

CITY OF APOPKA MINU

Minutes of the City Council Meeting held on January 18, 2023 at 7:00 PM, in the City of Apopka Council Chambers.

Present:

- Mayor Bryan Nelson
- Commissioner Kyle Becker
- Commissioner Nick Nesta
- Commissioner Alexander Smith
- Commissioner Diane Velazquez
- City Administrator, Edward Bass
- City Attorney, Michael Rodriguez

INVOCATION & PLEDGE OF ALLEGIANCE:

Commissioner Smith provided the Invocation and led in the Pledge of Allegiance. He then read the fact of the day as follows: On January 16, 1919, prohibition is ratified by the states. The movement for the prohibition of alcohol began in the early 19th century, when Americans concerned about the adverse effects of drinking began forming temperance societies. It went into effect in 1920 but large-scale enforcement was impossible. By 1933, prohibition was repealed.

CLOSED LITIGATION EXECUTIVE SESSION

Mayor Nelson called upon Michael to provide the following information:

Michael Rodriguez, City Attorney, announced that we will be holding a Closed Litigation Executive Session. Pursuant to Sec. 286.011(8), Fla. Stat., the City Council, City Administrator, City Attorney, will hold a closed litigation executive session to discuss pending litigation in the Estate of Austin Duran, Claim No. GC2022108445. The discussion shall be confined to settlement negotiations or strategy sessions relating to litigation. The following individuals will attend the Executive Session: Mayor Bryan Nelson, Commissioner Kyle Becker, Commissioner Diane Velazquez, Commissioner Alexander Smith, Commissioner Nick Nesta, City Administrator Edward Bass, City Attorney Michael A. Rodriguez, Special Counsel William E. Lawton, and FLC Claims Manager Chris Smith, and a court reporter. The Closed Litigation Executive Session will be held in the Mayor's Conference Room. A Court Reporter will be present to record the session and the transcript shall be made part of the public record upon conclusion of the litigation.

Michael then asked all members of Council, including Mayor Nelson as well as Mr. Bass, to please walk toward the Mayor's conference room for the commencement of the Executive Session.

***COUNCIL RECESSED COUNCIL CHAMBERS – [07:03 P.M.]**

***MICHAEL ANNOUNCED THAT THE CLOSED EXECUTIVE SESSION HAS CONCLUDED AND THE REGULAR MEETING MAY RESUME. [08:11 P.M.]**

APPROVAL OF MINUTES

1. Regular Council Meeting Minutes of January 4, 2023.
 - a. **Mayor Nelson** asked if there were any changes, additions or subtractions. Hearing none, he asked for a motion to approve.
 - b. **Motion by Commissioner Velazquez** and seconded by **Commissioner Becker** to approve the meeting minutes of January 4, 2023.
 - c. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

PRESENTATIONS

1. Certificate of Safety Recognition Presented to Apopka Police Department
Presented by: Trevor Reschny and Tyler Denahan, Florida League of Cities.

Trevor Reschny, of FMIT, the City's Insurance Company said he'll be brief but wanted to recognize the Police Department for earning a Certificate of Safety Recognition. He stated that this is extremely hard to achieve and there are only 3 or 4 Cities in the State of Florida that have achieved it and congratulated the Apopka Police Department for this recognition. He further stated that the Police Department scored 90% overall and said they have a ton of things in place to keep their officers safe and said this was well earned and congratulations! .

Chief McKinley said he can't take the credit for this and said it's his staff's recognition. He thanked Trevor for coming and said Lieutenant Carol McMaster was responsible for working us through this process to make sure that we passed this. He said in addition, Public Services shares in this as they come and take care of things when we recognize them so it's really a team effort between many of the departments, although we're getting the award.

AGENDA REVIEW

Mayor Nelson asked **Edward** if there are any changes to the Agenda to which **Edward** stated that under **Public Hearings** – Item's 5 & 6 need to be reversed.

PUBLIC COMMENT PERIOD

Michael Rodriguez stated that prior to the commencement of Public Comment, he wanted to put on the record that because of the subject matter of the Executive Session that we just held, and under the advisement of both his Counsel, our Special Counsel, and our Insurance Carrier, Florida League of Cities, that any discussions as to the specifics of the matter relating to Austin Duran, that both the City Commissioners and Staff are not to comment or discuss any of the specific incidents. This does not mean that anyone from the Public is prohibited from speaking, however, for the record, any comments, discussion, or dialog between members of the Public who are commenting on the specifics of the issue or incident, under the advisement of our Insurer, our Special Council as well as our Legal Department, we are advising not to discuss or comment on the matter.

Alex Robinson, 1997 Meadow Crest Drive, Apopka, FL 32712, said he came last month to ask about what's going on with Rodgers Road. He stated he called Pam and has left messages and can't get anyone to call him back. He said he was able to speak with Mr. Bass and asked about the road and **Mr. Bass** said he would have Pam call him about this however to date no one has called him. He said people take care of what's important to them and said if this road is in their neighborhood, they'd be on it. He said all he's trying to do is prevent someone from losing their life on this road. He said if someone can tell him about the progress on this road. **Mayor Nelson** said this is in the budget for this year and said it's a part of our overall Capital Improvements. **Edward** said we can put together a timeline so that he can get a rough idea of the phases as there are a lot of factors. **Mayor Nelson** said one of the challenges with this road is because of the steep incline however, we'll provide you with a timeline on this project.

Eric Coleman, 833 Kimchatka Court, Apopka, FL 32712, said he's here today to talk about the value of an Economic Development Director. He said as he sees it, the impact of an Economic Development Department with a professional individual with proven experience in the field, in a City of approximately 57,000 residents is incredibly positive. He said that position has the potential to create new jobs, and bring in more money to our local economy, which will help to improve the quality of life of the citizens of this City. He said this person would have more access to resources and opportunities. He said economic development can also lead to a better infrastructure such as a better equipped and staff Fire and Police Department as well as a higher tax income. He said achieving a driving economic development with outstanding business climate, competitiveness and innovation, is a plus. He said by assisting entrepreneurs, new and existing businesses and the recoupment of businesses along with developing image marketing, would enhance our status with surrounding communities. He said attracting and maintaining growing businesses in target areas of the City will convey awareness of the City's exceptional attributes, our brand and welcome hospitality. He said this can lead to a more vibrant and prosperous City, which is something that everyone can benefit from and long overdue. He said in 2015, he was the vice-chair of Visioning Apopka and said the City spent over \$100,000 putting the plan together and to date, nothing has been done since 2015.

Dennis New, 105 W. Magnolia Street, Apopka, FL 32703, said we live in a nation of laws and without them, chaos would ensue. He said tonight, he's going to ask some questions and said being that we're a nation of laws, why does the City and this administration violate them. He said the Code Enforcement Division enforces the codes upon the citizens and taxpayers, yet fail to enforce them on their own structures and buildings. He stated that the City is using the codes to replace the red light camera money which was approximately \$500,000 and now is gone. He said at the last meeting, when he requested to utilize the portion of the City Resolution 2016-16, he was ignored. He said the Mayor called time before he could finish. He said he's battling cancer and said he's short winded and asked for a little bit of time but was denied. He said why is it that the City Attorney and the Fire Chief violated state law, more specifically, Chapter 633, F.S. , regarding the Fire Department Safety Committee. He asked why the City continues to ignore the FAC 69-A, which he stated mandates that the fire department safety committee be built of fire department members and investigates all accidents and incidents. He said he's calling for a criminal investigation into the interference of the fire department safety committee. He stated the same thing happened in Ocoee, where they had a criminal

investigation which resulted in the resignation of the Chief and several other people. He said you can't violate the law and said just so you know, his complaints have already been filed with the State Fire Marshall's office and the Governor's office.

Albert McKimmie, 3603 Golden Gem Road, Apopka, FL 32712, said the Constitution affords our first amendment protected right to freely express our opinion at a public forum in a lawful manner of our choice. He said he's ashamed of the City of Apopka and said Mayor Nelson has turned this City into a sideshow. He said he's ashamed at how Austin Duran's family have been treated and is ashamed at how Dennis New was treated at the last meeting. He said he has a great deal of anger tonight and said he's contacted the State Attorney's office to question the lawfulness of some parts of the order enforcing City employees and Commissioners to remain silent and prevent public information requests in respect of Fire Fighter Duran's death. He said our Commissioners are elected by residents to represent our interests within the City administration and said there are a measure of checks and balances to oversee that administration. He asked how we can fulfill the oath of office if there is interference by the administration they oversee. He said he's here tonight to support our Commissioners ability to hold the administration accountable. He said this gag order prevents comments in the circumstances of Austin's death however, I have no reason to believe it prevents discretion of the gag order itself. He said the City Attorney can of course correct him if he's wrong. He said silence will not provide a comfortable alternative for truth. He said silence will not provide a resonant platform for those who care to cry out for justice when perceived. He said he invokes his right to remain at this Dias for the remainder of his time in non-verbal communication and the representation of this court in silence.

