

CITY OF APOPKA

Minutes of the City Council regular meeting held on January 15, 2020, 7:00 p.m., in the City of Apopka Council Chambers.

PRESENT: Mayor Bryan Nelson
Commissioner Doug Bankson
Commissioner Kyle Becker
Commissioner Alexander Smith
City Attorney Joseph Byrd
City Administrator Edward Bass

ABSENT: Commissioner Alice Nolan (excused)

PRESS PRESENT: John Peery - The Apopka Chief

INVOCATION – Pastor James Hicks of Center of Faith Church gave the invocation.

CITY OF APOPKA COLOR GUARD - Mayor Nelson called for the marching of the Colors, presented by the Apopka Color Guard.

PLEDGE – Mayor Nelson introduced Genesis Moronta who led in the Pledge of Allegiance. She said on this day in history, January 15, 1929, the Civil Rights leader, Martin Luther King, Jr., was born in Atlanta, Georgia. Dr. King was the leader of the nonviolent Civil Rights movement of the 1950's and 1960's and was awarded the Nobel Peace Prize for his efforts in combating racism and discrimination in 1964.

APPROVAL OF MINUTES

1. City Council regular meeting December 18, 2019

MOTION by Commissioner Bankson, and seconded by Commissioner Smith, to approve the minutes of December 18, 2019 regular meeting. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye. .

AGENDA REVIEW –. City Administrator Bass advised there were no changes.

PRESENTATIONS:

1. Lake Apopka Natural Gas District

Monica Marlow, Director of Marketing and Business Development, thanked City Commissioner Becker and prior Commissioner Arrowsmith for their service on the District Board of Directors. She said the district with 58 employees provides clean, efficient, dependable, and economically viable gas service to over 24,526 customers. She provided an overview of Lake Apopka Natural Gas District and said homes with natural gas have a 6% higher success rate for resale. She affirmed they are the fastest growing municipal owned natural gas utility in the state. The District has been providing gas to Apopka, Clermont, Winter Garden, and surrounding communities for over 60 years.

PUBLIC COMMENT

Rod Olsen spoke regarding Hamrick Estates, stating there was no excuse for what happened. He said Orange County Public Schools, Orange County, and City of Apopka all dropped the ball along the way missing time lines and requirements. He said the project demonstrates the need for system enhancements, and/or additional support to ensure timely and accurate development processing. He advised, as a follow-up, he had a meeting the David Moon earlier this week walking him through the process so that he could have a better understanding. He declared as a homeowner and taxpayer he would like to see Mt. Stirling Road opened to Vick Road and Ponkan Road to relieve traffic in the neighborhood. He stated this would not only relieve traffic, but would enhance the ability for Police and Fire to get into Hamrick and the southern part of Rock Hills. He stated residents are looking for Council to ensure the infrastructure supports the developments. They also look to Council for the concentration of overcapacity in our schools. He stated we must build for the future, not after the fact.

Rev. James Hicks said he was part of the Christian ministerial alliance, but he was here tonight as a concerned citizen. He stated we have experience growth in our city and around the state as a whole. He said he was concerned that with growth comes higher crime rates and need for affordable housing. He asked what the city was doing in order to stay a step ahead of this kind of growth we are experiencing. He hoped that some of these issues could be addressed in the future.

David Hoffman lives in Rock Springs Ridge and said at the December 18, 2019, council meeting, Mayor and three commissioners voted to approve the Hamrick building and development project, 2 units per acre upon the second reading. Commissioner Smith, to his credit, voted no. He stated the approval occurred despite what is clearly a violation. He said OCPS lead attorney made this violation clear in testimony during the quasi-judicial hearing. Rod Olson spoke in opposition to the Hamrick project approval outlining data to show how Apopka public schools are already unacceptably overcrowded. He stated the toxic solution has been to shoehorn our precious children into trailers, jeopardizing the development of their minds, talents, and self-confidence. He declared the City Council chose to side with out of town builders and developers at expense of children who attend Wolf Lake Elementary and Wolf Lake Middle Schools. He declared this does not just impact schools, but crowded streets diminish quality of life on many fronts, disappearing green space, which is the underpinning of unchecked global warming.

