

CITY OF APOPKA

Minutes of the regular City Council meeting held on March 20, 2013, at 8:00 p.m., in the City of Apopka Council Chambers.

PRESENT: Mayor John Land
Commissioner Marilyn U. McQueen
Commissioner Joe Kilsheimer

ABSENT: Commissioner Bill Arrowsmith
Commissioner Billie Dean

PRESS PRESENT: John Peery - The Apopka Chief

INVOCATION AND PLEDGE OF ALLEGIANCE –Mayor Land gave the Invocation. He said Saturday is March 23rd and on that day in 1775, Patrick Henry made his famous speech which ended “Give me Liberty or Give me Death”. This expressed the feelings and sentiments of those patriots that served in the Revolutionary War for our freedom. He asked everyone to reflect on those words and the patriots that sacrificed for the freedom and liberty that we enjoy today as he led in the Pledge of Allegiance.

Susan Shetrom, 1810 Cranberry Isles Way, spoke on the City Code regarding tree removal. She said recently Errol Estate Golf Course began cutting trees and brush in an area inhabited by wildlife; an area which also screened the view of the condos and a road, and blocked noise. She stated that a Code Enforcement Officer suggested that trees and brush may be being removed due to an invasive species of plants, to prevent fires, to prevent a person from hiding there, and for aesthetics. She expressed concern and suggested that the code be reviewed.

PRESENTATIONS

1. Schools and Communities: Together for Tomorrow - Sarah Rivera – Ms. Rivera, with AmeriCorps VISTA of the Heart of Florida United Way, gave a Power Point presentation regarding the need for volunteers in local schools. A copy of the presentation is attached hereto and made a part of the meeting minutes.

CONSENT AGENDA

1. Approve the minutes of Administrative Bid Opening No. 2013-03 for East Lester Road Roadway and Drainage Improvements, held on February 28, 2013, at 10:15 a.m.
2. Approve the minutes of Administrative Bid Opening No. 2013-04 for Two Mast Arm Signalization Systems at Errol Parkway/Old Dixie Highway Intersection & Rock Springs Road/Lester Road Intersection, held on March 13, 2013, at 10:15 a.m.

3. Authorize Fleet Maintenance to proceed with the purchase of one Fire Suppression vehicle from Mullinax Ford in the amount of \$32,132.00.
4. Award the contract to Allstate Paving Inc., in the amount of \$2,868,860.00, for the East Lester Road Roadway and Drainage Improvement project, subject to providing the City with the required bonds and insurance.
5. Authorize Fleet Maintenance to proceed with the purchase of one Automated Side Loader Refuse Truck, in the amount of \$293,337.35.
6. Authorize the Chief Administrative officer to execute the renewal of the Annual Fuel Contract with Mansfield Oil Company of Gainesville, Inc.
7. Authorize staff to purchase mowing equipment, Toro Groundsmaster 4300 from Wesco Turf, Inc., for the amount of \$42,959.03.

MOTION was made by Commissioner Kilsheimer, and seconded by Commissioner McQueen, to approve the seven (7) items of the Consent Agenda. Motion carried unanimously, with Mayor Land, and Commissioners McQueen and Kilsheimer voting aye.

SPECIAL REPORTS AND PUBLIC HEARINGS - There were no special reports or public hearings.

ORDINANCES AND RESOLUTIONS

Mayor Land said Ordinance Nos. 2293, 2294, 2295, 2296 and 2297 meet the requirements for adoption, having been duly advertised in The Apopka Chief on March 8, 2013.

- 1. ORDINANCE NO. 2293 - SECOND READING & ADOPTION - ANNEXATION - Apopka Assembly of God, property located at 150 Adams Avenue. (0.34 +/- acre) - The City Clerk read the title as follows:**

ORDINANCE NO. 2293

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO EXTEND ITS TERRITORIAL AND MUNICIPAL LIMITS TO ANNEX PURSUANT TO FLORIDA STATUTE 171.044 THE HEREINAFTER DESCRIBED LANDS SITUATED AND BEING IN ORANGE COUNTY, FLORIDA, OWNED BY APOPKA ASSEMBLY OF GOD, LOCATED SOUTH OF ADAMS AVENUE AND EAST OF PARK AVENUE; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION was made by Commissioner McQueen and seconded by Commissioner Kilsheimer, to adopt Ordinance No. 2293. Motion carried unanimously, with Mayor Land, and Commissioners McQueen and Kilsheimer voting aye.