The Nauti Lobstah, 311 S. Forest Avenue, Apopka, FL 32703, said thank you for allowing us this moment to speak with you. She said her name is Christine Gonzalez and this is Cara Rumpik and on behalf of Chef Rumpik, we are the owners of the Nauti Lobstah and are here to bring attention to the challenges we're experiencing with unhoused persons all around out business. She said we've owned the business now for 16 months and said here are some of the experiences we've had thus far. She said we clean the streets on a daily basis from corner to corner and all around our restaurant every day picking up cups, clothing to shopping to bottles and cans, which are frequently found on the sidewalk, in the street, and under the West Orange Trail Bridge. She stated there is fecal matter and urine under the bridge, on the bridge and along the side of our restaurant. She said every day, we find groups of people sleeping on the sidewalk and under the bridge. We appeal to the non-emergency police line and officers to come to the restaurant and say records show, we've called an average of 3-4 times per month however we're repeatedly told there's nothing that can be done as the unhoused are free to sit, stand, and sleep wherever they wish, as long as it's not on their property. She said we've put locks on our exterior faucets as people have bathed themselves, using our water faucets and were using our outlets to charge their cell phones. She said on many occasions, our customers dining on the outside patio or those getting in and out of their cars have been approached for money. Recently, Cara's own mom, was approached and out of fear, she gave money. She stated that on several occasions, we've found evidence of people sleeping and sleeping bags and cups and clothing underneath our restaurant. We recently had a civilian officer state that his wife does not come to the restaurant as she's afraid and

questioned how many more potential customers feel this way. She said across the street we have an apartment complex that is fun down and housing questionable people and said we have camera footage of a person from this complex, stealing an employee bicycle from our premises. She said this is an added safety concern for the restaurant. She said most importantly, we're afraid to walk to our cars each evening when we close the restaurant and said on many occasions, our cooks have been harassed. She said we're here asking for assistance and said as owners we're concerned about the safety of our customers, staff and not to mention the success of our restaurant. She said we have plans to modernize the restaurant with an oyster bar and outdoor seating and plans to bring additional business to the building that we own across the street however, we're questions whether we proceed or not. She said something needs to be done to rectify this situation and we're asking for help. **Mayor Nelson** said we have an Ordinance coming up tonight that addresses this and said its item #9 so you may want to hang around for that.

Sylvester Hall, 3091 Rolling Hills Lane, Apopka, FL 32712, said he's going to make this brief. He said Mayor, I told you I would be praying for you but his words were taken out of context. He said, I was praying for you because he thought you had a wicked heart with everything that's going on with the Fire Department, I look at your reactions and look at how you're handling things. He said he'll continue to pray for you and said something is missing and that you have to love people to serve people. He said for those who don't know, he was at every City Council meeting last year with the exception of two and said it's our civic duty to come out and see what's going on in our community. He said often times we complain but nobody makes the sacrifice to be here. He said he's leading the way and campaigning for others to join him and speak up and voice their opinion on what's going on in the community. He said he wants to support his brothers and sisters in the fire department and stated that the mayor has created a hostile environment. He said this is coming from his experience in the military. He said his brothers and sisters in the fire department are on the front line and when they're out there., dealing with saving people's lives, their minds have to be focused on what they're doing and when they don't feel supported, that's a crisis situation. He said to date, there hasn't been anything done that he feels is correcting the problem. He said he prays that we don't have another mishap and that no other family has to go through what the Duran family is going through. He said his recommendation is to reassign the current Fire Chief and said the two firefighters that resigned from the safety committee should be reinstated and if we do this, we can start moving forward in a positive direction.

Michael Duran, 11504 Almo Court, Clermont, FL 34711, said the packet he gave to you is what Austin had written in his notes. He said this only scratches the surface as he also had pictures, diagrams, mathematical equations on how to measure the fire hoses under certain pressures and what the pumps RPM's should be running. He said you may be wondering why I'm giving you that stuff and hopes you're able to read it, but said he wanted to illustrate to you how Austin took his training and his safety serious. He literally studied and took notes and practiced on everything he was introduced to and took the time to make sure what he was doing and what was expected of him. Because of the Departments complete failure of not introducing that sand trailer, a known hazardous apparatus, which the Mayor himself admits should have never been put in service, Austin was not afforded the time to familiarize himself with the operation or the handling of it. He said Senior Staff knew that neither firefighter had any experience, nor

knowledge on this equipment, prior to sending them out to move it. He read from some of the quotes and text messages that people have sent him as follows: “Austin will be the strength to do this stuff right”; “he started a movement we desperately needed”; “his name is attached to his skin forever”; “I miss him every damn day and don’t understand why it’s so hard for people to do the right thing”; “I miss him misses him so much that sometimes it’s hard to breathe”; “we will never quit and won’t stop when it hurts and won’t stop until it’s done”; “thank you for creating a permanent table for your fallen brother”; “God bless a hero gone, too soon”; “Mike, you’re strength & perseverance through tragedy is truly amazing”; “we will never be able to thank you enough for fighting for us in these difficult times”; Austin has forever changed this department and the people in it”; #austinsarmy. He said one last quote that every firefighter will understand – “110 flights, no excuse for you today, what is your excuse for not allowing the safety committee to continue their investigation into the incident that robbed the life of my son” He said he still advocates for his son and the insurance of the safety and training of the firefighters that are left behind and said the administration can silence the City but he will not go quietly. .

Leroy Bell, 2208 Blue Meadows Court, Apopka, FL 32703, expressed his condolences to Mr. Duran. He made mention of the Police Department’s accolade and recalls back when the former Mayor was here there was discussion about bringing diversity training to the Police Department. He said he wanted to speak about the Annexation of South Apopka. He said South Apopka is ridden with pollution from the air from the dump, from medical waste; water treatment and the sewer plant and the City makes money off of all three. He stated that in November during the Annexation meeting, each and every Commissioner was willing to talk about this with an open mind, with the exception of the you, the Mayor and the Attorney, and stated that your minds were closed. He said the money that you make off of that should be given to the people of South Apopka. He said you were sitting up there kicking against it but said on the Martin Luther King parade on Monday, you were on a float waving. He said he disagrees with Sylvester and said he doesn’t think you have a heart and said the only way you can serve somebody is to love them. He said the only people you see in Apopka is the developers, the bankers and people who put money in your pocket.

CONSENT (Action Item)

1. Approve the Gardenia Reserve School Concurrency Mitigation Agreement and authorize the Mayor to sign the Agreement.
2. Approve the Oaks at Kelly Park Phase 3 School Concurrency Mitigation Agreement and authorize the Mayor to sign the Agreement.
3. Approve the Windrose School Concurrency Mitigation Agreement and authorize the Mayor to sign the Agreement.
4. Authorize the City Administrator to execute the lease agreement with Ms. Smith Investments, LLC. for property at 633 S. Park Avenue.
5. Authorize the disposal of capital surplus equipment.
6. Authorize the issuance of evaluated and sole source memos.
7. Accept the disbursement report for December 2022.

- a. **Mayor Nelson** asked if anyone had any questions about any of the items on Consent.
- b. Hearing no additional questions, he asked for a motion to approve the six (6) items on Consent.
- c. **Motion by Commissioner Smith** and seconded by **Commissioner Becker** to approve the seven (7) items on Consent.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

BUSINESS (Action Item)

1. Authorize the execution of piggyback contract with ZHA for facility construction, consulting and owner's representation services.
Presented by: Richard Earp

Richard Earp, City Engineer, said the purpose of this agenda item is to ask Council to approve the piggyback contract with ZHA so that they can assist the City with moving this project forward to the next phase of design and construction of the Public Safety Facility. He said if you recall, last Spring, a Spatial Needs Assessment and a Feasibility Study was done and this is the next step. He said this Public Safety Facility is a very large complex and an expensive project and staff recommends having ZHA serve as the City's representative to guide us through all aspects of the project, make informed decisions based upon their expert advise and find opportunities to save money. He then introduced Mr. Rick Mellon, the President and CEO of ZHA.

Rick Mellon. ZHA, said he'll be brief and most of the information, you've already seen but for a little background on ZHA, we're now in our 41st year of business. He said our business is to represent owners in developing and implementing their projects, primarily in the governmental sectors, Cities, Counties, Airports, Schools, etc. He said we have expertise in everything from the beginning planning through the operations and closing out of projects. He said with that said, while we have architects, engineers and contractors on staff, we don't design or build anything, rather we use our knowledge to help our owners go through the process. He said just to give you an idea of some local projects we've done, we just finished the Stuart Public Safety Complex, which is very similar in size to what you're talking about doing. In addition, we completed a Municipal Service Complex for Lake Mary, which had Fire and all other types of City Services. He said this is our bread and butter and what we do all of the time. He highlighted the Seminole Criminal Justice Center which was completed a number of years ago and said this is another similar complex project to what yours will be. He said they understand the process is to try and mitigate risks and manage projects efficiently for our clients. He provided a graphic of the process from beginning to end and how we follow the project through maintenance and warranty. He said the next step is to go back and develop a full blown program from the space needs analysis where we develop programs, budgets and estimates for the various components. He said we use those budgets and schedules and program scope to set the table for managing the entire process. He said this will take us from where we are now to getting our first consultant on, which would be the architect and engineering firm. He said once we have those entities on board, our job is to manage the design, construction and the owners so that all agree with what we're trying to

accomplish. He said the question came up about what the costs are for a firm like ourselves to come on to which he stated in a project this size, it's typically between 2 & 3% of the project. He said he's happy to answer any questions you have.