CONSENT

1. Approve road closures for Martin Luther King Jr. Parade on January 20, 2020
2. Approve the closure of 6th Street from Christiana Avenue to U.S. 441, January 16, 2020 through January 23, 2020, to facilitate the removal of large trees on the north side of 6th Street.
3. Authorize City Administrator to execute an Agreement for professional engineering services with Reiss Engineering, Inc. for Phase III Wastewater Utility Asset Management Plan in the amount of \$47,005.
4. Authorize the City Administrator to execute an Agreement for professional engineering services with Tetra Tech, Inc. for Industrial Wastewater Pretreatment Local Limits Evaluation in the amount of \$34,508.49.
5. Authorize the City Administrator to execute an Agreement for professional engineering services with Wright-Pierce for a Wastewater Hydraulic Model Update in the amount of \$199,200.

6. Authorize the Police Department to expend funds from the Law Enforcement Trust Fund to purchase a Police canine.
7. Approve a piggyback contract and proposals for studies & analysis on utility rates, fees, impact fees, and cost allocations.
8. Authorize the issuance of blanket purchase orders for fiscal year 2020.
9. Accept the disbursement report for December 2019.

MOTION by Commissioner Smith, and seconded by Commissioner Becker, to approve nine items on Consent. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith, voting aye.

BUSINESS

1. Agreement for On Street Media – Installation of Media Frames

Pam Richmond, Planner, said on August 21, 2019 a presentation was made presenting an opportunity posed by On Street Media. Following the presentation and discussion staff was directed to amend the Land Development Code so that the advertising media frames were allowed by the code. Staff was also directed to come back with an agreement for City Council to contemplate with a few changes that were requested. The LDC amendment is on this agenda. The recommendation is to approve the agreement with On Street Media contingent upon approval of the LDC amendment.

Mayor Nelson opened the meeting to Public Comment. No one wishing to speak, he closed the public comment.

Commissioner Becker pointed out the termination is twelve months and if this is not a good fit for Apopka, it will not be renewed.

Commissioner Bankson said he was a proponent for keeping our taxes low, but what do we trade away. He stated he sees different concerns, one being a safety concern. He said this seems to be in conflict of the desire in the community to not have so much signage.

Mayor Nelson said the city would have the ability to contact On Site Media regarding ads we would be concerned. He said these cover the graffiti on the boxes that would cost approximately \$2,000 per box to clean versus having a revenue stream.

MOTION by Commissioner Smith and seconded by Commissioner Becker, to approve the On Street Media Agreement contingent upon approval of the LDC amendment. Motion carried 3-1 with Mayor Nelson, and Commissioners Becker, and Smith voting aye and Commissioner Bankson voting nay.

PUBLIC HEARINGS/ORDINANCES/RESOLUTION (Action Item)

1. Ordinance No. 2731 – Second Reading – Comprehensive Plan – Large Scale – Future Land Use Amendment From: “County” Rural To: “City” Parks/Recreation
Project: City of Apopka
Location: 2923 Lust Road
Project Manager: Phil Martinez.

The City Clerk read the title as follows:

ORDINANCE NO. 2731

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE APOPKA COMPREHENSIVE PLAN OF THE CITY OF APOPKA; CHANGING THE FUTURE LAND USE DESIGNATION FROM “COUNTY” RURAL TO “CITY” PARKS/RECREATION FOR CERTAIN REAL PROPERTY GENERALLY LOCATED NORTH OF LUST ROAD AND WEST OF STATE ROUTE 429, OWNED BY THE CITY OF APOPKA; COMPRISING 69.5 ACRES, MORE OR LESS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Phil Martinez, Planner, advised there have been on changes from the first reading.

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

MOTION by Commissioner Smith, and seconded by Commissioner Bankson, to adopt Ordinance No. 2731. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

2. Ordinance No. 2745 – Second Reading – Land Development Code - Glitch Amendments
Project: City of Apopka
Project Manager: James Hitt – The Clerk read the title as follows:

ORDINANCE NO. 2745

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE CODE OF ORDINANCES, PART III – LAND DEVELOPMENT CODE, ARTICLE 1: GENERAL PROVISIONS, SECTION 1.8 TRANSITIONAL PROVISIONS; ARTICLE 3: ZONING DISTRICTS, SECTION 3.3 RESIDENTIAL BASE ZONING DISTRICTS AND SECTION 3.6 SPECIAL PURPOSE BASE ZONING DISTRICTS; ARTICLE 4: USE REGULATIONS, SECTION 4.2 PRINCIPAL USES; ARTICLE 5: DEVELOPMENT STANDARDS, SECTION 5.2 LANDSCAPING AND BUFFER STANDARDS, SECTION 5.3 TREE PROTECTION STANDARDS, SECTION 5.5 FENCES AND WALLS, SECTION 5.6 EXTERIOR LIGHTING, SECTION 5.8 NEIGHBORHOOD COMPATIBILITY STANDARDS, SECTION 5.10 SIGNS, AND, SECTION 5.13 ROADS, STREETS SIDEWALKS AND BIKEWAYS; ARTICLE 10: DEFINITIONS AND RULES OF MEASUREMENT, SECTION 10.2 RULES OF MEASUREMENT, SECTION 10.3 USE CLASSIFICATIONS AND INTERPRETATION OF UNLISTED USES AND ZONING DISTRICT BOUNDARIES; AND, APPENDIX “A”: KELLY PARK FORM-BASED CODE, K.2. d. AND g;

PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND SETTING AN EFFECTIVE DATE.

James Hitt, Community Development Director, said there have been no changes from the first reading.

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

MOTION by Commissioner Bankson, and seconded by Commissioner Becker, to adopt Ordinance No. 2745. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

3. Ordinance No. 2746 – First Reading - PUD Master Plan – Oak Pointe
Project: Thompson Hills Estates, LLC
Location: East of Ocoee-Apopka Road, north of McCormick Road
Project Manager: David Moon
The Clerk read the title as follows:

ORDINANCE NO. 2746

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING ORDINANCE NUMBER 2639 IN PART, TO REVISE THE LANDSCAPE BUFFER AND WALL REQUIREMENTS FOR THE OAK POINTE PLANNED UNIT DEVELOPMENT; PROVIDING FOR DIRECTIONS TO THE COMMUNITY DEVELOPMENT DIRECTOR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

David Moon, Planning Manager, said this case was an amendment to an existing Planned Unit Development Master Plan called Oak Pointe, also known as Oak Pointe South. City Council in 2017 approved the Master Plan with a western perimeter wall and landscape buffer for a site located north of McCormick and east of State Road 429. He reviewed photographs to show the general character of the surrounding area. He advised as part of the PUD buffer requirements, a 10-foot buffer with live oak trees and under stored trees with a 6-foot high masonry wall is along 2,900 linear feet on the western perimeter. He said there was a diagram of what the 6-foot wall would look like, being a pre-cast concrete wall with a stone character. This was reviewed by DRC, Planning Commission, and Council and approved with the Master Plan. At this time the applicant is requesting to amend the 10-foot buffer and request it be replaced with a 6-foot high vinyl type fence and to augment the landscaping. He said DRC determined this is really a policy issue that should be set by City Council. As to the buffer type, this is a PUD where an applicant can establish specific development design criteria for their project. In this case, the buffer and wall were required in the 1993 Land Development Code for development occurring along a highway. The Planning Commissioner reviewed the request and recommended unanimously not to approve the amendment to the Plan Unit Development, western perimeter wall. He reiterated DRC determined this was a policy issue for Council. Planning staff did point out that a change to the typical buffer requirement along a state road could establish a precedence for other developments along the highway. He advised this project

was before Council in 2017 and amended in 2018. He stated there were opportunities for the applicant to present alternative plans to this buffer at those times.

Malcom Jones said he lives in Jupiter and the owner of this project. He said he feels strongly about this, which is why he brought this before Council and why he is here tonight. He stated he has been in this industry for over 50 years, building homes in 23 different master plan golf communities. He said what he is bringing here today makes common sense and that is what construction is. The reason they have changed the concrete wall to a vinyl wall is simple, maintenance. They have a 2900-foot barrier that has another barrier in front of it creating a tunnel and they cannot get in there and will create a problem. If not maintained properly then the aesthetics go away. He said they changed the landscaping because of the elevation change. Because of the name of Oak Pointe, they went with oak trees that will become very large and help with the screening on the road. He said this precedence was not quite the same because of the chain link fence this wall is in front of creating a double barrier. He said he appreciates the screening that they are still doing with the trees and the wall, so the sound effect is the same. He said this is about doing the right thing, and what makes the most sense. He affirmed there is a fiber run that goes the entire 2900 feet going to a cell tower. He stated they will need to have access to this fiber line. He said this was not presented before, stating it takes four years to get a permit and they are not going to do anything that is objectionable to try and get their permit. Now they are past that point and bringing this before Council showing why they think it should be changed. He urged Council to look at the common sense behind this.

