

CITY OF APOPKA

Minutes of the regular City Council meeting held on March 4, 2015, at 1:30 p.m., in the City of Apopka Council Chambers.

PRESENT: Mayor Joe Kilsheimer
Commissioner Bill Arrowsmith
Commissioner Diane Velazquez
Commissioner Sam Ruth
City Attorney Clifford B. Shepard
City Administrator Glenn Irby

ABSENT: Commissioner Billie Dean

PRESS PRESENT: Roger Ballas - The Apopka Chief
Steve Hudak – The Orlando Sentinel

INVOCATION – Mayor Kilsheimer introduced Sr. Pastor Kevin Goza of Trinity Baptist Church, who gave the Invocation.

PLEDGE OF ALLEGIANCE: Mayor Kilsheimer said on March 1, 1961, President John F. Kennedy issued an executive order establishing the Peace Corps following up on his inaugural address where he challenged America's youth *"to ask not what your country can do for you, ask what you can do for your country."* The program was designed to promote world peace and friendship by sending trained, American volunteers to assist in development efforts. In all, more than 180,000 Americans have joined the Peace Corps since 1961 serving in 134 Nations. He asked everyone to reflect on the selflessness of our Peace Corps volunteers who help promote peace through service throughout the world as he led in the Pledge of Allegiance.

Mayor Kilsheimer recognized Orange County School Board member Christine Moore. Ms. Moore said she wanted to publicly thank the City for all of the collaboration and cooperation with the Sixth Annual Apopka Arts and Jazz Festival. She stated they normally raise approximately \$20,000, but this event was more about the children having the opportunity to perform and display their art. She affirmed 31 schools participated in the event with Apopka High School and Wekiva High School being the hosts.

EMPLOYEE RECOGNITION

1. **Patricia Arnold – Public Services/Waste Water Plant – Five Year Service Award** - Patricia began working for the City on February 8, 2010, as an Assistant Laboratory Technician, which is her current position. The City Council joined Mayor Kilsheimer in congratulating Patricia on her years of service to the City.

PRESENTATIONS

1. **Art & Foliage Festival Proclamation** – Mayor Kilsheimer read a Proclamation in recognition of the 54th Art & Foliage Festival, and then presented it to Dena Morrow, President of the Apopka Women's Club.

CONSENT AGENDA

1. Approve the minutes from the regular City Council Meeting held on February 18, 2015 at 7:00 p.m.
2. Approve the allocation of funds, in the amount of \$500.00, to purchase art at the 54th annual Art & Foliage Festival to be held on April 25th and 26th, 2015.
3. Authorize the Mayor, or his designee, to sign an agreement with Orange County for the wholesale delivery and use of reclaimed water to the City of Apopka.
4. Authorize the purchase and funding of property from the Engelmann Holding Company, in the amount of \$140,400.00, plus the appraisal and half of the closing cost, which shall not exceed \$3,000.00.
5. Authorize the expenditure, in the amount of \$20,982.00, from the Law Enforcement Trust Fund to replace and upgrade the Police Department's weapons.
6. Approve the Disbursement Report for the month of February, 2015.

MOTION was made by Commissioner Ruth, and seconded by Commissioner Arrowsmith, to approve the six items of the Consent Agenda. Motion carried unanimously, with Mayor Kilsheimer, and Commissioners Arrowsmith, Velazquez, and Ruth voting aye.

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

ORDINANCES AND RESOLUTIONS

1. **ORDINANCE NO. 2408 – SECOND READING & ADOPTION** – Establishing a time-limited moratorium for land use amendments, zoning changes and development orders for properties located within the proposed Ocoee-Apopka Road Corridor Small Area Overlay District until October 31, 2015. [Ordinance No. 2408 meets the requirements for adoption having been advertised in The Apopka Chief on February 20, 2015.] The City Clerk read the title as follows:

ORDINANCE NO. 2408

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, PROVIDING FOR A MORATORIUM UNTIL OCTOBER 31, 2015 ON THE PROCESSING AND REVIEW OF APPLICATIONS FOR DEVELOPMENT ORDERS AND DEVELOPMENT PERMITS, AND APPLICATIONS FOR AMENDMENTS TO THE CITY'S COMPREHENSIVE PLAN OR LAND DEVELOPMENT CODE FOR THE GEOGRAPHICAL AREA COMPRISING THE OCOEE APOPKA ROAD SMALL AREA STUDY WITHIN THE CORPORATE BOUNDARIES OF THE CITY; PROVIDING FOR EXEMPTIONS; AND PROVIDING FOR SEVERABILITY; CONFLICTS; AND AN EFFECTIVE DATE.