Commissioner Becker said he didn't have any questions, just comments as we met on Tuesday with Robert., He said having the portfolio and the background and history that you have, and coming from the technology, project management space, he said 2-3% is well below what we would typically see from a project manager perspective in terms of technology projects and said that seems reasonable.

Commissioner Velazquez said she didn't have any questions but wanted to let the public know that each of the Commissioners did meet with ZHA to discuss our needs and what to expect with this new City building and asked him to touch on this.

Rick Mellon said the very first thing is to meet with staff and said we've met with staff a couple of times already and said he's looking forward to working with them as they're all very engaged and wanting to create a good facility. He said we then take the information that's already been done, confirm it with the individuals that provided some of that and start to overlay that. He said we take into consideration who relates to who and how. He said we work through that in order to develop what we understand that program to be, for example right now we have roughly 95,000 square feet programed, and said once complete, we go through the process of developing a more detailed budget and schedule. He said we are happy to report to the Council at any stage in the process that you want. He stated that typically, we would come back at the end of the programming with what we see as the costs and get reaction. He said from that, we get the architectural engineering RFQ, get those back, provide direction and get them to the next phase of a concept drawing and come back to you with these various milestones.

Commissioner Smith said being stewards of the taxpayer's dollars, he's excited to see that we're bringing the experts in the field that has the expertise in the construction of this development and that this will save us money from having change orders along the way and that you'll be overseeing this project from shovel to turn key and is excited.

- a. **Mayor Nelson** asked if anyone from the Public wished to speak on this matter.
 - b. Hearing no additional questions, he asked for a motion to authorize the execution of piggyback contract with ZHA for facility construction, consulting and owner's representation services.
 - c. **Motion by Commissioner Velazquez** and seconded by **Commissioner Becker** to authorize the execution of piggyback contract with ZHA for facility construction, consulting and owner's representation services.
 - d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.
2. Authorize an Emergency Designation for Public Services to procure the services of Ballenger Irrigation for design, permitting, construction, and one year of routine

maintenance of the Alternative Water Supply irrigation pump stations for Clear Lake Estates and Clear Lake Landings.

Presented by: Richard Earp

Richard Earp said this presentation is on the Clear Lake Alternative Water Supply project. He said City Staff met with St. Johns River Water Management Staff on January 11, 2023. He said we discussed two potential alternatives to address the high lake levels in Clear Lake and the alternative that's described in detail in this presentation is summarized here as this is the one that staff recommends. He said when we met with the SJRWMD, they let us know that it is not uncommon for HOA's to use stormwater pond and even lakes to irrigate their community as an alternative water supply project. He said this project would provide a long term, improved control of the lake levels in Clear Water Lake, with the approach being that this project would replace the supply of irrigation water from the City's reclaimed distribution network, with irrigation provided from the lake water in Clear Lake itself. He said the project would include installation of irrigation pumps to serve both Clear Lake Estates and Clear Lake Landing subdivisions. He said the City would continue to maintain the irrigation water meters and we would bill for the usage of the water at the same rates that we do today. The initial funding would come from the City's reclaimed water account, since this project is an alternative water supply project., the initial implementation costs, could be offset by utility bills over approximately 5 years. He said to recap, over the past 4 years, the water bills for these neighborhoods have a cumulative total of approximately \$517,000 between 2019 through 2022. He said this approximates the funds that City receives from utility bills for about \$129,000 a year and the \$600,000 cost you see are the estimated start-up costs for the design, permitting, and construction of the pump stations to serve both of those neighborhoods so that over 5 years, the approximate utility bill collections would be about \$650,000, thus offsetting the initial costs of the \$600,000 design costs for those systems. He noted that this is an alternative water supply project and said by irrigating these subdivisions from the lake water, it would offset about 60,000,000 gallons per year back into the City's available reclaimed water supply, thus reducing our need during times of drought to supplement the City's reclaimed water supply. He provided a slide depicting the two proposed pump stations and their proposed locations. He said he's been in contact with Mrs. Stephanie Mahoney, who represents the management companies for both Clear Lake Estates and Clear Lake Landings said the City Attorney has provided an agreement with the previous developer and said he's spoken to him on the phone early this week. He said his name is Mr. Braxton Greene and didn't realize that he hadn't turned over the parcels and the easements to the HOA and said the City Attorney has put together an Easement for the current owner, Mr. Greene to give the City access and permission to go on the private parcels D & G, which are the parcels where the playground is. He said he shared Mr. Greene's contact information with Mrs. Mahoney so she can coordinate the turnover of the parcels to the HOA. He said with Clear Lake Landings subdivision, these easements are a little more straight forward as the developer actually turned all of the parcels over to the HOA. He said the City Attorney provided him with an Easement so that the City could have access to parcels D & J, so that the City can have the ability to access the area, install the pumps, electrical panel, the intake into the lake, near the cul-de-sac of Natural Bridge Court. He mentioned that in both cases, the City can't proceed with installing pumps and going on private property until we have the Easements from the HOA's. With that said, Clear Lake Landings advised in an email that he may have gotten ahead of himself a bit however he said we're trying to move forward with the design

and the acquisitions of the Easements and permitting all at the same time so we can get this done as quickly as possible. He said the recommended motion is to authorize the emergency designation of Ballenger Irrigation for the design, permitting, construction, and one year of routine maintenance of the Alternative Water Supply irrigation pump stations that will serve both Clear Lake Estates and Clear Lake Landings for a total of \$600,000. He said the second recommended motion is to authorize the City Administrator to negotiate access easements from Clear Lake Estates and Clear Lake Landings. He said approval of this item requires a budget amendment to assign funds for these services, which will be heard later tonight. He said with that, he opened it up for questions.

Commissioner Becker apologized to everyone that has a vested interest in this that he wasn't able to make the last Workshop due to a prior commitment. He said one of the things he did hear as a result of that was a couple of different options, this being one of them and the other option being an emergency permit through SJRWMD, to get water immediately off of that lake and flowed through the same egress that the Avian Point does West under 429, over through the wetlands of Lake Apopka area. He said we talked through this on Tuesday and wants everyone to hear the same conversation that he got and talk through your thought process there about the pros and cons of that option and what would be required for that to take place. **Richard Earp** stated that on January 11th, we also talked about that option with the SJRWMD and said the actual permit is called an Emergency Field Authorization and said the idea would be to pump water out of Clear Lake and pump that water into the Lake Apopka North Shore Restoration area. He said we talked with SJRWMD about that in detail. He said the first thing they pointed out was that since this is a privately owned lake, with private property owners, the two HOA's and at least 1 private residence, would need to demonstrate that all of those surrounding property owners agree with lowering the lake level, in the application process. He said he did mention the emergency field authorization would have to come from the HOA, because it is privately owned by the HOA. He said this could be a combination of the property owners or one of the HOA's would need to submit that emergency field authorization to the SJRWMD. He said it appeared to them with the proximity of the lake to the homes, that they could potentially permit a reduction in the lake stage 1-2' and they would consider that. He said they made clear that in the permit application, the maximum pumping duration would be 90 days and the estimated cost for the emergency pumping would be approximately \$200,000. Because the pumping could only be allowed for 90 days, the maximum reduction in the water surface would be at most, 1-2' and of course the estimated cost of the one time emergency pumping would be \$200,000, staff does not recommend this method. He said part of that is when you pump the lake down, there's ground water in the surrounding region of the lake and said there's no guarantee that this would be effective. **Commissioner Becker** asked who would have the best perspective of what to do, City Staff or SJRWMD as to say that if we pump this out for 90 days, that because of the water table and the level that it's at, if we pump 1-2' off, what that seepage and reinvigoration of that water table would look like. He said he understands the hypothesis but how do we get the confidence that that would be reality, within a margin of error, and said he'll table this. He said we did the cost break analysis but said this isn't because we're expecting the residents to pay, rather it's because we monetized that surplus, is that correct? He said in the packet and what he asked on Tuesday was that of that \$600,000 expense, that will be coming out of our reserves and the City is paying for that? **Richard Earp** said the math that he sees is that the people

are going to continue to pay for the reclaimed water they use, we would collect more than the \$600,000 it will cost to install and operate the pumps over a 5 year period and said from a financial standpoint, this is offset. **Commissioner Becker** said that if we decide tonight to go this direction, the pumps are installed and the idea being that water is being taken out now from Clear Lake for the purposes of irrigation, in effect, shutting off the impacted residents paying into reclaimed water, the impacted residents would not pay for that service anymore as the water is coming out of Clear Lake, correct? **Mayor Nelson** stated no. **Commissioner Becker** asked why? **Blanche Sherman** stated that because we have the right to charge them for the alternative water source and this will be metered. **Commissioner Becker** stated that when he asked where this money is coming from on Tuesday, he was told it's coming from the reserves. **Blanche Sherman** said the \$600,000 is coming out of reserves and that is the budget amendment that will be before you tonight. **Commissioner Becker** said that's money coming out and there was no inflow discussion and looking for this in our packet. **Edward Bass** stated that they will continue to pay the reclaimed rates they're paying now and that revenue will recover this and they won't pay for reclaimed any more as they'll be paying for this alternative water source. He said we still provide the water, we still meter it, we still charge the same amount, they just use this water from the lake instead of reclaimed water from our system. He explained that over time, they will pay for this alternative water solution and said the City will pay for and own the pumps. **Commissioner Becker** inquired as to one of the conditions of approval on another piece of business on Avian Pointe was their commitment to paying \$80,000 and asked where this stands as this wasn't on the proforma. **Blanche Sherman** stated that we're still working with them to get that \$80,000 and when we receive the funds, it will be offset.