2. **ORDINANCE NO. 2294 - SECOND READING & ADOPTION - ANNEXATION - Apopka Assembly of God, property located at 143 Monroe Avenue. (0.29 +/- acre) - The City Clerk read the title as follows:**

ORDINANCE NO. 2294

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO EXTEND ITS TERRITORIAL AND MUNICIPAL LIMITS TO ANNEX PURSUANT TO FLORIDA STATUTE 171.044 THE HEREINAFTER DESCRIBED LANDS SITUATED AND BEING IN ORANGE COUNTY, FLORIDA, OWNED BY APOPKA ASSEMBLY OF GOD, LOCATED NORTH OF MONROE AVENUE AND EAST OF PARK AVENUE; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION was made by Commissioner Kilsheimer, and seconded by Commissioner McQueen, to adopt Ordinance No. 2294. Motion carried unanimously, with Mayor Land, and Commissioners McQueen and Kilsheimer voting aye.

3. **ORDINANCE NO. 2295 - SECOND READING & ADOPTION - ANNEXATION - Cyril P. Orr Trust, c/o Marilyn Orr Zinke, property located at 340 West Orange Blossom Trail. (0.24 +/- acre) - The City Clerk read the title as follows:**

ORDINANCE NO. 2295

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO EXTEND ITS TERRITORIAL AND MUNICIPAL LIMITS TO ANNEX PURSUANT TO FLORIDA STATUTE 171.044 THE HEREINAFTER DESCRIBED LANDS SITUATED AND BEING IN ORANGE COUNTY, FLORIDA, OWNED BY CYRIL P. ORR TRUST, LOCATED SOUTH OF ORANGE BLOSSOM TRAIL AND WEST OF HAWTHORNE AVENUE; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION was made by Commissioner McQueen, and seconded by Commissioner Kilsheimer, to adopt Ordinance No. 2295. Motion carried unanimously, with Mayor Land, and Commissioners McQueen and Kilsheimer voting aye.

4. **ORDINANCE NO. 2296 - SECOND READING & ADOPTION - ANNEXATION - City of Apopka, property located at 550 Snowden Road (0.86 +/- acre).** - The City Clerk read the title as follows:

ORDINANCE NO. 2296

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO EXTEND ITS TERRITORIAL AND MUNICIPAL LIMITS TO ANNEX PURSUANT TO FLORIDA STATUTE 171.044 THE HEREINAFTER DESCRIBED LANDS SITUATED AND BEING IN ORANGE COUNTY, FLORIDA, OWNED BY CITY OF APOPKA, LOCATED SOUTH OF SNOWDEN ROAD AND EAST OF OLD APOPKA ROAD; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION was made by Commissioner Kilsheimer and seconded by Commissioner McQueen, to adopt Ordinance No. 2296. Motion carried unanimously, with Mayor Land, and Commissioners McQueen and Kilsheimer voting aye.

5. **ORDINANCE NO. 2297 - SECOND READING & ADOPTION - ANNEXATION - City of Apopka, property located at 562 Snowden Road (9.46 +/- acres)** - The City Clerk read the title as follows:

ORDINANCE NO. 2297

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO EXTEND ITS TERRITORIAL AND MUNICIPAL LIMITS TO ANNEX PURSUANT TO FLORIDA STATUTE 171.044 THE HEREINAFTER DESCRIBED LANDS SITUATED AND BEING IN ORANGE COUNTY, FLORIDA, OWNED BY CITY OF APOPKA, LOCATED SOUTH OF SNOWDEN ROAD AND EAST OF OLD APOPKA ROAD; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION was made by Commissioner McQueen, and seconded by Commissioner Kilsheimer, to adopt Ordinance No. 2297. Motion carried unanimously, with Mayor Land, and Commissioners McQueen and Kilsheimer voting aye.

6. **ORDINANCE NO. 2298 - FIRST READING - CHANGE OF ZONING - CD 149 Taurus Apopka Limited Partnership - From "County " A-1 (Agriculture) to "City" C-**

2 (Commercial), for property located south of U.S. 441, west of North Hiawassee Road, and east of Lake Pleasant Road. (Parcel ID Nos. 24-21-28-0000-00-002; 049 & 083)

Mayor Land said Ordinance No. 2298 does not meet the requirements for adoption, and will be held over for a Second Reading.

