

CITY OF APOPKA

Minutes of the regular City Council meeting held on November 28, 2012, at 8:00 p.m., in the City of Apopka Council Chambers.

PRESENT: Mayor John H. Land
Commissioner Bill Arrowsmith
Commissioner Billie Dean
Commissioner Marilyn U. McQueen
Commissioner Joe Kilsheimer

PRESS PRESENT: John Peery - The Apopka Chief

INVOCATION AND PLEDGE OF ALLEGIANCE – Mayor Land gave the Invocation. He said George Washington issued the first National Thanksgiving Proclamation in 1789 on November 23rd to honor the adoption of the Constitution, “a form of government that would make for safety and happiness”. He asked everyone to reflect on our great Nation and the Constitution that serves our Nation as he led in the Pledge of Allegiance.

PRESENTATIONS – There were no presentations.

CONSENT AGENDA

1. Approve the minutes from the regular City Council meeting held on November 7, 2012, at 1:30 p.m.
2. Approve the minutes from the Coca-Cola facility tour held on October 19, 2012 at 11:00 a.m.
3. Approve the minutes from the Community Meeting on City Charter held on November 8, 2012, at 6:00 p.m. at the Apopka Community Center/VFW Post #10147.
4. Authorize the Mayor or his designee to execute the Sewer and Water Capacity Agreement for Errol Clubhouse Villas.
5. Approve the Track Rehabilitation Agreement between the City of Apopka and Florida Central Railroad; and authorize the Mayor, or his designee, to execute the agreement.
6. Authorize the Chief Administrative Officer to sign the contract, in the amount of \$488,960.00, with AECOM for engineering services in the design and permitting of the North Shore Reclaimed Water Treatment Facility.
7. Authorize the Chief Administrative Officer to execute the Inmate Work Squad Contract II - #WS800, in the amount of \$58,004.00 per year, with the Department of Corrections.
8. Authorize a \$2,500.00 expenditure from the State Law Enforcement Trust Fund to Apopka Pop Warner to support local youth sports.

MOTION was made by Commissioner Dean, and seconded by Commissioner McQueen, to approve the eight (8) items of the Consent Agenda. Motion carried unanimously, with Mayor Land, and Commissioners Arrowsmith, Dean, McQueen, and Kilsheimer voting aye.

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

ORDINANCES AND RESOLUTIONS

1. **ORDINANCE NO. 2273 SECOND READING & ADOPTION - VACATION** - Errol Club Villas, vacating a portion of a platted utility easement, located south of Golf Course Drive and east of Errol Parkway.

Mayor Land said Ordinance No. 2273 meets the requirements for adoption having been duly advertised in The Apopka Chief on November 16, 2012. The City Clerk read the title as follows:

ORDINANCE NO. 2273

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO VACATE A PORTION OF A UTILITY EASEMENT LOCATED SOUTH OF GOLF COURSE DRIVE AND EAST OF ERROL PARKWAY; PROVIDING DIRECTIONS TO THE CITY CLERK, FOR SEVERABILITY, FOR CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION was made by Commissioner McQueen, and seconded by Commissioner Dean, to adopt Ordinance No. 2273. Motion carried unanimously, with Mayor Land and Commissioners Arrowsmith, Dean, McQueen, and Kilsheimer voting aye.

Mayor Land announced Ordinance Nos. 2274 – 2278 do not meet the requirements for adoption and will be held over for a Second Reading.

2. **ORDINANCE NO. 2274 – FIRST READING - ANNEXATION** - City of Apopka, property located north of West McCormick Road and East of S.R. 429. (0.09 +/- acre). The City Clerk read the title as follows:

ORDINANCE NO. 2274

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO EXTEND ITS TERRITORIAL AND MUNICIPAL LIMITS TO ANNEX PURSUANT TO FLORIDA STATUTE 171.044 THE HEREINAFTER DESCRIBED LANDS SITUATED AND BEING IN ORANGE COUNTY, FLORIDA, OWNED BY CITY OF APOPKA, LOCATED NORTH OF WEST McCORMICK ROAD AND EAST OF S.R. 429; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION was made by Commissioner Arrowsmith, and seconded by Commissioner Kilsheimer, to accept the First Reading of Ordinance No. 2274, and hold it over for a Second Reading. Motion carried unanimously, with Mayor Land and Commissioners Arrowsmith, Dean, McQueen, and Kilsheimer voting aye.