Commissioner Velazquez said she understands that we will own the pumps and it will cost the City taxpayers \$600,000 but the residents will continue to pay a bill as if it was reclaimed water but in reality, they're getting alternative water source from their own lake. **Blanche Sherman** confirmed. **Commissioner Velazquez** stated that after 5 years, we hope that by then the lake has dropped to a substantial amount where we can then turn back the reclaimed water to the residents and asked how that will work. **Blanche Sherman** stated that they'll use the pump and in case the lake gets too low, they'll turn the valve and be able to get water from the City's reclaimed water again. She stated that we'll continue to maintain the pumps at that point in the event that this high water happens again.

Frank Campopiano, 937 Bay Bridge Circle, Apopka, FL 32703, said he understands all of the stuff we're talking about and said at the last meeting, we had engineers telling us that a lot of the problem of why the lake is still coming up without rain is because it's pumping reclaimed water into the lake still. He said so this is going to solve the problem, pumping the water out of the lake, into our grass and back into the lake? He said there were three gentlemen from Avian Pointe the meeting before last, that said they couldn't pump anymore and said the problem is the reclaimed water. He said there's oil in the lake right now and it's starting to get algae bloom because we don't have swales anymore. He said the lake is being polluted as we speak and no one is looking at that. He said his house is literally 5 feet from the water and said in another 2-3 weeks, it will start eroding the foundation and said this is a serious problem and can't wait months and said we've been complaining since 2017. He said there's still no solution and there are 3 properties dumping water and there's

a concrete overflow from the subdivision behind us that goes into our lake, which is also a spring fed lake and is always feeding water. He said we want action from the City now.

Richard Whithers, 2436 Wyndham Bay Place, Apopka, FL 32703, said he's lived in Clear Lake Estates since 2008. He said for those of you who were here on the 4th, heard me relate the history that we've encountered there. He provided a clip that was taken by his neighbor, Gregory Griffith and said what you're seeing is the progression of what has happened. He said you can see the little park with the gazebo and said this is now underwater up to the benches and the sidewalks are almost all under water. He said the dead trees are all over the lakefront as a result of the water. He said we had a giant Oak tree that must have been 70' tall that died from drinking too much water. He said we didn't cause this problem and didn't contribute to it in any way. He said what you see now is a sea of roof tops and said when the water hits those roof tops, it isn't retained on the Clear Lake Landing site, it's going into the lake. He said the City approved the plans to build all of those houses out there and approved the stormwater management system and drainage plans, which has failed. He said this 5 year solution will not solve the problem. He urged the Council not to approve this designation and request that you instruct the Mayor and Administration to come up with a funding plan for any type of solution that is proposed. He said he agrees with the solution presented by Commissioner Becker of pumping the water under the 429 and into Lake Apopka. He said we'd be glad to go to the SJRWMD and twist some arms because they're overlooking an obvious solution.

Venus Griffith, Clear Lake Estates Subdivision said she's been talking about this for 6 years and said the fight is over. She said we need something done now. She said not one person should lose their house or property and said not one person should lose sleep because of this. She said don't give me any numbers and telling us that we have to pay for this and said we need an emergency fix now. She said the City has pumps so why are they paying for pumps? **Mayor Nelson** said we're not making you pay for pumps. She said Mr. Dennis gave us a fix and asked why we're not doing anything about this. She said her grandson is 6 years old and came to her house today and asked to go to the park and play. She said she had to tell him she was sorry they couldn't go because the City messed up. She said if they don't get any justice, we won't have any peace.

Sylvester Hall, 3091 Rolling Hills Lane, Apopka, FL said remember Mayor, I'm here to help. He said at the last City Council meeting, I asked if we have a consultant. He said these developers come in and do their pitch and asked if we're equipped to catch things that may be missed so that we don't have another incident like Clear Lake. He said you said we have a consultant. He said so when he says procedures matter, principal matters, if you listen to what I'm telling you, I'm here to help and said those things matter. He said please reconsider getting a consultant so that everyone is abreast so that when the developers come in.

Leroy Bell said he wanted to warn you that we have March winds and April showers. He said everyone is talking about the water running through the springs and said he lives in Maudehelen, which is right across the street. He said we're safe as we're on a hill but when those April showers come in, and cross Binion Road, all we need is a few more rainy days and all that water will be in Camp Wewa.

Brett Wilkerson, President of Clear Lake Landing, HOA, said he wanted to touch on the financial aspect of this project and said from what he's hearing is that the City will front the \$600,000 to build the pump stations. He said they'll tie them into the existing pipes and the meters will continue to spin and our residents are going to pay the exact same amount that they would pay if this was actually treated water. He said we've heard nothing about whether the water has been tested, or what kind of filtration it'll go through before it's put into our lawns and whether it will potentially create any other hazards for children, pets, or anyone else in the area. He asked why the City would not take the water out and put it through the reclaimed system and essentially turn it into a profit or investment. The solution is for our homeowners to take a chance that this will fix it, still at their expense, at no reduced cost or no immediate relief. He said we're not going to consider the pumping of the water out into Lake Apopka and said we're going to hope that the 1.6' drop that was proposed to us, per year, actually occurs and to get the lake level down below flood stage in the next 4 year. He said to him, this is a win for the City and a loss for our residents. He said if there isn't going to be a proposal for some kind of relief or a cost reduction to this, he feels this item should be denied until someone comes up with a plan.

Gregory Griffith, Clear Lake Estates, said yesterday, the City did a test on the water and asked what the result was. **Mayor Nelson** said it takes a week to 10 days for the results. Mr. Griffith said so we don't know what the toxicity of the lake is at this point and we have Otters and other animals swimming in that water now. He said from his back yard, he has ducks and birds swimming in the lake and said he wouldn't want to drink that or spray on his lawn. He gave an analogy of him walking across the street and a car hitting him and the driver saying it's not his fault but the guy said I'll advance you the money and you can pay it back. **Mayor Nelson** said we're not asking you to pay anything other than your normal reclaimed water bill and said all this does is it changes the source of the water that irrigates your grass. **Mr. Griffith** said that Commissioner Nesta proposed that we have an independent engineer look at this and asked if that has been done or if it's going to be done. **Commissioner Becker** said Mr. Griffith, can we bring it back to Council.

Karen Wilcox, 949 Bay Bridge Circle, Apopka, FL, said she would like to recap and said her understanding is that there used to be a drainage in Clear Lake itself that used to run off to Mud Lake. She asked if there is a reason that we can't have something that would run off from Clear Lake on a permanent basis, like it was before. She said she understands that the City removed that when they were leveling out the road in the past. **Mayor Nelson** stated no and said we haven't had anybody to prove that there was ever a pipe underneath Binion Road to Mud Lake. She asked if we can explore having the water piped off and run into the part of Lake Apopka that can absorb it as she has concerns as we're talking about re-piping water out of a lake that's been sitting there and putting it back on our lawns because of the concerns of some of the things we've talked about and doesn't want to create a hazard. She appreciates if we could give additional consideration as an option. **Mayor Nelson** said according to SJRWMD this isn't an ongoing permit, it will only be for 90-days.

Venus Griffith asked if we could have a proposal as this isn't just Clear Lake and Clear Lake Landings and said she noticed that we excluded the Luts and they are part of the lake also.

Commissioner Becker said this isn't an easy issue to fix however there are a couple of deficiencies and said the Avian Pointe is missing from this agreement and said they're the ones who stipulated that they'll be monetarily expected to chip into this cost. He said in addition, there's nothing in here regarding a sales and purchase agreement for water. He said at the end of the day, it's our job to fix an issue and the only compelling evidence that I've seen visually are aerial shots of before Clear Lake Landings was built, during construction and after the fact and the water level steadily went up. He asked what statute or law would preclude us from taking an option where we do have a permanent fix, such as to an offsite storage or into our reclaimed water system. **Michael Rodriguez** stated that this isn't a question of whether it's legal or illegal and said one of the important things to note is that this is a private lake. He said there is no proprietary interest on the part of the City. He said if this Council deems it appropriate that they wish to move forward, keeping in mind that it's a private system right now, if you want to remove it and become a public system, then you become liable for its maintenance and responsibility. He said as it stands now, the legal jurisprudence in the State of Florida, as this is a private lake, the permitting that was done for every development there, under the Courts ruling, is discretionary and there is no liability on the part of the City for any incidences caused by it's permitting. He stated the City has sovereign immunity on that matter and would waive that sovereign immunity if the City becomes an operator. He said it's not a legality or illegality rather a question of what the City's policy is to assume liability and risk. **Mayor Nelson** said we're talking about 60,000,000 gallons per year that the two neighborhoods are putting on to your grasses every year. He said if we take 60,000,000 gallons out of Clear Lake, and said regardless of how much gets back into the lake, there's 60,000,000 we're not putting in the lake.

