA type of situation, is that it provides a special private gain or loss. He said due to the size of the community being so large, her proportionate benefit would be so small, the Ethics Commission has opined that that does not constitute a conflict from which you must exclude yourself from the vote.

MOTION by Commissioner Becker and seconded by Commissioner Velazquez to approve the four items on the Consent Agenda. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

BUSINESS

1. **Marshall Lake Surplus Property Bid Approval.**

Jim Hitt, Community Development Director, said in February the Council declared some property surplus. These were put out to bid and the City received three bids on the Marshall Lake property. There were no bids received on the Sandpiper Park Avenue property. The Marshall Lake property is 103.3 acres on the south side of Marshall Lake with an asking price of $2.812 million. The top bid was produced by Royal Oak Homes, LLC at $3.2 million. They provided a check deposit of $32,000 and normal purchase is expected on this process.

Commissioner Bankson said he was told the Marshall Lake property was purchased with Utility Fund money and if so, didn't that limit the use of the money in the General Fund. He suggested this be researched. He also questioned if the property should be sold at a loss today and get the property back on the tax roll, or would it benefit to wait and let the property appreciate.

Mr. Irby said the money has to go back into the fund that paid for it.

City Attorney Shepard said the fund it was purchased from is irrelevant as to whether it is surplus property and they can deal with the funds later.

Mayor Kilsheimer said this property has been off the City tax rolls for more than eight years. It has been manifestly clear it is not necessary for the future development of the City of Apopka, so it should be moved back to the private tax rolls so the highest use can be realized.

MOTION by Commissioner Velazquez, and seconded by Mayor Kilsheimer to approve the high bid offer on the Marshall Lake property by Royal Oak Homes, LLC in the

amount of $3.2 million. Motion carried by a 3/1 vote with Mayor Kilsheimer, and Commissioners Velazquez and Becker voting aye and Commissioner Bankson voting nay.

2. **Edwards Field Grandstand update.**
Mr. Irby said the information on Edwards Field Grandstand was brought to Council in March. The grandstands were found to be vandalized and entry to the back of the structure revealed termite damage and other issues. The entire structure was found to be noncompliant with ADA requirements. Council requested more specific information. He advised a cost from a private contract to demolish the structure came in at $25,500. Council also requested information on a memorial which is included in the packet. To have this cast in bronze is estimated at $75,000. Discussion also was held regarding replicating the structure for future ball fields. It is believed this can be done, however, there is no cost estimate. The Police Department's 3-D scanner was used to obtain exact measurements on the structure. The Police Department provided a demonstration on what this device can do and has done.

Captain Fernandez advised Council had authorized funds to purchase a 3-D scanner for crime scene technology. This was recently purchased and it was utilized for this structure as training and to show Council how it works. He reviewed the images obtained of the grandstands by utilizing this equipment.

MOTION by Commissioner Bankson, and seconded by Commissioner Becker to demolish the Grandstand at Edwards Field with the caveat to set aside a minimum of $75,000 for a memorial. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Velazquez, Becker, and Bankson voting aye.

PUBLIC HEARINGS/ORDINANCES/RESOLUTION

1. **Ordinance No. 2564 – First Reading – Kelly Park Crossing DRI 1st Amendment. -** The City Clerk read the title as follows:

ORDINANCE NO. 2564
KELLY PARK CROSSING
DEVELOPMENT OF REGIONAL IMPACT, FIRST AMENDMENT

THIS FIRST AMENDMENT TO THE KELLY PARK CROSSING DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER IS MADE AND ENTERED INTO BY AND BETWEEN THE CITY OF APOPKA, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND ROCHELLE HOLDINGS,LLC, A FLORIDA LIMITED LIABILITY CORPORATION ORLANDO, FLORIDA; AMENDING AND REPLACING ORDINANCE NUMBER 2230.

Mayor Kilsheimer announced this was a quasi-judicial hearing. Witnesses were sworn in by the clerk.

David Moon, Planning Manager, said this is a request to amend the current Kelly Park Crossing

Development of Regional Impact (DRI). City Council approved a Kelly Park Crossing DRI in 2011. The applicant is Rochelle Holdings, LLC and the area affects approximately 564 acres west of the Wekiva Parkway, north and south of Kelly Park Road. He stated a Development of Regional Impact is a development review process that has an impact on multiple local governments, requiring a regional review through the regional planning council. When a DRI is amended, the applicant has to go through a similar process. The development order spells out the development conditions and thresholds placed on those 564 acres. He advised the Planning Commission recommended approval at its April 11, 2017 meeting.

Joel Ivey, representing Rochelle Holdings, pointed out that this was an amendment to a project that is already approved. For the second time they have been through a regional review, including Florida Department of Transportation, Department of Environmental Protection, St. John's River Water Management District, and the Department of Economic Opportunity in Tallahassee. Multiple agencies have had an opportunity to review and make comments to the City regarding any concerns they may have. He stated this was a very minor amendment, the main thing being a request for an extension to the phasing dates and build out dates. Their Development Order states they cannot proceed with any development until the City has adopted a Form Based Code, which has not happened to date. He said he would be happy to discuss any of the editorial changes.