- 3. ORDINANCE NO. 2275– FIRST READING - ANNEXATION -** City of Apopka, property located south of Orange Blossom Trail and west of North Hiawassee Road (3.16 +/- acres). The City Clerk read the title as follows:

ORDINANCE NO. 2275

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

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

MOTION was made by Commissioner Kilsheimer, and seconded by Commissioner Arrowsmith, to accept the First Reading of Ordinance No. 2275, and hold it over for a Second Reading. Motion carried unanimously, with Mayor Land and Commissioners Arrowsmith, Dean, McQueen, and Kilsheimer voting aye.

- 4. ORDINANCE NO. 2276– FIRST READING - ANNEXATION -** Adams Brothers Construction Company, Inc., properties located south of East 13th Street and west of Apopka Boulevard (800, 806, & 810 East 13th Street). (2.81 +/- acres) The City Clerk read the title as follows:

ORDINANCE NO. 2276

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO EXTEND ITS TERRITORIAL AND MUNICIPAL LIMITS TO ANNEX PURSUANT TO FLORIDA STATUTE 171.044 THE HEREINAFTER DESCRIBED LANDS SITUATED AND BEING IN ORANGE COUNTY, FLORIDA, OWNED BY ADAMS BROTHERS CONSTRUCTION COMPANY, INC., LOCATED SOUTH OF EAST 13TH STREET AND WEST OF APOPKA

BOULEVARD; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION was made by Commissioner Kilsheimer, and seconded by Commissioner McQueen, to accept the First Reading of Ordinance No. 2276, and hold it over for a Second Reading. Motion carried unanimously, with Mayor Land and Commissioners Arrowsmith, Dean, McQueen, and Kilsheimer voting aye.

- 5. ORDINANCE NO. 2277– FIRST READING - ANNEXATION -** Rock Springs Estates, LLC, property located north of West Lester Road and east of Vick Road. (0.77 +/- acre). The City Clerk read the title as follows:

ORDINANCE NO. 2277

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO EXTEND ITS TERRITORIAL AND MUNICIPAL LIMITS TO ANNEX PURSUANT TO FLORIDA STATUTE 171.044 THE HEREINAFTER DESCRIBED LANDS SITUATED AND BEING IN ORANGE COUNTY, FLORIDA, OWNED BY ROCK SPRINGS ESTATES, LLC., LOCATED NORTH OF WEST LESTER ROAD AND EAST OF VICK ROAD; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Mayor Land opened the meeting for a public hearing.

Clark Sprinkel, 166 Harris Avenue, Winter Park, FL 32789, representing the applicant, said he was present to address any questions of the City Council. No questions were asked of Mr. Sprinkel.

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

MOTION was made by Commissioner Arrowsmith, and seconded by Commissioner McQueen, to accept the First Reading of Ordinance No. 2277, and hold it over for a Second Reading. Motion carried unanimously, with Mayor Land and Commissioners Arrowsmith, Dean, McQueen, and Kilsheimer voting aye.

- 6. ORDINANCE NO. 2278– FIRST READING - ANNEXATION -** Rock Springs Estates, LLC, property located south of West Lester Road and east of Vick Road. (1.59 +/- acres). The City Clerk read the title as follows:

ORDINANCE NO. 2278

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

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

MOTION was made by Commissioner Dean, and seconded by Commissioner Kilsheimer, to accept the First Reading of Ordinance No. 2278, and hold it over for a Second Reading. Motion carried unanimously, with Mayor Land and Commissioners Arrowsmith, Dean, McQueen, and Kilsheimer voting aye.

- 7. RESOLUTION NO. 2012-18** - Supporting Central Florida's "Open For Business" initiative to promote business climate, great service, job creation and business investment. The City Clerk read the title as follows:

RESOLUTION NO. 2012-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, SUPPORTING CENTRAL FLORIDA'S "OPEN FOR BUSINESS" INITIATIVE TO PROMOTE BUSINESS CLIMATE, GREAT SERVICE, JOB CREATION AND BUSINESS INVESTMENT; PROVIDING AN EFFECTIVE DATE.

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

Commissioner Kilsheimer said he is a member of Myregion.org Northwest Regional Board of Advisors, and said this is a region-wide initiative, in an effort to gain cities support.

Mayor Land said he serves on the East Central Florida Regional Planning Council, which has been supportive of the initiative.

CAO Anderson said the initiative involves streamlining permitting processes. He added that Apopka has furthered its involvement with technology to better streamline its process, allowing for building permit submittal electronically. He said there will be a regional signing of the initiative, and he will keep the City Council comprised of Apopka's progress.