Commissioner Becker said he hasn't heard anyone that's impacted by this piece of business that wants us to approve this matter. **Commissioner Nesta** said he didn't want to say no and leave tonight and be in the same spot. He said he's mentioned in every meeting that we don't know anything about this and we need to bring in an independent consultant to help us with this. He said to reference on the Avian Pointe side of the \$80,000 that they agreed to, once we get that, we divvy it up between both neighborhoods and start a clean up with those funds. **Mayor Nelson** said we go back to our responsibility and said the retention ponds need to be clean and functioning properly. **Michael Rodriguez** said the item can be withdrawn from consideration and there will be no action today. He said the City will help facilitate and put the right folks in touch with the SJRWMD in order for them to proceed forward with the permit to do the emergency pumping. He said concurrently, we can work with the parties to try and effectuate an agreement for a transfer or a privatization of the reclaimed water system.

- a. **Mayor Nelson** asked for Motion to withdraw business item #2 which was to authorize an Emergency Designation for Public Services to procure the services of Ballenger Irrigation for design, permitting, construction, and one year of routine maintenance of the Alternative Water Supply irrigation pump stations for Clear Lake Estates and Clear Lake Landings.
- b. **Motion by Commissioner Nesta** and seconded by **Commissioner Smith** to withdraw business item #2 which was to authorize an Emergency Designation for Public Services to procure the services of Ballenger Irrigation for design,

permitting, construction, and one year of routine maintenance of the Alternative Water Supply irrigation pump stations for Clear Lake Estates and Clear Lake Landings.

- c. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

****Mayor Nelson called a brief recess at 10:45 p.m.**

****Meeting was reconvened at 10:54 p.m.**

- 3. Discussion relating to creation of Economic Development Department and position of Economic Development Director.
Presented by: Commissioner Becker

Commissioner Becker said he apologized to those who are here for business purposes and are having to wait but said he will try and make his presentation as brief as possible. He said he spoke about this back in December and will breeze through a couple of slides that were presented back then, as a refresher. He said he's looking for the Council to weigh in on this topic, which is important to the progress of our City. He said the purpose of the first slide is to show that when we look at Apopka, we're a bit of an outlier in a sense that we don't have an Economic Development Department or Director, similar to what other Cities are doing. He said other Cities find value in this position and hopefully through the course of this presentation, he'll prove that we should also. The next slide spoke to what his visions are and said tonight this is 3-fold and when you hear the presentation, it will contemplate three different things, including: 1) Creation of an Economic Development Department, he said the creation of this will set us up for long term success.; 2) Creation of an Economic Director role, which would be ratified by this Council; and 3) Funding of a newly created department with \$200,000 from the Coronavirus State and Local Fiscal Recovery Funds, (SLFRF). He said to clarify, \$200,000 is not a base salary for an Economic Development Director, rather it's the amount of money to fund that department. He stated he would rely on Mr. Patton for his take on what Economic Development Directors make within this particular area and have a salary range. He stated that the point of the Coronavirus State and Local funds are that they're Federal dollars, not direct taxpayer's dollars from the City. He said the whole pillar for the purposes of these funds is to build a strong resilient equitable recovery by making investments that support long term growth and opportunity. He said this is the role of any Economic Development Department within any given City. He asked that as he flips through these new slides of this presentation, look at this through the lens as what if we do nothing and said think about how we operate today and the pace of which we have the types of establishments that we all have in our head. He said there's a lot of spirited debate about what economic development is and said he wanted to easily and succinctly go over what the core tenants of economic development. He said it's about attracting and growing businesses, creating and retaining jobs and making our community a better place to live and said we have a vested interest in what types of establishments that come to our City do for us, both from a resident satisfaction point of view as well as the tax base that helps offset some of the burden in our General Fund. He went on to say creating and retaining jobs is part and parcel with business but it's also making sure that our diverse community has diverse opportunities for jobs within our City. He said there

was a stat about how many people leave our City for the purposes of working every day and said if we can alleviate some of that, it creates an inviting place for us to have opportunities for our residents and will make our community a better place to live. He said the crux of it is how do we benefit and said the City of Apopka has expended dollars to the Orlando Economic Partnership for years and said their top 6 reasons or benefits for having economic development within a particular City are: 1) Job Creation; 2) Industry Diversification; 3) Business Retention; 4) Economy Fortification; 5) Tax Revenue; 6) Quality of Life. He said Apopka has a great history of evolving industry but said industry diversification ensures that we have a broad mixture of industry within our City. He said our residents always talk about the dollar stores or the auto parts stores and said people get fatigued by high concentrations of any one particular business and said a good economic developer will make sure we have a balance of businesses within the community. He said we've talked about this Grow Apopka Vision, which was done by the previous Administration but said this is the most statistically relevant survey that we've done in the City of Apopka in quite some time. He said although there were only about 1,500 people that were a part of that and is a small subset of our population, but it's 1,500 people that really wanted to shape what Apopka looked like in the long term and said this was really well done. He said one of the pillars that is front and center to this is the Economic Development Pillar. He said the people surveyed put so much emphasis on economic development because they knew what we had to gain if we have this piece. He provided some examples what our current state is and what happens if we do nothing. He said we have over 6,000,000 of non-residential property approved, sitting dormant today, not to mention various mixed-use developments as well as other commercial stand alone properties that are still vacant. He said in all fairness to the Mayor, who does some of this Economic Development on behalf of us, and thank you, but said you have a City to run and we're in turbulent times here as referenced on our last piece of business. He said this will free up the Mayor's time to concentrate on addressing these things. He also said this is not a critique of Mr. Hitt's role in terms of Community Development but said he has a huge workload within his department to be able to handle the task of economic development. Lastly, he provided a strategy for how this could pay for itself and suggested using SLFRF funds that are not currently allocated for any purpose. He said just talking about this subject in this forum drums up interest from the larger business community. He said at the end of the day, we need to innovate, and think more forwardly to develop a more sustainable and fun Apopka and we will all benefit from this and said Imagine the Apopkabilities. He said from setting up of a department within our budget, the creation of that role and funding with money we already have that's currently unallocated and for that purpose is a reasonable ask.

Commissioner Velazquez said this is something that Commissioner Becker has been working on for years and said she agrees that we need someone that can concentrate on how we want to grow. She said she made a statement not too long ago that we're building here, there and have mixed-use here and warehouses there but we're not getting any businesses. She said our City downtown has been stagnated and recalls when we did the Visioning 2025, she remembers going around the City and different neighborhoods and people were excited about how we were going to brand our Apopka however, this has been on the shelf since then. She said now that we have this, she'd like to go out and see other Cities and do her own research to observe the timeframe that it took to grow their

City. She said a few years ago when Self-Help Bank was looking for a stand along building to purchase for their bank, there was nothing in their reach and said where they're at right now, they purchased from a single owner and that was a success. She said what she's seeing, everyone is taking advantage that we have so much open space and are buying them and not developing right away. She said she began to feel like we're becoming a bedroom community however at this point, this has been informative and a wonderful presentation. She said we need someone that can really brand our City.

Commissioner Smith said when he was elected in 2018, for about 2 months, he took that booklet, Visioning 2025 and read the booklet thoroughly and saw all of the plans that the committee suggested that would make Apopka a great place to live. He said not only was it about Economic Development, but also the Annexation of South Apopka as something that needs to be done. He said he doesn't have a problem with an Economic Development Director, he just doesn't feel like we're ready for a full time position at this time. He said he says this because he attends the Florida League of Cities meetings and speaks to other Commissioners and other Economic Development Directors from other Cities and they didn't start this position full time initially. He said as their Cities grow and develop, they then develop a full time position and then a department as that person will need a support staff as well. He said he supports a part time economic development director and said that would be beneficial to our City and said it's all of our responsibility to speak to businesses about coming to Apopka. He said in addition, he has a concern over using non-recurring funds in order to fund a position in the middle of a budget year and said we're about 4 months away from starting to begin discussing the upcoming budget year so perhaps we can look at this at that point. He said he doesn't see the full time need for this position, rather he supports a part time position.