Jeff Welch, Rochelle Holdings, thanked staff for their hard work on this amendment and the Planning Commission for the unanimous approval.

Mayor Kilsheimer opened the meeting to a public hearing.

David Emmel said the amendment made it easy to check the changes with the red lining. He reviewed photos of accidents that have occurred near his home, one being a fatality. He said the stated purpose of the amendment was to update, modify, or adjust obsolete or outdated 2011 requirements of the DRI. Staff had stated it has been delayed for the past five years because of bad economic conditions. He said the Form Based Code and DRI were on the same agenda in 2011 with the DRI passing and the Form Based Code being tabled. He declared the Form Based Code was a Bible to the DRI and its contents trump the DRI. He asked why after five years of procrastination both documents couldn't be put on the same agenda for joint review and critique. He said he was a county resident, living on Ondich Road, one of two roads impacted by the DRI. He stated through the past five years their road has remained stable and has been stagnant, only logging 400 documented trips per day with a 30 mph speed limit. In spite of these good statistics, due to the curve he lives on, the photos he reviewed are in his front yard. Phase 1 of the DRI only mandates turn lanes and traffic signals. He declared the daily DRI trips factored in will be increased to 17,907 under this amendment. He asked how this could be.

Mr. Ivey said when they did the original DRI, before having the hearing with the City, their traffic consultant who is registered with the State of Florida, concluded their Phase 1 was under, and believed if the City looked at the 17,900 trip numbers, that they would pass maintaining service under Phase 1. Language was placed in the development order that said if the City processed a comprehensive plan amendment to up their 7,000 trips to 17,900 trips, then it would not be necessary to amend their development order. He said this all came to pass and the City Comprehensive Plan was amended to reflect this. The language is updating what the

Comprehensive Plan states.

Jay Davoll, Public Services Director/City Engineer, said this was stated correctly. It was processed and reviewed at that time with the traffic consultant's report that was provided and the number was changed for Phase 1 only, following through with the change to the Comprehensive Plan.

No one else wishing to speak, Mayor Kilsheimer closed the public hearing.

MOTION by Commissioner Becker, and seconded by Commissioner Bankson, to approve Ordinance No. 2564 at First Reading and carry it over for a Second Reading.

In response to Commissioner Becker inquiring about the 17,900 trip count, Mr. Ivey explained the 17,900 was spread over the regional roadway network.

Motion carried unanimously with Mayor Kilsheimer, and Commissioners Velazquez, Becker, and Bankson voting aye.

2. **Ordinance No. 2565 – First Reading – Comprehensive Plan – Large Scale Amendment**. The City Clerk read the title as follows:

ORDINANCE NO. 2565

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE APOPKA COMPREHENSIVE PLAN OF THE CITY OF APOPKA; CHANGING THE FUTURE LAND USE DESIGNATION FROM MIXED USE TO AGRICULTURE (0-1 DU/5 AC) FOR CERTAIN REAL PROPERTY GENERALLY LOCATED EAST OF PLYMOUTH SORRENTO ROAD AND NORTH OF PONKAN ROAD, COMPRISING 32.33 ACRES, MORE OR LESS AND OWNED Y AMERIGO FARMS, INC.; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Kyle Wilkes, Planner, reviewed the large scale future land use map amendment stating this was a request to change the future land use from mixed use to agriculture. He reviewed the location of the property on a map and the surrounding land use. He affirmed staff has reviewed this and found it to be compliant with the comprehensive plan policies. Planning Commission at their April 11, 2017 meeting found the land use to be compatible and consistent with the comprehensive plan and recommended transmittal of this amendment to the Department of Economic Opportunity. He advised if Council approves transmittal, this will be back in two to three months for adoption, followed by a subsequent change in zoning request.

Jonathan Huels, P.A., is representing Amerigo Farms, Inc. and said John Albers who is the driving force behind Amerigo Farms is also with him to be available for any questions. He stated Amerigo has an existing operation in Zellwood and advised they produce calla lilies. They sell these wholesale and they have grown out of the Zellwood space. They purchased the

property off of Plymouth Sorrento Road for a proposed expansion. He stated they met with staff to review the options were to have a container nursery greenhouse on the property. This comprehensive plan amendment will be followed by a rezoning to agriculture. The land is currently undeveloped wooded land. He said their request is more consistent with the surrounding area. He reviewed photographs of the calla lily operation in Zellwood.

In response to Commissioner Becker's inquiry of traffic volume, John Albers said spring is the busiest time with four to eight trucks a day during the months of April and May. They are working to add products to their mix. He stated an average would be ten to fifteen trucks per week.