David Moon, Planning Manager, gave a brief review of the request to rezone approximately 30 acres from County A-1 to City C-2, (Commercial). He advised the intent of the rezoning is for construction of a Sam's Wholesale Club. He said the Development Review Committee (DRC) reviewed the application and found it to be consistent with the City's Comprehensive Plan, and compatible with the adjacent zoning within the surrounding area. The DRC recommends adoption of the ordinance.

Mayor Land advised this was a quasi-judicial hearing and the staff report will be incorporated into and made a part of the meeting minutes.

Commissioner Kilsheimer disclosed he attended the community meeting held on Monday, March 11, 2013, and spoke with the applicant.

CAO Anderson pointed out there is a recommendation from the Planning Commission concerning the 30 foot buffer; however, he said the City Attorney has advised the Council not take up the buffer issue under the zoning ordinance, as it falls under site plan review.

The City Clerk read the title as follows:

ORDINANCE NO. 2298

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, CHANGING THE ZONING FROM "COUNTY" A-1 TO "CITY" C-2 FOR CERTAIN REAL PROPERTY GENERALLY LOCATED SOUTH OF U.S. 441, WEST OF NORTH HIAWASSEE ROAD, AND EAST OF LAKE PLEASANT ROAD, COMPRISING 30.15 ACRES, MORE OR LESS, AND OWNED BY CD 149 TAURUS APOPKA LIMITED PARTNERSHIP; PROVIDING FOR DIRECTIONS TO THE COMMUNITY DEVELOPMENT DIRECTOR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Mayor Land opened the meeting for a public hearing.

Marie Sarich, 1917 Piedmont Park Blvd, said she was representing the Piedmont Park Homeowner's Association and the entire properties. She displayed some photographs that represent the view from their properties that back up to the property where Sam's is to be built. She declared they will welcome Sam's Club, and has no problem that development is moving forward; at the same turn, they would like to see the trees and landscaping not go away.

Mayor Land reiterated that this ordinance is for the zoning and the buffer will be discussed at the site plan review.

Edy Velasquez, 2188 Meadow Court, said he lives right of the property line where the proposed traffic light will go which is why they asked for a wall not less than 10 feet. He stated it was his understanding that the zoning will be with conditions, one of which is the wall and the buffer.

Mayor Land again reiterated this particular ordinance is only for the zoning. The other items will be reported on at the time the site plan is presented. He said from what he is hearing, the homeowners in Piedmont Park Subdivision are not against the zoning and are in favor of Sam's.

Rebecca Wilson, representative for Sam's Club, said she was for the rezoning and would be happy to answer any questions. She stated they held a community meeting, and their request went before Planning and Zoning where representatives from their engineering team, as well as corporate representatives, attended and heard the concerns of the neighbors. She said when they work through the site plan they will again meet with the neighbors and City staff to make sure they are particularly sensitive to those homes. She advised there would be a significant amount of land that is not developable because of wetlands in the area.

CAO Anderson recapped that under zoning laws they can't put that requisite under a straight C-2 zoning. However, as heard from the Sam's Club representative, they are in general agreement and all these issues will be seen and discussed at the time the site plan is reviewed.

Mr. Velasquez said he is against Sam's for this area, and pointed out all the businesses already existing in the area.

Commissioner Kilsheimer said that the President of the HOA was at the community meeting and said this is a commercial piece of ground, so it is ultimately going to be developed.

Jennifer Klinger, 1928 Olivia Circle, said she is across from Piedmont Park, and spoke in opposition to use of this property for the business, disrupting the trees and wildlife. She suggested other development venues that have already been cleared of trees and plants.

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

MOTION was made by Commissioner Kilsheimer, and seconded by Commissioner McQueen, to accept the First Reading of Ordinance No. 2298, and hold it over for a Second Reading. Motion carried unanimously, with Mayor Land, and Commissioners McQueen and Kilsheimer voting aye.