Commissioner Nesta asked when the Covid funds need to be spent by. **Edward** stated that they need to be earmarked by 2024 and be spent by 2026. **Commissioner Nesta** asked what the purpose of having a specific department versus having just one person under Community Development. **Commissioner Becker** said he wanted to have a director level position and be able to ratify that position and said that role would work with this Council. **Commissioner Nesta** then asked him who would be the perfect candidate for this. **Commissioner Becker** said when he prepared a job description years ago, it was more of a sales and marketing approach to the position and said this person would need the ability to network effectively and very proactively out in the community trying to attract businesses to come here. He stated that this person would also likely know their way around grant funding and other funding sources as well as State Statutes. **Commissioner Velazquez** asked if we could contract this position. **Commissioner Becker** stated that when a person is under contract, they're only here for a finite time and in a role like this, you have to live and breathe the role and it won't work if you don't have the right person in the job. **Commissioner Nesta** said being in Real Estate Sales, it will come down to a numbers game. He stated that he cold called the owner of the vacant Albertsons and asked to discuss what's going on with that property and asked what he could do to incentivize bringing someone in and was able to get that far but to your point he has limited time to do this. He said regarding the infrastructure, this role would demand being a part of that and asked him to speak to that and asked how this role would impact or influence a project in a more successful way and used Golden Gem as an example. **Commissioner Becker** said accelerations of getting vertical structure increases

the tax base within our City which equates to more dollars coming in for those purposes. He stated that Ms. Richmond has a lot on her plate and said some of this inter-governmental interaction is something that economic development can have in their mandate. He said through advocacy through our residents and through our persistence as well as joint persistence with Commissioner Moore, they've agreed to a significant portion of funding for this. **Commissioner Nesta** said he's been in contact with Mt. Dora's department and has a meeting with Sanford next week and said he's been outreaching on this and understanding this role. He said he thinks it's absolutely needed however, he wants to create success for it as he doesn't want to put undue burden on it to where in a year, they burn out due to high expectations and said he wants to see more of an outreach for this. **Commissioner Becker** said there's a shared benefit across the organization and said we're the second largest City in Orange County and said we're significant and we need to be relevant too. He said his ask would be to create an Economic Development Department from a budgetary perspective; an Economic Development Director role, within that Department and to allocate the \$200,000 that we have in the SLFRF.

Leroy Bell said he's not picking on anyone but said he recalls a question that came up during the Mayor debate at the VFW, and said **Commissioner Becker** brought up this position and how it would push the City forward. He stated that he recalls Mayor Nelson said we didn't need one and if he remembers right, what we need is a strong Mayor and someone to walk up to people to bring them into Apopka with a firm handshake. He asked Commissioner Smith how that has worked for Apopka. **Commissioner Smith** said to answer your question, there have been businesses that have come to Apopka as a result of that strong handshake. He said he's not saying we don't need an economic developer director, rather, what he's saying is that we're not ready for a full time economic director and is not in favor of using non-recurring funds in order to start that. Mr. Bell said he appreciates that however, he felt the City is so far behind, we need a full time everything.

Rogers Beckett, 7 West Main Street, Apopka, FL 32703, said he's happy that we're having this conversation because he started here in Apopka in 2006 and recalls doing the CDBG Grant as the time and one of the questions they asked was whether the City had an economic development plan. He said they used that as part of the scoring material for that particular grant and said at that time we didn't but said its time for us to look at this in a progressive manner. He said we've been through Covid and that has changed the United States map. He said we've had businesses leave CA, TX and many of them are coming into the State of Florida. He was at a conference yesterday for investors and said we have 75 million people coming into Orange County every year and asked how we're attracting them to our area. He said this isn't a big ask and we're being short-sighted in some of the things we're looking for. He said Mayor you have a job to do and the Commissioner's have a job to do but to have someone that's accountable that can do what it is they're intended to do. He said Jim does a good job and said we're dealing with plans coming in for approval but we need to start looking future tense. He said we have a lot to offer but who's really promoting us and said we all need to sit down and truly look at where we want to go.

Sylvester Hall, 3091 Rolling Hills Lane, Apopka, FL 32712, said it's been a long night and said at the last City Council meeting, he said he was tired of being a coward and tired

of being a hypocrite. He said everyone here brings a certain level of experience in life and we all have that. He said everyone in this room knows we need economic development but the problem is leadership and the vision for Apopka. He said he watched the progress from last year and evaluated things and said the City of Apopka moves by one man, the Mayor. He said the Mayor knows the history we have together and knows his heart and what he brings to the table. He said its time to stop playing politics with the people of the City of Apopka. He said he's watched the Mayor bring things to the Council and some of the Commissioners don't know anything about them. He said we shouldn't accept this and said the Commissioners have a job to do and that is for the betterment of the City of Apopka. He said Commissioner Smith, now is the time and said we don't need a part time anything.

Albert McKimmie, 3603 Golden Gem Road, Apopka, FL 32712 said what he'd really like is for the City of Apopka to grow with integrity. He said the position of the economic development director is not an option, it's a necessity. He said every time he comes here, he sees bait and switch tactics by developers. He said they come here and promise us one thing and deliver another and said we need developers to be enticed here who have integrity. He said he'd like to see an economic development director deal with controlled development, not uncontrolled development.

Mayor Nelson said he didn't want to get into the policy of the power point here but said he wanted to talk about process. He said when we talk about process and talk about a new department, he said the last new department we created was a City Attorney Department. He said we went through a contracted City Attorney to an inhouse City Attorney and said we did this through the normal process. He said we put it through the budget process; set the job description; who they reported to and said all of these things were put into place before we funded this and said it was a savings and wasn't going to cost us anything. He said we're trying to jump step this process to get to the position of let's set up this new position yet we don't have a job description and don't have a lot of the things that we need to have ironed out before that. He said like Commissioner Smith said, we can wait until the new budget year. He said on the policy side, the only thing he'll say is Qorvo. He said that he was the one responsible for brokering the deal to get Micros to take over the production site at Qorvo. He said we have 2 things that are more pressing than a new position for now that we should consider. He said we had to take a fire tower out of service that was a prototype that we've had for 20+ years and said the fire team came to us and said this fire tower no longer meets engineering codes and needs to be taken out. He said the new fire tower is \$275,000, which is a Capital cost and not an Operating cost and said if we want to spend \$200,000, he would suggest that the fire tower is a much better use of our money for the safety of our fire department and all of our fire fighters. He said in addition, of concern is our pension and said the State of Florida is looking at some pension shortfalls and said we have about \$200,000,000 between the 3 pension funds and like everyone else, we've lost about 15% this year. He said our spend last year was about \$7,000,000 for the three funds and said we know we'll need to spend a lot more this year, based on those losses. **Commissioner Becker** said it sounds like the first argument is that this isn't following a process. He said the process is that we're the City Council and we set policy. He said we can create departments, create roles whenever we so choose as long as the collective body approves it so from a process perspective, that has no bearing on whether or not we should staff this and the fruits that we stand to get from having this

investment. He said pension funds is curious as to you bringing that up and creates a quasi-financial crisis because he's suggesting that we spend \$200,000 a year in terms of economic development. He said from his recollection, he believes we budget for 6% raises every year, which has a direct implication to pension liability. He hasn't seen many people getting up and voicing their opposition to this and doesn't understand the friction is. **Commissioner Velazquez** asked what the time frame. **Commissioner Becker** said he would seek approval for this tonight and we can go from there.

Commissioner Nesta said his thoughts on timing is that this is a specific skill set and said this will take time and said we don't want to rush this and need to make sure we do this right. **Commissioner Velazquez** asked why this is so important to have the decision tonight and said the reason she asks is that initially when you asked for this, she thought it was going to be a presentation and so in order to have been fair to you, she didn't preconceive an opinion by going out and contacting the Cities you had contacted.

Commissioner Becker said when he talked about this in December, he talked about his desire to have this as a formal item and make a formal proposal for us to decide on this topic. He said this was his understanding all the way up until he submitted a note to Mr. Bass earlier last week and said FYI, he'll have his slide deck to you by Thursday afternoon. He said on Friday around 3:00 p.m., he received a call from Mr. Bass saying that he would like to have this as a presentation section, even though we all voted 5-0 to have this item on the agenda as a formal piece of business. He said he balked about this idea as it wasn't fair and said and was told that Mr. Hitt also had a presentation and would be a co-presentation. He stated that was unacceptable as he had not seen the presentation and that he has had no conversations with Mr. Hitt. He said fast forward to 4:00 p.m., he had a joint conversation with Mr. Bass and Mr. Rodriguez regarding what he was trying to get approved, which he said he had put on record in December and spoken on this item several times. He said later that evening, he received another call from our Agenda Clerk, Mr. Bass, who had a conversation with our Mayor to get his buy in. He stated that the Mayor wanted to keep this as a presentation, which he said he wasn't comfortable with this as he wanted to have a decision on this topic. He said ultimately, after a consultation with Mr. Rodriguez it was determined that based off of our minutes and replaying the item, it was officially a Business item. He said for this to be on the agenda as a discussion item is unfair to the people in this room and to those who are here to hear this item.

Commissioner Becker moved to create an Economic Development Department within our budget; create an Economic Development Role as the role within that department and that \$200,000 from the SLFRF funds are allocated to that newly created economic development department.

Commissioner Nesta said should we approve this tonight, what's the next steps from staff now and does staff come back and present to us a role or is that something that you'll need our feedback to move forward and asked what that looks like.