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

MOTION by Commissioner Velazquez and seconded by Commissioner Ruth to adopt Ordinance No. 2408. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Arrowsmith, Velazquez, and Ruth voting aye.

2. ORDINANCE NO. 2409 – SECOND READING & ADOPTION- COMPREHENSIVE PLAN – SMALL SCALE – FUTURE LAND USE AMENDMENT – Leslie & Nancy Hebert, from “County” Rural (0-1 du/10 ac) to “City” Rural Settlement (0-1 du/5 ac), for property located at 3600 West Kelly Park Road. (Parcel ID #: 13-20-27-0000-00-046). [Ordinance No. 2409 meets the requirements for adoption having been advertised in The Apopka Chief on February 20, 2015.] The City Clerk read the title as follows:

ORDINANCE NO. 2409

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” RURAL (0-1 DU/10 AC) TO “CITY” RURAL SETTLEMENT (0-1 DU/5 AC), FOR CERTAIN REAL PROPERTY GENERALLY LOCATED SOUTH OF WEST KELLY PARK ROAD, EAST OF GOLDEN GEM ROAD, COMPRISING 6.11 ACRES MORE OR LESS, AND OWNED BY LESLIE AND NANCY HEBERT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

MOTION by Commissioner Arrowsmith and seconded by Commissioner Ruth to adopt Ordinance No. 2409. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Arrowsmith, Velazquez, and Ruth voting aye.

3. ORDINANCE NO. 2410 – SECOND READING & ADOPTION - CHANGE OF ZONING – Leslie & Nancy Hebert, from “County” A-1 (Agriculture) to “City” AG (0-1 du/5 ac) (Agriculture), for property located at 3600 West Kelly Park Road. (Parcel ID #: 13-20-27-0000-00-046). [Ordinance No. 2410 meets the requirements for adoption having been advertised in The Apopka Chief on February 20, 2015.] The City Clerk read the title as follows:

ORDINANCE NO. 2410

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, CHANGING THE ZONING FROM “COUNTY” A-1 (AGRICULTURE) TO “CITY” AG (0-1 DU/AC) (AGRICULTURE) FOR CERTAIN REAL PROPERTY GENERALLY LOCATED NORTH OF WEST KELLY PARK ROAD, EAST OF EFFIE WAY (3600 W KELLY PARK RD.), COMPRISING 6.11 ACRES MORE OR LESS, AND OWNED BY LESLIE AND NANCY HEBERT; PROVIDING FOR DIRECTIONS TO THE COMMUNITY

DEVELOPMENT DIRECTOR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION by Commissioner Arrowsmith and seconded by Commissioner Velazquez to adopt Ordinance No. 2410. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Arrowsmith, Velazquez, and Ruth voting aye.

4. ORDINANCE NO. 2386 – FIRST READING - CHANGE OF ZONING - Florida Land Trust #111 – ZDA at Sandpiper, LLC - From “County” PD to “City” Planned Unit Development (PUD/R-1A) for property located south of Sandpiper Street, west of North Thompson Road, east of Ustler Road. (Parcel ID Nos.: 02-21-28-0000-00-106, 02-21- 28-0000-00-131, 03-21-28-0000-00-015, 03-21-28-0000-00-022, 03-21-28-0000-00- 023, 03-21-28-0000-00-046, 03-21-28-0000-00-047, 03-21-28-0000-00-072, 03-21-28- 0000-00-073, and 03-21-28-0000-00-119) The City Clerk read the title as follows:

ORDINANCE NO. 2386

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, CHANGING THE ZONING FROM “COUNTY” PD TO “CITY” PLANNED UNIT DEVELOPMENT (PUD/R-1A) FOR CERTAIN REAL PROPERTY GENERALLY LOCATED SOUTH OF SANDPIPER STREET, WEST OF NORTH THOMPSON ROAD, EAST OF USTLER ROAD, COMPRISING 58.23 ACRES, MORE OR LESS AND OWNED BY FLORIDA LAND TRUST #111 - ZDA AT SANDPIPER, LLC; PROVIDING FOR DIRECTIONS TO THE COMMUNITY DEVELOPMENT DIRECTOR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

David Moon, Planning Manager provided a brief overview and history of this project requesting to change the zoning from County PD to City PUD with a maximum of 49 residential units. He went over the history of this application stating City Council denied the application at their November 9, 2014 meeting and at their January 21, 2015 meeting requested to reconsider this ordinance as well as requesting staff to provide a presentation comparing the various zoning categories at the February 4, 2015 meeting. The ordinance is now back before Council for a First Reading. He affirmed at the February 4, 2015 meeting questions were raised about the Master Plan for this subject site. He advised the applicant listened to those comments and came up with an optional Master Plan which is depicted in Exhibit C. He reviewed the differences between the plan exhibited in Exhibit A and Exhibit C. In summary, he advised the minimum house size has not changed and is 2,200 square feet, the same number of lots, on lot 10, the large oak tree is still saved and the buffer is still along the south of the property line adjacent to Oak Water. One of the major differences between the two plans, in the original plan the 15 acres was to be preserved either in the conservation easement or as open space areas, and because the applicant was preserving that large area, staff agreed to delay the habitat inventory and management plan to the Final Development Plan. The staff report is included with the minutes.

In response to Commissioner Velazquez stating as she understands, with the larger lots, there is loss of some of the tree preservation, Mr. Moon advised by reconfiguring the lots and extending the lots further to the west, staff calculated an additional 57 trees would be lost and this only counts trees that have a diameter breast height of 6 inches or greater and this number does not include the loss of trees associated with the extension of lot lines further to the north and the increased size of ponds, as well as the new pond located along Ustler Road. He affirmed that the general consensus of Development Review Committee was that this plan is consistent with the Comprehensive Plan and Land Development Code as is the original plan.

Commissioner Arrowsmith suggested a condition that if there is a single story home in Oak Water that the home abutting that lot be limited to a single story home.

Miranda Fitzgerald, representing the applicant, said they have had discussions with neighbors and the issue of limiting the height on those properties did come up and she advised this was not an acceptable proposition, primarily because it does limit value, as well as they do have the 30 foot buffer between the lot lines, setbacks on both the Oak Water Estates side and on their own side, and they do not feel it is necessary. She stated they would be willing to plant two additional oak trees to the back of those five lots that are potentially an issue. She stated they have listened and from the last three hearings, they have known lot size has been an issue with the residents. She advised that Exhibit C is from the basis of a sketch or layout Mr. Haubner had previously presented. She advised with Exhibit C they have an average gross size of 25,752 square feet, which is well over half an acre. She advised that since Exhibit C was developed, Mr. Goldberg has met both with Mr. Haubner, Commissioner Bryan Nelson, and with the President of the Wekiva Preserve HOA. She affirmed that one of their comments during the discussion was in regards to the pond area, wherein they requested a 20 foot buffer of trees between the edge of the pond and Ustler Road which they have agreed to. She stated if they are allowed to proceed with Exhibit C, they will need to refine the notes in Exhibit B correlating them with the new plan. She affirmed the spirit of these remain the same, just some minor tweaks. She reiterated the applicant is happy to proceed with either plan. She stated one thing that will not change, is they still will have a condition that the lots are not going to be clear cut, but will be selectively cleared based on the foot print of a house plan.

In response to Commissioner Ruth, Ms. Fitzgerald advised the garage entrance condition has not changed, in Exhibit A there is a condition they have to have either a minimum of 500 square feet of pavers or side entry garages, which will transfer to Exhibit C.

Mayor Kilsheimer disclosed his ex parte communications, stating he has not had any discussion within the last couple of weeks, but he has had discussions in general with people in this neighborhood throughout the consideration. In addition Commissioner Velazquez disclosed having received one letter from Mary Smothers, and a private meeting with her, as well as one telephone call from Bryan Nelson.

City Attorney Shepard advised to provide any e-mails, notes, or memos received to the clerk.