Jonathan Huels, representing the applicant said this is a mixed use project with 118 single family lots, 120 townhomes, and community amenities, with commercial uses on the south side. He stated, as mentioned, this property does have a western buffer that is approximately 2900 linear feet and the requirement today is to have an uninterrupted masonry wall along that entire length. He stated to give some perspective the edge of asphalt from the pull off lane on S.R. 429 is approximately 85 to 93 feet distance to the chain link fence on the expressway property. He stated the buffer would start on the other side of the chain link fence and composed of 10-feet of vegetative material and then the opaque wall. It does have trees planted on 25-foot centers and some ground cover. This buffer will be maintained by the HOA. He reviewed excerpts from the approved landscape plan showing the chain link fence, ground cover, and tree. He pointed out on the right side there is a mix of canopy and under story trees of mixed species. He reviewed the buffer being proposed and said after meeting with DRC they where they were proposing hedge, they found this next generation of vinyl material for a fence. He stated this type of fence comes with a lifetime warranty, and it is routed construction and has some aluminum re-enforcements internal. He showed a sample of the product stating it comes in a variety of colors. He said it does allow some break openings to allow for access for maintenance purposes. He stated this would provide the desired visual buffer to the highway. He affirmed this fence stands up to sustained winds of 150 miles per hour and gusts up to 130 miles per hour. He said this would be installed with concrete footers and reiterated it has a lifetime warranty. He affirmed this would be a similar buffer as what is approved on the eastern boundary. He stated with the live oaks and this fence it would provide a much greater buffer between the highway and the community than the landscape plan that was approved. He requested recommendation of approval. Mr. Jones added this fence also comes in a stone look.

Mayor Nelson opened the meeting to a public hearing.

Donna Dailey said she lives in Apopka Woods, which is adjoining to this subdivision. She said in the back of their subdivision by the playground area the fence has already been removed. She asked if there would be a main road or entrance opening for this subdivision and would they have traffic from this subdivision to which Mr. Jones advised it was emergency access only. He said the fence will be replaced that it was taken down for a tree removal.

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

Commissioner Becker said a vinyl fence was a nonstarter for him. He spoke of consistency stating there were development sites to the north of this property and if there is not continuity, they will run into the same situation of inconsistency.

Commissioner Bankson agreed we need to set a standard that gives a consistent look.

Commissioner Smith heard they were going to have a gate with a vinyl fence, and suggested they could have a gate with a masonry wall. He agreed we need to be consistent, and added with a unanimous recommendation from Planning Commissioner, we should support them.

MOTION by Commissioner Smith, and seconded by Commissioner Bankson, to deny Ordinance No. 2746 at first reading. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

4. Ordinance No. 2747 – First Reading - Comprehensive Plan – Text Amendment – Future Land Use Element – Policy 3.1.h
Project: City of Apopka
Project Manager: David Moon
The Clerk read the title as follows:

ORDINANCE NO. 2747

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE APOPKA COMPREHENSIVE PLAN OF THE CITY OF APOPKA; CHANGING POLICY 3.1.h; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

David Moon, Planning Manager, said this request is presented by planning staff after going through the Development Review Committee and Planning Commission. He stated planning staff has been approached by numerous developers stating based on market trends there is a need for higher density urban areas to have apartments at densities up to 25-units per acre. Currently the Comprehensive Plan limits the maximum residential density up to 15-units per acre. He said based on specific areas within the City of Apopka and developer interests, planning staff looked at the current text within the Comprehensive Plan Policy and they looked at strategic locations in the city where higher densities for multifamily development may be appropriate. Recommended this evening from planning staff is an amendment to Policy 3.1.h which is high density residential future land use designation with a maximum density of 15-