- 7. ORDINANCE NO. 2299 - FIRST READING - COMPREHENSIVE PLAN AMENDMENT - SMALL SCALE - FUTURE LAND USE - City of Apopka, from "County" Low Density Residential to "City" Commercial, for property located south of U.S. 441, west of North Hiawasse Road, and east of Lake Pleasant Road. (Parcel ID No. 24-21-28-0000-00-084) - Mayor Land said Ordinance No. 2299 does not meet the requirements for adoption, and will be held over for a Second Reading.**

The City Clerk read the title as follows:

ORDINANCE NO. 2299

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 "COUNTY" LOW DENSITY RESIDENTIAL TO "CITY" COMMERCIAL FOR CERTAIN REAL PROPERTY GENERALLY LOCATED SOUTH OF U.S. 441, WEST OF NORTH HIAWASSEE ROAD, AND EAST OF LAKE PLEASANT ROAD, COMPRISING 3.16 ACRES, MORE OR LESS, AND OWNED BY THE CITY OF APOPKA; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

MOTION was made by Commissioner McQueen, and seconded by Commissioner Kilsheimer, to accept the First Reading of Ordinance No. 2299, and hold it over for a Second Reading. Motion carried unanimously, with Mayor Land, and Commissioners McQueen and Kilsheimer voting aye.

- 8. ORDINANCE NO. 2300 - FIRST READING - CHANGE OF ZONING - City of Apopka, from "County " A-1 to "City" C-2, for property located south of U.S. 441, west of North Hiawassee Road, and east of Lake Pleasant Road. (Parcel ID No. 24-21-28-0000-00-084) - Mayor Land said Ordinance No. 2299 does not meet the requirements for adoption, and will be held over for a Second Reading. The City Clerk read the title as follows:**

ORDINANCE NO. 2300

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, CHANGING THE ZONING FROM "COUNTY" A-1 TO "CITY" C-2 FOR CERTAIN REAL PROPERTY GENERALLY LOCATED SOUTH OF U.S. 441, WEST OF NORTH HIAWASSEE ROAD, AND EAST OF LAKE PLEASANT ROAD, COMPRISING 3.16 ACRES, MORE OR LESS, AND OWNED BY CITY OF APOPKA; PROVIDING FOR DIRECTIONS TO THE COMMUNITY DEVELOPMENT DIRECTOR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION was made by Commissioner Kilsheimer, and seconded by Commissioner McQueen, to accept the First Reading of Ordinance No. 2300, and hold it over for a Second

Reading. Motion carried unanimously, with Mayor Land, and Commissioners McQueen and Kilsheimer voting aye.

9. **RESOLUTION NO. 2013-03 - Providing that the concessions at the Art & Foliage Festival will be handled by local community, civic and religious organizations, that no peddler's licenses will be issued during the Festival, and that no animals, leashed or unleashed, will be allowed in Kit Land Nelson Park during the Festival, except in compliance with the Americans with Disabilities Act (ADA).** - The City Clerk read the title as follows:

RESOLUTION NO. 2013-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA PROVIDING THAT THE CONCESSIONS AT THE ART & FOLIAGE FESTIVAL WILL BE HANDLED LARGELY BY LOCAL COMMUNITY CIVIC AND RELIGIOUS ORGANIZATIONS, THAT NO PEDDLER LICENSES WILL BE ISSUED DURING THE FESTIVAL, AND THAT NO ANIMALS, LEASHED OR UNLEASHED, WILL BE ALLOWED IN KIT LAND NELSON PARK DURING THE FESTIVAL, EXCEPT IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA).

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

MOTION was made by Commissioner Kilsheimer, and seconded by Commissioner McQueen to adopt Resolution No. 2013-03. Motion carried unanimously, with Mayor Land, and Commissioners McQueen and Kilsheimer voting aye.

SITE APPROVALS

1. **FINAL DEVELOPMENT PLAN/PLAT - Lake Doe Reserve, Phase 2 - Owned by Florida Land Holdings X, LLC, c/o Jimmy Dunn, June Engineering Consultants, Inc., and located east of Binion Road, south of the CSX Railroad right-of-way.**

Jay Davoll, Community Development Director, gave a brief review of the Final Development Plan/Plat, saying Phase 1 was approved February 20th, and Phase 2 is Track E. He advised there are two waiver requests: (1) to increase the buffer from 10 to 20 feet, and in lieu of a wall, to create a 3-foot high landscape earth berm with a hedge on top to make it look more natural; and (2) is for a 6-foot vinyl fence and increase to a 20 foot buffer along the railroad tracks which matches that approved by Council in February. He said staff has reviewed the requests, and recommends approval of the waivers. He asked that the staff report be made a part of the meeting minutes.