Mayor Kilsheimer opened the meeting to a public hearing.

Crystal Lawrence said she was here on behalf of the Wekiva Preserve HOA and the Board of

Directors. She presented a petition with over 120 signatures from residents and business owners within the City of Apopka supporting the PUD plan for the Sandpiper development.

Mary Smothers said Ms. Fitzgerald mentioned the maximum lot size and pointed out the minimum lot size and she inquired what the size of the minimum lot would be, to which Ms. Fitzgerald pointed out the interior lot stating it was 15,120 square feet, and the largest lot is 72,635 square feet. Ms. Smothers stated she was very pleased with all of the work Mr. Goldberg has done. She said the minimum square footage for the homes was 2,200 and she stated she hoped there would be a number of homes larger than that.

Lou Haubner commended the developer for doing a great job and affirmed they were getting to where they wanted to go with Exhibit C. He said with regards to the trees in the wetland area, once developed, the trees will fall or die due to having a shallow root system. He declared he would like to see side entry garages and also suggested changing the side setback to 10 feet. He further stated with regards to conservation area, he would like to see the 10 acres on Ustler Road preserved.

Ms. Fitzgerald affirmed she has been authorized to go to a 10 foot side setback.

Jack Cooper inquired about the perk tests and whether they would have to be redone. He also stated he did not feel either plan was compatible with the area, but he would prefer Exhibit A which leaves more trees and one less house on the lake.

Ellen O'Connor said the average lot size was provided and inquired how many lots were half acre lots or over. She affirmed that those who have been involved with this, their issue since 2007 have consistently been comparable and compatible. She declared the half acre was important to them and also the preserving of the land.

Ms. Fitzgerald said, quickly counting, it looks like there are 24 lots that are over half acre in Exhibit C.

Ms. O'Connor said her point and their issue is that they were looking at less than half the homes are comparable and compatible with abutting communities.

Mary Smothers inquired if there was a requirement to place fences around the retention ponds to which Mr. Davoll advised this would be based upon the design criteria in the Land Development Code and which does require fences around wet ponds, but dry ponds depend upon the slope and design of the pond.

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

MOTION by Commissioner Ruth, and seconded by Commissioner Velazquez to approve Ordinance No. 2386 at First Reading and carry it over for a Second Reading with Exhibit C and the condition of a 10 foot side setback. Motion carried with a 3-1 vote with Mayor Kilsheimer and Commissioners Velazquez and Ruth voting aye and Commissioner Arrowsmith voting nay.

5. ORDINANCE NO. 2405 – FIRST READING – CHANGE OF ZONING - FLORIDA LAND TRUST #111 – ZDA AT SANDPIPER, LLC – for property located south of Sandpiper Street, west of North Thompson Road, and east of Ustler Road, from “County” PD (ZIP) (Residential) to “City” R-1AAA. (Parcel ID #s: 02-21-28-0000-00-106, 02-21-28-0000-00-131, 03-21-28-0000-00-015, 03-21-28-0000-00-022, 03-21-28-0000-00-023, 03-21-28-0000-00-046, 03-21-28-0000-00-047, 03-21-28-0000-00-072, 03-21-28-0000-00-073, AND 03-21-28-0000-00-119) The applicant requested this be continued to the March 18, 2015 Council meeting.
6. RESOLUTION NO. 2015-04 - Granting a non-exclusive franchise, to Waste Pro USA Inc., for roll-off container collection and disposal of waste in the City of Apopka. The City Clerk read the title as follows:

RESOLUTION NO. 2015-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, GRANTING A NON-EXCLUSIVE FRANCHISE TO WASTE PRO USA, INC., TO PROVIDE “ROLL-OFF” CONTAINER COLLECTION AND DISPOSAL OF WASTE IN THE CITY OF APOPKA, FLORIDA, PURSUANT TO CITY OF APOPKA, CODE OF ORDINANCES, CHAPTER 66, ARTICLE III; PROVIDING FOR THE TERM OF YEARS FOR THE FRANCHISE; PROVIDING FOR FRANCHISE FEE; PROVIDING AN EFFECTIVE DATE.

MOTION by Commissioner Arrowsmith, and seconded by Commissioner Ruth, to approve Resolution No. 2015-04 as presented. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Arrowsmith, Velazquez, and Ruth voting aye.