Michael Rodriguez said this Council establishes policy and if adopted, the policy would be the creation of a department and of the position. He said at that point, it is staff's job to administer that policy. He said we'd need to administratively need to create a new

department, properly fund the department and the Administrator would then administer that policy for the creation of a department.

- a. **Motion by Commissioner Becker** and seconded by **Commissioner Nesta** to authorize the creation of Economic Development Department and position of Economic Development Director.
- b. **Motion carried 3-2** with Commissioners Becker, Nesta, & Velazquez voting aye and Mayor Nelson and Commissioner Smith voting nay.

PUBLIC HEARINGS/ORDINANCES/RESOLUTION (Action Item)

1. Ordinance No. 2980 - Second Reading – Small Scale Future Land Use Amendment - 3405 West Ponkan Road
Owner: Phillip and Patricia Simmons
Applicant: P&P Buildcon, LLC
Location: 3405 West Ponkan Road
Project: 9.95 +/- acres
Project Manager: Roxann Read

Mayor Nelson asked if there were any changes since the first reading to which Roxann stated there are no changes.

- a. **Mayor Nelson** asked if anyone from the Public wished to speak on this matter.
- b. Hearing none, he closed the Public Hearing and asked for a Motion to adopt Ordinance No. 2980.
- c. Motion by **Commissioner Velazquez** and seconded by **Commissioner Becker** to adopt Ordinance No. 2980.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

2. Ordinance No. 2981 - Second Reading – Change of Zoning - 3405 West Ponkan Road
Owner: Phillip and Patricia Simmons
Applicant: P&P Buildcon, LLC
Location: 3405 West Ponkan Road
Project: 9.95 +/- acres
Project Manager: Roxann Read

Mayor Nelson asked if there were any changes since the first reading to which Roxann stated there are no changes.

- a. **Mayor Nelson** asked if anyone from the Public wished to speak on this matter.
- b. Hearing none, he closed the Public Hearing and asked for a Motion to adopt Ordinance No. 2981.
- c. Motion by **Commissioner Nesta** and seconded by **Commissioner Smith** to adopt Ordinance No. 2981.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

3. Ordinance No. 2982 - Second Reading – Change of Zoning - Strickland Properties
Owner: Timothy Lee Strickland Revocable Trust
Applicant: Hear This Capital, LLC
Location: 310 Conrad Road
Project: 20.7 +/- acres
Project Manager: Roxann Read

Mayor Nelson asked if there were any changes since the first reading to which Roxann stated there are no changes.

- a. **Mayor Nelson** asked if anyone from the Public wished to speak on this matter.
- b. Hearing none, he closed the Public Hearing and asked for a Motion to adopt Ordinance No. 2982.
- c. Motion by **Commissioner Nesta** and seconded by **Commissioner Smith** to adopt Ordinance No. 2982.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

4. Ordinance No. 2983 - Second Reading – Change of Zoning - Ward Family Partners
Owner: Ward Family Partners, LLLP
Applicant: Bengé Development Corporation
Location: 3951 West Kelly Park Road
Project: 17.6 +/- acres
Project Manager: Roxann Read

Mayor Nelson asked if there were any changes since the first reading to which Roxann stated there are no changes.

- a. **Mayor Nelson** asked if anyone from the Public wished to speak on this matter.
- b. Hearing none, he closed the Public Hearing and asked for a Motion to adopt Ordinance No. 2983.
- c. Motion by **Commissioner Nesta** and seconded by **Commissioner Becker** to adopt Ordinance No. 2983.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

6. Ordinance No. 2985 - First Reading - Small Scale Future Land Use Amendment - Soil Blending Properties
Owners: Soil Blending Properties, LLC & Raynor Apopka Land Management, LLC
Applicant: Michael Dinkel
Location: 136 Hermit Smith Road
Tract Size: 20.15 +/- acres
Project Manager: Roxann Read

***Pursuant to the Agenda review portion of the Agenda, Items 5 & 6 will be read in reverse.*

Roxann Read said this is the first reading of the Small Scale Future Land Use Amendment and said staff believes that this Future Land Use Designation is compatible with the area. She said the applicant is requesting that these properties all have the industrial future land use to be compatible. She said the recommended motion is to accept the first reading and hold over for a second reading and adoption.

- a. Mayor Nelson asked if anyone had any questions or if anyone from the public wanted to speak on this item.
- b. Hearing none, he closed the Public Hearing and asked for a Motion to approve Ordinance No. 2985 at first reading and hold over for second reading and adoption.
- c. Motion by **Commissioner Nesta** and seconded by **Commissioner Becker** to approve Ordinance No. 2985 at first reading and hold over for a second reading and adoption.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

5. Ordinance No. 2984 - First Reading - Change of Zoning - Soil Blending Properties
Owners: Soil Blending Properties, LLC & Raynor Apopka Land Management, LLC
Applicant: Michael Dinkel
Location: 136 Hermit Smith Road
Tract Size: 20.15 +/- acres
Project Manager: Roxann Read

***Pursuant to the Agenda review portion of the Agenda, Items 5 & 6 will be read in reverse.*

Roxann Read said this is the companion Ordinance to the last item and is the first reading of the Change in Zoning – Soil Blanding Properties, LLC. She said the recommended motion is to accept the first reading and hold over for a second reading and adoption.

- a. Mayor Nelson asked if anyone had any questions or if anyone from the public wanted to speak on this item.
- b. Hearing none, he closed the Public Hearing and asked for a Motion to approve Ordinance No. 2985 at first reading and hold over for second reading and adoption.
- c. Motion by **Commissioner Smith** and seconded by **Commissioner Becker** to approve Ordinance No. 2985 at first reading and hold over for a second reading and adoption.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

7. Ordinance No. 2993 - First Reading – Amending Chapter 22 – Capital Facilities and Impact Fees, Article IV – Water, Sewer, and Reuse Capital Facility Fees and Fund, Section 22-97, Section 22-98, and Section 22-99.

Presented by: Vladimir Simonovski

Vladimir Simonovski said Ordinance No. 2993 is basically replacing Ordinance No. 2474, which was adopted February 17, 2016. He stated that on December 2, 2022, Raftelis Financial Consultants, Inc. released the City of Apopka Water, Wastewater and Reclaimed Water rates and Impact Fee Study report. He said the study analysis encompassed a financial evaluation for the 5 fiscal year period of October 1, 2021 – September 30, 2026. He said the study also established the level of service for providing water, wastewater and reclaimed water utility services and developed a fee per equivalent residential unit (ERU), based upon the historical costs of the existing water, wastewater and reclaimed water system; the projected the projected expansion related capital costs provided by the City, and a review of the remaining water, wastewater and reclaimed water capacity available in the System to service new growth.

- a. Mayor Nelson asked if anyone had any questions or if anyone from the public wanted to speak on this item.
 - b. Hearing none, he closed the Public Hearing and asked for a Motion to approve Ordinance No. 2993 at first reading and hold over for second reading and adoption.
 - c. Motion by **Commissioner Velazquez** and seconded by **Commissioner Nesta** to approve Ordinance No. 2993 at first reading and hold over for a second reading and adoption.
 - d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.
8. Ordinance No. 2996 – First Reading - Providing for the Issuance of Trespass Warnings on or within any City Maintained or Owned Public Properties, Buildings, Parks, and for an Appeals Process

Presented by: Michael Rodriguez

Michael Rodriguez said you have before you, Ordinance No. 2996, which establishes a Trespass Warning procedures for folks who are deemed to be trespassing onto Public Property. He said the ordinance defines what constitute public property and the methods and procedures for both either a City employee or a Police Officer to issue trespass warnings. He said the trespass warnings can then be appealed through a civil process, which would use our current existing Code Enforcement Special Magistrate to hear matters of appeal. **Commissioner Becker** asked about section H-1 on page 406 of our packet where it talks about an appeal must be filed in writing and asked if we have provisions for assisting under the ADA. **Commissioner Smith** said we still don't have anything in place in the City of Apopka for our homeless population and said there's nowhere else for them to go and asked what will happen and whether this results in jail or fines. **Michael** said no, that the issuance of a warning is a civil matter and any appeal for this will be handled through Code Enforcement. He said this isn't solely focused on those who are homeless. **Commissioner Velazquez** asked if you have a shop lifter and you bring in the police, and if the store owner tells the shop lifter they can no longer come into the premises. **Michael** said this is solely for trespassing on public property. **Mr. Kimmie** said the State statute, City policy and City ordinances do not supersede our

Constitution and asked if we'll be modifying policies which are unconstitutional so that we may not be trespassed from this building if we refuse to provide I.D. when conducting legitimate business in a lawful manner. **Todd Bengston** said this says City maintained and owned public properties and asked about the bridge. **Mayor Nelson** stated that that the bridge is the County. **Michael** stated that it's City maintained but if we have an agreement for joint maintenance that could be interpreted as City maintained.

Commissioner Becker said the next Ordinance language we have and the provisions are the same and said to piggyback off of Commissioner Smith's concern is that both this and the next Ordinance are really going to impact the un-housed community. He asked Chief McKinley, how are we partnering with organizations that can provide necessary resources to help guide them to different places as they're inevitably disrupted by these ordinances.