In response to questions from Commissioners Kilsheimer and McQueen, CAO Anderson stated the City already has subdivisions that use landscape buffers in lieu of a wall. He said they usually increase the buffer, as requested here, and use the landscape berms to provide a better aesthetic view. He added irrigation and upkeep will be required, and the Homeowner's Association (HOA) will require white vinyl fences of homeowners wanting to install a fence.

Mayor Land opened the meeting to a public hearing.

Randy June, June Engineering Consultants, said he was present to answer any questions.

Kenneth Sumner, said he owns all of the property immediately south of their border. He stated the berm sounds nice and will look good, but expressed concerns regarding people trespassing. He wanted to make sure that June Engineering leaves his property presentable at the completion of this project.

Linda Laurendeau, spoke regarding an area along Lester Road where berms were used and not maintained, resulting in a wall later being installed.

Mr. June advised, with regards to Mr. Sumner's concerns over the grading, that they will take care of it before leaving the project. They have also agreed to some fencing that Mr. Sumner had requested. He said as far as the berm and hedge, that it is in line with the current market demands, and is more pleasing aesthetically. He advised the HOA is mandated to maintain the area, and there will be other plantings and trees, as well as an irrigation system. The fencing will be consistent as it is mandated by HOA regulations.

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

MOTION was made by Commissioner Kilsheimer, and seconded by Commissioner McQueen, to approve the Lake Doe Reserve, Phase 2 Final Development Plan/Plat, as presented. Motion carried unanimously, with Mayor Land, and Commissioners McQueen and Kilsheimer voting aye.

DEPARTMENT REPORTS AND BIDS - Chief Administrative Officer Richard Anderson reported the following:

- All indications are that the construction market is improving, as the City is receiving a lot of calls and contact from developers. He attributed the increase in development in the Apopka area to the construction of the Wekiva Parkway, and the plans for multi-modal transportation. He said things are positive for Apopka right now and City staff is ready.
- The City has launched a new Facebook page which is receiving a lot of positive feedback from the community.
- The City is looking to publish a monthly Black/White newsletter, and perhaps a quarterly color newsletter. In addition, the City will be pulling back from businesses currently

advertising on our water bills, and will be focusing more on City news in an effort to get the information out to the citizens.

MAYOR'S REPORT – Mayor Land reported the following:

- A letter was received from The Rotary Club of Apopka expressing appreciation to the City of Apopka, officers of the Apopka Police Department, and the employees of the Public Services Department for making the 12th Annual Apopka Fair the best ever.
- The Orlando-Orange County Expressway Authority's Community Open House Meeting will take place Thursday, March 21st, 6:00 p.m. to 8:00 p.m., at Apopka High School, 555 W. Martin Street. Presented at the meeting will be a review of the 60% complete design plans for the Wekiva Parkway from just north of U.S. 441 near Plymouth Sorrento Road to north of Kelly Park Road.
- The East Lake Northwest Orange County Elected Officials Meeting will be held Friday, March 22nd, 10:00 a.m., at the Apopka City Council Chambers. The current agenda includes presentations by the Lake Sumter MPO on the alternatives analysis for commuter rail and the City of Apopka on the Eco-village.
- The Foliage Sertoma Club's Apopka Cutie Pie, Little Miss, and Miss Teen Apopka Pageants will be held Saturday, March 23rd, 7:00 p.m., at the Apopka Memorial Middle School. He wished Commissioner McQueen, Pageants Chair, great success.

OLD BUSINESS

1. **COUNCIL** - There was no old business from the Council.
2. **PUBLIC** - There was no old business from the public.

NEW BUSINESS

1. **COUNCIL** - Commissioner Kilsheimer reported spending the last two (2) days in Tallahassee attending the Florida League of Cities Days, meeting with other elected officials from around Florida, and reviewing the bills being considered. He said the biggest issue this year is Pension Reform, which is not an issue in Apopka, but many Florida cities are struggling with funding their pensions.
2. **PUBLIC** - There was no new business from the public.

Mayor Land suggested asking the City Attorney to conduct a worksession with the City Council to review quasi-judicial matters and the impact of ex parte communications.

ADJOURNMENT - There being no further business to discuss, the meeting adjourned at 9:44 p.m.

ATTEST:

John H. Land, Mayor

Janice G. Goebel, City Clerk