MOTION was made by Commissioner Kilsheimer, and seconded by Commissioner Arrowsmith, to adopt Resolution No. 2012-18. Motion carried unanimously, with Mayor Land and Commissioners Arrowsmith, Dean, McQueen, and Kilsheimer voting aye.

SITE APPROVALS

1. APOPKA PHARMACY - FINAL DEVELOPMENT PLAN – Property located east of South Central Avenue and south of Main Street.

Commissioner Kilsheimer disclosed having had a discussion with the applicant prior to this meeting. He advised none of that discussion would influence his vote.

Mr. Davoll gave a brief review of the project stating the land use for this property is commercial, and the land is vacant. The proposal is for a 2,200 square foot building that will be a pharmacy with a drive-through. He advised the applicant has been working with staff through this process; however, during the conceptual plan no access to Central Avenue was stated several times, but the applicant continued to pursue the Central Avenue access. The Community Redevelopment Plan was approved by the City Council in June of 2006, with a conceptual streetscape plan for this area. He displayed the conceptual plan, showing the parking, and stated there would be a loss of 3 on-street parking spaces along Central Avenue, closest to Highway 441, with a right turn in and right turn out. He stated there was one other outstanding issue with regards to the location of the dumpster. He advised the Development Review Committee recommended denial based on the findings of the staff report. The Planning Commission at their November 13th meeting also recommended denial with a 3-2 vote subject to the same findings. He said the main issue was the access on Central Avenue.

In regards to inquiries by Mayor Land, CAO Anderson said staff recommends that the ingress/egress on Central Avenue not be allowed, and that the City begin work on improving the alley way to the rear, granting the access off of 4th Street.

Mayor Land opened the public hearing and advised this was a quasi-judicial hearing.

John Herbert, American Civil Engineering Company, 207 North Moss Road, Suite 211, Winter Springs, FL, said he worked with City staff and they had clear direction. He stated they satisfied all conditions of the architectural review, and felt they could take care of the dumpster situation by sharing with the dumpsters on 4th Street. He affirmed they are down to one issue which is the access. He said without access to South Central Avenue, potential customers would have to drive over 900 feet to access the pharmacy. He displayed a drawing of the property showing the 3 parking spaces in question on South Central Avenue, and stated his client was being asked to use a non-conforming roadway section for the general public to utilize access to this location when a great access point off of South Central Avenue was better. He also displayed a diagram with the access point on 4th Street. He advised they initially wanted to move 5 parking spaces out, and brought this down to the 3 spaces. He discussed various traffic and parking situations stating they had rearranged the site plan to make this situation work. He advised they had held a public community meeting which no one attended. He declared that trading 3 parking spaces for new

activity, which may spark other interest, was the smart thing to do. He respectfully requested the City Council approve the request and let his client continue doing business in Apopka.

Mayor Land said the alley way could be widened and improved, along with lighting.

Commissioner Arrowsmith expressed concern about the handicap parking space location which would require the person parking there to go across the entrance area to access the building. He stated if they approve this right in and out on Central Avenue, it will set a precedent and then other businesses will request the same.

Discussion ensued regarding the parking, ingress and egress of the site, as well as the conceptual plan for the downtown area from 2006.

Commissioner McQueen expressed concern regarding oversized vehicles trying to use the drive-through, and access to commercial delivery trucks.

Commissioner Kilsheimer inquired about the City's plan for providing the kind of access desired in this area, and if there was a time plan.

CAO Anderson advised the development procedure would determine the time plan and the conceptual plan that was approved by the City Council contemplates how to improve the downtown section, and what to do for parking. He said in this particular case, staff recommended improving the alley to 24 feet in width, providing access there, and leaving the parking on Central Avenue as it currently exists. He spoke with regards to the plans that were approved being conceptual and that they would tie in once a developer began to move forward with development. He affirmed the City is ready to move forward with improvement to 4th Street.

Mr. Herbert said the big picture was access, and driving 900 feet around to get to a point that was right next to the main road was unacceptable.

Shubhanh Patel, Savitara General Roofing Contractors, said he was part of the design team and pointed out that the current parcel owner was looking at a \$100,000 loss on the property with this transaction. He stated to purchase the property, then to invest another \$500,000 to develop it, you need a business that will support this kind of investment. He said they meet most of the requirements and said if the access is not provided from Central Avenue, no one would purchase this parcel. He requested the City Council approve this project the way it is presented and stated it would bring in more jobs. He said the owner wants to keep his business in Apopka and is willing to invest money in the City.