Chief McKinley said first off, our officers do have access to resources to provide to the homeless and are familiar with Matthew's Hope in Winter Garden and said they know that Matthew's Hope picks up the homeless at 8:00 a.m. on Tuesday and Thursday's from the trailhead and brings them back to the trailhead in the afternoon. He said they also have an app that allows them to seek resources, whether paid or free resources. He said the advantage to the app is that it checks to ensure whatever resource we may want to send them to is still in business. He said to address your second question, you'll find that we deal with a lot of people who do graffiti and create disturbances and said this isn't necessarily the homeless population. He said we've arrested people for breaking into City buildings and said these people will also be trespassed. He said the first thing we'll do is ask them to leave and if they refuse to leave, they'll be issued a trespass warning. He said the difference of what Commissioner Velazquez was asking about was that if you get a trespass warning in a private business, you come back and you go to jail, no questions asked. He said this is a tool for us to use for people that we don't want to return to City property. **Sylvester Hall** said we know we have a problem with the homeless situation, knowing we have a problem, what is our plan to combat this.

- a. Mayor Nelson asked if anyone had any questions or if anyone from the public wanted to speak on this item.
 - b. Hearing none, he closed the Public Hearing and asked for a Motion to approve Ordinance No. 2996 at first reading and hold over for second reading and adoption.
 - c. Motion by **Commissioner Nesta** and seconded by **Commissioner Velazquez** to approve Ordinance No. 2996 at first reading and hold over for a second reading and adoption.
 - d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.
9. Ordinance No. 2997 – First Reading - Establishing Public Health and Safety Regulations on Public Property within the City of Apopka
Presented by: Michael Rodriguez

Michael Rodriguez said you have before you, Ordinance No. 2997, which is an attempt to try and regulate certain public order offenses and said this has arisen out of concern from our residents as to issues and conduct that is occurring on public property. He said this does create new public order offenses that are of general applicability, most of which

are obvious however they weren't in our Code. He said the prohibition of public urination, public defecation, camping on public areas including our parks, as well as sitting or lying on sidewalks or bicycle paths and creating obstructions. He said changes or modifications can be made prior to adoption.

Commissioner Nesta said #11 on page 413 about laying on a park bench or table and said he didn't want this to be used to drive our teens. **Michael** stated that would be the discretion of the officer and deferred to Chief McKinley. **Chief McKinley** stated something like that wouldn't apply and would be common sense and will be at the discretion of the officer, however, we do have those individuals that sit and sleep on top of the picnic tables, preventing families from enjoying a picnic in the area. He said if someone has taken up a residence out there and we get a complaint, this will be responded to.

- a. Mayor Nelson asked if anyone had any questions or if anyone from the public wanted to speak on this item.
- b. Hearing none, he closed the Public Hearing and asked for a Motion to approve Ordinance No. 2997 at first reading and hold over for second reading and adoption.
- c. Motion by **Commissioner Nesta** and seconded by **Commissioner Smith** to approve Ordinance No. 2997 at first reading and hold over for a second reading and adoption.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

10. Resolution No. 2023-02 - FY22/23 Budget Amendment
Presented by: Blanche Sherman

Blanche Sherman stated that Resolution No. 2023-02 for budget amendment #8 in the amount of \$151,108.00 is to cover the outstanding purchase orders from 2022, going into 2023. **Commissioner Velazquez** stated that this would be without the \$600,000 to which Blanche confirmed that was correct.

- a. **Mayor Nelson** asked if anyone from the Public wished to speak on this matter.
- b. Hearing none, he closed the Public Hearing and asked for a Motion to approve Resolution No. 2023-02.
- c. Motion by **Commissioner Velazquez** and seconded by **Commissioner Becker** to approve Resolution 2023-02.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

CITY COUNCIL REPORTS

Commissioner Velazquez said at the last Council meeting when we went to the Museum and were with the Apopka Youth Council, she said she was approached by the President of the Senior Class, for Wekiva High School who expressed her concerns for a need at her school for many students facing financial hardships; mental stress and food insecurity. She said Ms. Jade asked if we the Council could help by way of support to the Wekiva High School Class Council to help support Senior activities for their students. She said on Thursday, January 12, 2023, she attended the Apopka Farm Workers recognition celebrating 40 years of dedicated service in the agricultural and nursery industry here in Apopka. She said their 40th anniversary general assembly meeting which will include the 5 Regional offices from the State of Florida and all of their delegates will be attending a conference that will be hosted here in our City, on Sunday, March 5, 2023 at the Apopka Community Center. She said this past week, I attended 2 funeral services and said the Mayor was also there. She said the first one was for a long term Rotary member, Mr. Lowell Weinberg and the second service was for a young adult, Jacob Sumlin, who lost his life while bicycling and crossing the street by Walgreens. This young man was the grandson of Kathy Hopper and offered her condolences. She said this past Monday, we all attended the late Reverend, Dr. Martin Luther King, Jr. and said it was a beautiful day of sunshine and was happy to see the attendance of everyone who came out and thanked the Ministerial Alliance, the Chair Person of the Parade, Ms. Monique Morris and our own Commissioner Smith, who was the Co-Chair Person. She said we have our next workshop for South Apopka on Tuesday, January 24, 2023 from 4:00 p.m. – 6:00 p.m. and said this will be held at the John H. Bridges Center. She said last week Orange County held a meeting with all of the newly elected State Representatives, including our former Commissioner, Doug Bankson. She said at that Session, there were Constituents invited from Central Florida. She said she learned that our Mayor was there and spoke at the Public Comment section and hoped that he'll share what was asked of our State Representative. She said at the beginning of tonight's Public Hearing, a Closed Litigation Executive Session was held to discuss pending litigation regarding the Estate of Austin Duran. She said wanted to reiterate that this session does not minimize the tragic event or the loss of Austin Duran, nor does this preclude you, the residents who are concerned and want to know the outcome of the investigation. She said at this time, all inquiries concerning this matter must go through the City Attorney. She said he leaves a great legacy and is not forgotten.

Commissioner Becker said he'll make this short and said both of the people that Commissioner Velazquez are members of our church, the church the Mayor and I go to and offered his condolences to the Swanberg family and to Kathy Hopper. He said his prayers are with her. He thanked Commissioner Smith for the leadership in the parade and said Reverend Bradford said it may have been the largest to date and it was very successful and it was great to see everyone.

Commissioner Smith said thank you to the Mayor and the Commissioners for your attendance and your support during the Martin Luther King Parade and said this was our 14th annual and was the largest we've had and thanked everyone for their support. He said his condolences go out to the two families as well and said our prayers and thoughts are with them. He said as Commissioner Velazquez mentioned, we have the South Apopka Annexation Workshop on Tuesday, January 24, 2023 at the John H. Bridges Center, and we invite the public to please come out and voice their opinion and get factual information as to what will take place. He said in reference to the homeless, we all received a letter from Nathan with suggestions on how we can deal with the homeless and recalls at one of our City Council meetings, Mr. Cooper was present

and said he had offered to build a place for the homeless and will be contacting him to see if he's still willing.

Commissioner Nesta said he echoes the same sentiments as the other Commissioners and said the only other thing was that it's his understanding that we have the final Gannon Report available and if we could get copies of that as soon as possible.

CITY ADMINISTRATOR'S REPORT

Edward Bass said he had nothing to report.

CITY ATTORNEY'S REPORT

Michael Rodriguez said he had nothing to nothing to report.

MAYOR'S REPORT

Mayor Nelson said as noted we have the South Apopka Annexation Community Meeting coming up. He said the Wekiva High School Culinary Program won 7 awards at the OSPS Culinary Competition. He said we have a new attendee to the CRA Board, Linda Voll and said she'll be in attendance for the next CRA meeting. He said a big thanks to Commissioner Smith and Monique Morris for an awesome event and said this was the best ever. He said we're getting started for Black History Month and said the Apopka Youth Council working on a feature of 28 prominent local Black Historians and are excited to see what that looks like and said they're excited and said every day on the City website, we'll have that person posted so everyone can get to know that Black Pioneers in the Apopka area. He said we have the Apopka Historical Society banners up now and said we have a Workshop on the Kelly Park Interchange on Tuesday, February 7, 2023 to discuss the road improvements. He said that will be in Council Chambers from 10:00 a.m. – 12:00 p.m. He said the Orange County Delegation meeting was held and they have to do this prior to the opening Session. He said three things we brought up was the trail gap we have on the West Orange Trail, as well as the gap on the Southwest side of Lake Apopka and said we'll have the complete loop around Lake Apopka. He said he's received commitments from Oakland, Ocoee and Winter Garden and we're excited about their help as well as Lake County. He said Border Lake funding to help us complete that flooding problem as well as some money for affordable housing.

ADJOURNMENT

With there being no further business, to discuss, the meeting adjourned at 1:13 a.m.

CITY OF APOPKA

City of Apopka CC Meeting Minutes of January 18, 2023

Bryan Nelson, Mayor

Attest: _____

Susan M. Bone, City Clerk