7. RESOLUTION NO. 2015-05 - Amending the budget for the fiscal year beginning October 1, 2014 and ending September 30, 2015. The City Clerk read the title as follows:

RESOLUTION NO. 2015-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, AMENDING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2014 AND ENDING SEPTEMBER 30, 2015, PROVIDING FOR A BUDGET AMENDMENT

Glenn Irby, City Administrator, advised the City Charter is very specific with regards to when the Budget needs to be amended. Any time a fund becomes overdrawn, it must come before the Council for amendment. He reviewed the amended funds and said staff recommends approval.

In response to Commissioner Arrowsmith inquiry about a water/sewer rate study, Mr. Jreij advised there will be a rate study and impact fee study done this fiscal year and it will be brought before Council for approval.

MOTION by Commissioner Velazquez, and seconded by Commissioner Arrowsmith, to approve Resolution No. 2015-05 as presented.

Mayor Kilsheimer opened the meeting to public input.

Pastor Bradford expressed his concern and asked if it would be possible during the annual budgeting process the community have an opportunity to be heard on how to spend these dollars.

Ray Shackelford echoed Pastor Bradford's concerns and stated we have to do what was best for the City and stated the need to have open meetings and dialogue.

Christine Moore said it was helpful for her to hear this debate and it sounds as if it is more clerical in nature. She stated the strategic planning process should clean up a lot of these issues.

Motion carried unanimously with Mayor Kilsheimer, and Commissioners Arrowsmith, Velazquez, and Ruth voting aye.

8. RESOLUTION NO. 2015-06 - Reimbursing certain costs relating to the acquisition, construction and installation of various water and sewer system capital improvements. The City Clerk read the title as follows:

RESOLUTION NO. 2015-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF APOPKA FLORIDA WITH RESPECT TO THE REIMBURSEMENT OF CERTAIN COSTS RELATING TO THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF VARIOUS WATER AND SEWER SYSTEM CAPITAL IMPROVEMENTS.

Mayor Kilsheimer said this was an accompanying resolution that allows for the reimbursement of some of the money spent.

MOTION by Commissioner Ruth, and seconded by Commissioner Velazquez, to approve Resolution No. 2015-06 as presented. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Arrowsmith, Velazquez, and Ruth voting aye.

SITE APPROVALS – There were no Site Approvals.

DEPARTMENT REPORTS AND BIDS – There were no Department Reports and Bids

MAYOR'S REPORT - Mayor Kilsheimer reported his appointment to the Citizens Advisory Council of MetroPlan Orlando was Theresa Mott.

Mayor Kilsheimer advised the City Clerk was in receipt of information from the Supervisor of Elections with regards to the next City of Apopka election. He stated the State of Florida plans to set the Presidential Preference Primary election on March 15, 2016. The City of Apopka would normally hold their General Election on the second Tuesday of March and if we hold our election on March 15, 2016, coinciding with the Presidential Preference Primary, we will need to adopt an Ordinance.

OLD BUSINESS

1. COUNCIL – There was no Old Business from the Council.
2. PUBLIC – There was no Old Business from the Pubic.

NEW BUSINESS

1. COUNCIL – There was no New Business from the Council.
2. PUBLIC

Bryan DeCaul said he wanted to introduce himself and stated he represented the World Financial Group and they were interested in providing financial education to the community free of charge and they were looking to share basic concepts.

Pastor Bradford said he is a lifelong Apopkan, and he owns two businesses. He expressed concern with regards of what is taking place within the south Apopka community and stated he is presently serving as the representative for the Community Action Board for Orange County. He spoke of two areas that he would like to see dollars generated to spend on projects in these areas.

Tenita Reid said she recently read about Defenders of Wildlife offering bear proof garbage cans free to any resident that requested them west of Interstate 4 in Seminole County and suggested staff look into this to see if it could be extended to this area. She also inquired if there were plans for a traffic light at Martin and Vick Roads stating this was a dangerous area.

ADJOURNMENT - There being no further business to discuss, the meeting adjourned at 3:20 p.m.

Joseph E. Kilsheimer, Mayor

ATTEST:

Linda F. Goff, City Clerk