units per acre. He said it breaks it into two components, high density 15 and high density residential up to 25-units per acre, but with a minimum of 15-units per acre. He said within the second component there are location criteria that are established that ensure can only occur within five strategic locations within the city. There is criteria that those uses can only be located on roadways that are collector or arterial roadways, or within a planned community, that has an internal road grid type system. He reviewed the five locations: 1) City Center around the area where the new hotel is under construction. The zoning within this area is mixed use downtown that already allows for a maximum building height of 75 feet. He advised this area includes a site with interest of a multifamily developer that would like to go up to 25-units per acre. Of the five locations, this is the only one where the maximum density of 25-units per acre becomes automatic if the ordinance is adopted. The other four areas, the applicant must apply through a future land use designation, go through a public hearing process to obtain the maximum density of 25 units per acre. He reviewed the map and pointed to an area that if approved, an applicant can apply to go up to 25-units per acre, stating this did not apply to the other four. 2) The second location straddles S.R. 429 north of U.S. 441, also known as 429 west. He reviewed the map of this area and said the city has been approached by a developer who is in the process of land use amendments and concept plans. This developer would like to have an apartment complex in this area which is surrounded by industrial land uses adjacent to the highway and proposed for commercial/industrial, as well as higher density residential. 3) He advised the third area is located along Boy Scout Road north of S.R. 414, east of S.R. 429, and along Ocoee Apopka Road. He reviewed the map for this area and said it is located in the Ocoee Apopka Road small area study that was conducted when Advent Health was proposed to be constructed. This is one of the five areas staff determined to be appropriate for higher density. 4) The fourth location is south of the hospital within the proposed mixed use district currently zoned the gateway that would allow for buildings up to 45-feet based on the zoning in the location of the hospital location and would be applicable to that. 5) This location is known as Oak Pointe North. He advised the south end of this goes into Oak Pointe South, the case that was just reviewed and extends to Ocoee Apopka Road. There is a 10-acre parcel in this area that could accommodate multifamily development and to the east of this property is the Orange County Reclamation facility. To the west is S.R. 429 and to the north commercial and industrial. He said this looked like an opportunity to increase density where it did not impact adjacent single-family homes. Mr. Moon said the recommendation from Planning Commission is to recommend approval of the amendment to policy 3.1.h to accommodate the high density residential 25 designations. The recommendation to Council is to accept the first reading of Ordinance 2747 and authorize transmittal to the Florida Department of Economic Opportunity. He advised this is considered a large scale amendment requiring transmittal.

Commissioner Becker said he did not recall this coming up during the rewrite of the Land Development Code and inquired if this was being reactionary to developers wanting to develop on these properties, or are we trying to change how Apopka looks to meet current trends.

Mr. Moon advised the driving force was both situations, stating developers based on the specific market needs and they looked at specific areas where higher density may be compatible without impact to existing residential neighborhoods.

Commissioner Becker inquired with this proposed change; there is not change to vertical heights of buildings, to which Mr. Moon said that was correct. He pointed out areas 3, 4, and

5 are in the gateway area where a maximum height of 45-feet is allowed by the Land Development Code. He advised the downtown City Center area is at a height of 75-feet.

Commissioner Becker said he struggled with this, stating it would be one thing if we were not seeing any kind of apartment product coming to Apopka, but we have multiple apartment complexes either developed or approved with our current written density guidelines.

Commissioner Smith inquired where the hotel was located on Map 1 and was it included in this zone. Mr. Moon pointed out the area and advised it is included in the zone. Commissioner Smith also inquired if these developments would require school board approval before coming before council to which Mr. Moon responded in the affirmative.

Commissioner Bankson expressed concerns regarding traffic and height of Map 1 for the area off Monroe. Mr. Moon advised this is the first reading and Council could recommend accepting the first reading of the ordinance with the change that the area north of Main Street, Map 1-1 not be included.

Mayor Nelson inquired if we approve this, can we come back and make changes such as the height requirement. Me. Moon advised the height requirement could be changed in two methods, one to revisit the Land Development Code, and the other through compatibility analysis.

Mayor Nelson said he did not have a problem with the area of the City Center or the two out by the hospital as the height would be in the same general height as those areas.

Discussion ensued regarding density, infrastructure, and the ability of the roads to handle increased traffic.

James Hitt, Director of Community Development, said at the land-use amendment stage Council has complete control. If Council is not comfortable with the change or the ability to require road improvement or schools, Council can say no at that stage.