Mayor Kilsheimer opened the meeting to a public hearing.

Deborah MacLaughlin said she was on Plymouth Sorrento Road near this area. She said when they purchased their land twenty years ago, they were told they were buying into a subdivision that would be eleven homes, each on approximately 2.5 acres with a nice park. She said they would have never purchased land that was going to be surrounded by a nursery. She stated there were several nurseries on Plymouth Sorrento Road that are out of business and in shambles. She declared there are protected animals on this wooded land and asks this all be taken into consideration. She said they have well water and expressed concerns regarding this.

No one else wishing to speak, Mayor Kilsheimer closed the public hearing.

MOTION by Commissioner Becker, and seconded by Commissioner Velazquez, to approve Ordinance No. 2565 at First Reading and transmittal to the Department of Economic Opportunity. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Velazquez, Becker, and Bankson voting aye.

3. **Ordinance No. 2566 – First Reading – Comprehensive Plan – Small Scale Amendment.** The City Clerk read the title as follows:

ORDINANCE NO. 2566

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE APOPKA COMPREHENSIVE PLAN OF THE CITY OF APOPKA; CHANGING THE FUTURE LAND USE DESIGNATION FROM "CITY" RESIDENTIAL MEDIUM (0-10 DU/AC) TO "CITY" OFFICE (MAX. 0.3 FAR) FOR CERTAIN REAL PROPERTY LOCATED AT E 7th ST, COMPRISING 0.30 ACRES MORE OR LESS, AND OWNED BY COMMUNITY HEALTH CENTERS, INC; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Kilsheimer opened the meeting to a public hearing. No one else wishing to speak, he closed the public hearing.

MOTION by Commissioner Velazquez, and seconded by Commissioner Becker, to approve Ordinance No. 2566 at First Reading and carry it over for a Second Reading.

Motion carried unanimously with Mayor Kilsheimer, and Commissioners Velazquez, Becker, and Bankson voting aye.

4. **Ordinance No. 2567 – First Reading – Change of Zoning.** The City Clerk read the title as follows.

ORDINANCE NO. 2567

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, CHANGING THE ZONING FROM "CITY" R-3 (RESIDENTIAL) TO "CITY" PO/I (PROFESSIONAL OFFICE/INSTITUTIONAL) FOR CERTAIN REAL PROPERTIES GENERALLY LOCATED WITHIN THE CITY LIMITS OF APOPKA, COMPRISING .30 ACRES, MORE OR LESS, AND OWNED BY COMMUNITY HEALTH CENTERS, INC.; PROVIDING FOR DIRECTIONS TO THE COMMUNITY DEVELOPMENT DIRECTOR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Mayor Kilsheimer announced this was a quasi-judicial hearing. Witnesses were sworn in by the clerk.

Elizabeth Florence, Planner, provided a brief lead-in reviewing the location and adjacent uses on a map. The Planning Commission and DRC both recommend approval.

Mayor Kilsheimer opened the meeting to a public hearing. No one else wishing to speak, he closed the public hearing.

MOTION by Commissioner Bankson, and seconded by Commissioner Becker, to approve Ordinance No. 2567 at First Reading and carry it over for a Second Reading. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Velazquez, Becker, and Bankson voting aye.

CITY COUNCIL REPORTS –.
Commissioner Bankson reminded everyone that tomorrow is the National Day of Prayer and John Rivers is the speaker at the Mayor's Prayer Breakfast.

Mayor Kilsheimer said the Mayor's Prayer Breakfast is tomorrow morning at 7:00 a.m. at the Apopka Community Center.

MAYOR'S REPORT

Mayor Kilsheimer said Mr. Irby had mentioned holding a workshop on May 25, 2017.

Mr. Irby advised they need to hold a workshop to bring Council up to date on the framework for the Land Development Code. They are suggesting Thursday, May 25, 2017, 4:00 – 6:00 p.m. in the Council Chamber.

Kevin Burgess, Assistant Public Services Director, provided an update on Anuvia, stating they went online Monday to start the seven day pilot test they have a Memorandum of Understanding

on. He reported they have been sampling them since, stating Pat McGuffin's company has a treatment process that they are testing on the Anuvia water wherein they are using a super oxygen process on it to bring their numbers into compliance in order to discharge into the City system. He advised the results are looking very promising to date.

Mayor Kilsheimer reported the Firefighter Combat Challenge will be held on May 12 – 13, 2017 at Sam's Club in Apopka. Also, on May 13, 2017, Symphony Under the Stars will be at the Amphitheater.

ITEMS NOT REQUIRING ACTION

1. Thank you letter from Phillis Wheatley PTA for the success and assistance with The Family Fun Day and Health Fair in the Park.

ADJOURNMENT – There being no further business the meeting adjourned at 3:59 p.m.

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Joseph E. Kilsheimer, Mayor

ATTEST:

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Linda F. Goff, City Clerk