Mr. Herbert said they were down to one issue, the 3 parking spaces. He asked to go on record stating this project was not going to be a pain management clinic or a pill mill. He affirmed his client signed a letter stating that he was not going to have a pain management clinic and then he suggested that the real reason the City staff wanted the City Council to deny approval was not because of the 3 parking spaces, but rather they thought the owner wanted to run a pill mill or pain management clinic on the site.

Commissioner Arrowsmith declared he was wrong.

CAO Anderson said he would like to set the record straight on the matter. He stated that has nothing to do with this project. He said staff's position is about ingress and egress off of Central Avenue. He affirmed that the provision for the letter was required by a previous ordinance, and any pharmacy wanting to locate in Apopka is provided the ordinance so that they understand the rules and regulations. He declared again that the issue is the ingress and egress off of Central Avenue.

Linda Laurendeau, 1785 Nordic Ct, said she often wondered why nothing had been developed on this property, and suggested perhaps the entrance on Central Avenue, but require the exit from the rear of the property. She declared the Comprehensive Plan and the conceptual values established by the City Council need to be maintained.

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

MOTION was made by Commissioner Arrowsmith, and seconded by Commissioner McQueen, to deny the Final Development Plan for Apopka Pharmacy, as recommended by staff and the Planning Commission.

Commissioner Kilsheimer inquired if there was a chance to find something acceptable if this were to be sent back to staff, Mayor Land declared they seemed to be locked on the Central Avenue ingress and egress.

Commissioner Arrowsmith said the City desires the site be developed and business brought in, but precedent should not be set with small parcels as this one. He suggested the City take the lead, making the improvements to the alley.

Commissioner McQueen said what goes in on this particular corner will set precedent for everything else that is developed in this area. She affirmed they should not waiver from the conceptual plans of 2006 for the type of development desired in the community.

Commissioner Kilsheimer agreed with Commissioner McQueen stating the ultimate choice is for a walkable downtown community.

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

DEPARTMENT REPORTS AND BIDS

1. Administrative Report - Richard D. Anderson - Chief Administrative Officer

CAO Anderson pointed out the increase in construction saying it is the best it has been in 4 years. He added that he hopes this is a good sign for the economy.

MAYOR'S REPORT - Mayor Land reported the following:

- Spoke about the report provided at the previous meeting by CAO Anderson, regarding requirements for development in residential zoned areas. The City Council felt comfortable with where Apopka stands at this point, and saw no need to address any changes at this time.
- Announced the next Charter Meeting is scheduled for Thursday, January 10, 2013, 6:30 pm - 8:00 pm, at the Apopka Community Center / VFW, 519 S. Central Ave, Apopka, FL
- Announced the City Council meeting scheduled for Wednesday, December 5, at 1:30 p.m. has been cancelled; the next City Council meeting to be held on Wednesday, December 19, at 8:00 pm
- Announced the following holiday events for Saturday, December 8:
 - 10:00 a.m. - The Annual Christmas Parade along Park Avenue
 - 4:00 p.m. - Winter Wonderland in Kit Land Nelson Park
 - 6:00 p.m. - Tree Lighting Ceremony in Kit Land Nelson Park
 - 6:15 p.m. - Movie in the Park in Kit Land Nelson Park
- Recognized Public Service Employee, Melvin Jones, stating the follows:

While performing his duties in the 441 / Home Depot area in Apopka; Melvin found personal items belonging to Sara H. Irrgang, M.D., Associate Medical Examiner, Office of the Medical Examiner, Orlando, FL.

Melvin contacted Dr. Irrgang's office to notify her of the items found; and that she could claim them at City Hall. Dr. Irrgang was most appreciative of the actions taken by Melvin.

On behalf of the City Council, Mayor Land acknowledged Melvin, thanking him for his honesty and integrity.

- Announced that November 29th is Commissioner Arrowsmith's birthday. The City Council joined Mayor Land in wishing Commissioner Arrowsmith a very happy birthday,

OLD BUSINESS

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

NEW BUSINESS

1. **COUNCIL** - There was no new business from the Council.

2. **PUBLIC** - There was no new business from the public.

ADJOURNMENT - There being no further business to discuss, the meeting adjourned at 9:36 p.m.

ATTEST:

John H. Land, Mayor

Janice G. Goebel, City Clerk