Commissioner Bankson suggested on Map 1-2, the section that jets out to Hermit Smith Road be amended from the map.

MOTION by Commissioner Bankson, and seconded by Commissioner Smith, to approve Ordinance No. 2747 at first reading, amend Map 1-1 and Map 1-2 as directed, and authorize transmittal to the state. Motion carried 3-1 with Mayor Nelson, and Commissioners Bankson, and Smith voting aye, and Commissioner Becker voting nay.

5. Resolution 2020-01 - FY19/20 Budget Amendment
Presented by: Jamie Roberson - The City Clerk read the title as follows:

RESOLUTION NO. 2020-01

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF APOPKA,
FLORIDA, AMENDING THE BUDGET FOR THE FISCAL YEAR**

**BEGINNING OCTOBER 1, 2019 AND ENDING SEPTEMBER 30, 2020,
PROVIDING FOR A BUDGET AMENDMENT.**

Jamie Roberson, Finance Director advised this was a budget amendment for FY 19/20 and she would answer any questions Council may have.

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

MOTION by Commissioner Bankson, and seconded by Commissioner Smith, to approve Resolution No. 2020-01. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

City Attorney Byrd advised that opening the public hearing for Ordinance 2747 was missed. Mayor Nelson opened the meeting to a public hearing for Ordinance 2747. No one wishing to speak, he closed the public hearing.

CITY COUNCIL REPORTS

Commissioner Bankson said we have seen concerns regarding crime and the three murders. He stated the City of Apopka is proactive in this and residents would like to see more action from the County. He has talked with both alliances in coming together for prayer for our City and both responded favorable. He stated he wanted to make sure the City is strategizing on this and what can be done from the City level.

Mayor Nelson said there is a lot more cooperation between the County and City and there was a press conference held on Saturday. He stated there are short term and long-term solutions. Short term, the city law enforcement is working hard in neighborhoods with known problems. He said we need help from the Attorney Generals and Judges to act upon those hardened criminals.

Commissioner Bankson suggested the City have a resolution asking for help in that manner.

Mayor Nelson said longer-term solutions are after school programs, and how we engage youth. He said staff has some good programs starting February 1, 2020, and there are some openings available. He reiterated we need help with the court system.

Commissioner Becker said if we are contemplating things, what does it look like to have the annexation conversation again to include what the cost of this is and what benefit would we stand to gain.

Commissioner Smith said during his campaign he spoke several times about annexation of South Apopka. He stated this is something we need to look at, stating the news reports these crimes as in Apopka and do not report it is unincorporated. This has an effect on the City of Apopka when it comes to tourists, new residents, and businesses. Annexing gives the city more control on what happens there.

Commissioner Smith reported he was in Tallahassee on Monday supporting teachers for adequate pay and funding for our schools.

Commissioner Becker thanked Mayor Nelson and Brian Foreman for their work on the Farmer's Market being held tomorrow and the concert series that starts Friday evening.

CITY ADMINISTRATOR REPORT – No report.

CITY ATTORNEY'S REPORT

1. City Attorney Byrd said he had provided a draft short-term rental ordinance for Council to review. He said this ordinance was merely a draft and would be amended prior to first reading and advertising. He asked the Mayor and Commissioners to red line and mark the draft ordinance with their recommendations, and provide a copy to him.
2. Litigation update – City Attorney Byrd provided an update on the following litigation:

Opioid Class Action Litigation, stating while there are some of the large pharmaceuticals that have filed bankruptcy, by Apopka joining the litigation, we have a voice at the bankruptcy table through our counsel. He attended a meeting on January 7, 2020, the Deputy Attorney General set up, He advised our case is in Federal Court.

Apopka vs NEB, he advised there was not much to report on this case. He said we have stalled in the discovery stage, part of which was technology issues. He did report we are seeing an increase in the revenue coming in from the new contract. He stated he agreed with the attorney for NEB and Three River to move this to complex business court. He reported we have not had access to our records up to this point. Once received he anticipates receiving more documents and then taking depositions. Their motions to dismiss will be argued in March 2020.

Davis vs Apopka – He reviewed this case stating Mr. Davis filed suit with the original complaint filed in 2015 naming individual officers as well as the City of Apopka. Mr. Davis came to a settlement with all of the individual officers in 2017. The court at that time had dismissed the claims against the City of Apopka and this was on appeal and the 11th Circuit remanded the case back to trial court. Trial court dismissed malicious prosecution and false arrest, and he said those will be on appeal. He advised this went to a jury trial January 8-9, 2020, and the City of Apopka was well represented by the firm of Dean, Riggers, Morton, and Lawton. Captain Miller sat representing the City at the table and did a great job representing the City. The jury deliberated and found no liability for the City of Apopka.

Mr. Byrd spoke on the Hamrick property and said this is not in litigation. OCPS has made a public records request in preparation. He advised there are discussions going on about how to remedy this matter. He stated this is not the council making a decision opposed to OCPS just out of spite. He said the impact of H.B. 7103 is imposed on all of us. He said the city is looking at our impact fees as we need to make sure the impact fees we charge can only be required to be paid at the time of if the building permit and they have to have a rational nexus to the actual costs by this new development. OCPS also had some issues and in July they stopped processing CEA's. He declared it behooves the citizens to know that the impact fee just for schools on a single-family house is approximately \$13,000. He stated the legislation is trying to say the local governments cannot continue to run these

impact fees to where they are out of control. He affirmed H.B. 7103 places a 180-day time frame on the City and this Council had to make a decision. He declared this Council did nothing other than what the new law requires. He reported there was a meeting on January 10, 2020, that he and Mr. Hitt attended where Orange County and OCPS talked about a legislative fix. They did not discuss how to handle things between now and getting the legislative fix. He said if they do not get this, they will not only be twelve months behind, but it will take at least six months to get all the ILA agreements redone and developments are waiting another eighteen to twenty-four months. He declared this is Orange County Public School's problem and this is what he had stated in his memorandum to Council.

City Attorney Byrd reported with regards to where it stands with Hamrick, there was a solution they discussed today and this is between the developer and OCPS. He said they can bring this to the City of Apopka and the City communicated there would be no general objection to what that is. He said he met with the developer's litigation attorney's and they are prepared to file suit if OCPS files. He said every week for these developments it is costing them money and that is part of the calculation, and for Council that is part of the monetary damages that can come if we don't follow the law. He affirmed the state law pre-empts the county charger and the ILA's.

Commissioner Becker said he wanted to publicly state where he stands, as multiple times people have challenged the City on this. He said what he takes most exception is the idea that he is tone deaf about what the impact is on our schools. He affirmed his three daughters attend that impacted area. They all receive a top rated education, they attend those schools and all receive that education in portables. He declared, as a father, he would never do anything that would jeopardize their safety and he feels they are totally safe in the schools they attend. He said he was not saying that portables are not a problem, and they do need to be addressed. As it relates to this particular piece of business, he said he did not think was applicable. He said the only feedback he had from Rock Springs Ridge residents when this first came out was to not allow them to have entrance on Mt. Stirling through Rock Springs Ridge. He said he did not recall any public testimony to the contrary of that point. He stated this was the whole point for allowing for the increase in density, as minor as it was, to insure resident concerns for connectivity into Rock Springs Ridge. He pointed out we were getting Pittman Road developed and finished by the developer at their cost. He declared had it gone down that path without the House Bill, Council would not be having this conversation. Combine this with the fact that the applicant was willing in good faith to put the same exact amount of funds that they would have paid for the CEA mitigation into an escrow fund that would go to OCPS once this is settled. He said he did not see another course of action that would have been amenable.

City Attorney Byrd said the developer did everything they could and there is no difference between what they were proposing in the Development Agreement that Council agreed to than what the CEA would be. The approval of Hamrick did nothing to impact schools, as they basically did what OCPS was unwilling to do via the development agreement.

MAYOR'S REPORT – Mayor Nelson gave a thank you to Pam Richmond, Beau Kirkland, Apopka Police Department, and FDOT for working to divert an issue when the new lights went into operation. He said the Farmer's Market was looking great and will be every Thursday evening

from 5:30 to 8:30 at Kit Land Nelson Park. He said Council was provided a design of the 5th Street Parking Lot and asked any comments be provided to Edward Bass.

ADJOURNMENT – There being no further business the meeting adjourned at 9:30 p.m.

ATTEST:

Bryan Nelson, Mayor

Linda F. Goff, City Clerk