

CITY OF APOPKA

Minutes of a regular City Council meeting held on January 4, 2012, at 1:30 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 Kathy S. Till

PRESS PRESENT: John Peery - The Apopka Chief

Mayor Land called the meeting to Order.

INVOCATION – The Invocation was given by Mayor Land.

APOPKA POLICE DEPARTMENT COLOR GUARD – The Colors were presented by the Apopka Police Department Color Guard, composed of: Officer Victor Barger, Officer Vance Maloney, Officer Josean Velez-Cantres, Firefighter John Howell, and Firefighter Danny Criswell.

PLEDGE OF ALLEGIANCE – Mayor Land led in the Pledge of Allegiance.

EMPLOYEE RECOGNITION

1. Charles Stephenson – Public Services/Fleet Management – 5 Year Service Award – Mayor Land said Charles was not present, and would be presented his award at a later time.
2. Ashley Sullivan – Police/Field Services – 5 Year Service Award – Mayor Land said Ashley began working for the City on December 15, 2006, as a police officer Trainee. On February 21, 2007, she was reclassified to a Police officer, which is her current position. The City Council joined Mayor Land in congratulating Ashley on her years of service to the City.
3. Ben Mewhirter – Fire/EMS – 10 Year Service Award – Mayor Land said Ben was not present, and would be presented his award at a later time.
4. Terrance Hicks – Public Services/Water Distribution Maintenance – 10 Year Service Award – Mayor Land said Terrance was not present, and would be presented his award at a later time.

Mayor Land read the following statement: If you wish to appear before the City Council, please submit a Notice of Intent to Speak card to the City Clerk. City Clerk Goebel said one card was received for the Taco Bell Appeal.

PRESENTATIONS - There were no presentations.

CONSENT AGENDA

1. Approve the minutes from the regular City Council Meeting held on December 21, 2011, at 8:00 p.m.
2. Ratify the Orlando Apopka Airport Fixed Based Operations (FBO) and Fueling Operations Lease between the City of Apopka and SelectAviation, LLC.
3. Approve the Disbursement Report for the month of December 2011.

CAO Anderson said Item #2 was being pulled from the Consent Agenda.

MOTION was made by Commissioner Till, and seconded by Commissioner McQueen, to approve items 1 and 3 on the Consent Agenda. Motion carried unanimously, with Mayor Land and Commissioners Arrowsmith, Dean, McQueen, and Till voting aye.

SPECIAL REPORTS AND PUBLIC HEARINGS –

1. Taco Bell of America, c/o Sara Scott, Dynamic Aspects, Inc., has requested that the City Council hear their appeal regarding the denial by the Planning Commission of the Variance to allow “Flying Arches” to be installed on each elevation of Taco Bell, located at 307 East Main Street. – City Planner David Moon gave an overview of the request, and explained the reasoning for the Planning Commission’s denial of the “flying arches”. The staff report is attached hereto and made a part of these meeting minutes.

Mayor Land said the public hearing was duly advertised in The Apopka Chief on December 16, 2011.

Mayor Land opened the meeting for a public hearing.

Sara Scott, 1940 Dolgner Place, Sanford, Florida, spoke to the City Council regarding the definition of signs contained in the City’s new sign ordinance, and how the “flying arches” is primarily to provide lighting, and will not have any identifying marks on the arches. She also expressed concern over sale losses and believes the arches will help with visibility and sales.

Alice Murphy, 2017 Red House Rd, Richmond, KY, said she is the Construction Manager for Taco Bell, and as such, has inside knowledge of the design and construction. She reiterated Ms. Scott’s comments.

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

Commissioner Arrowsmith stated he would abstain from voting in this matter as the bank leases an easement to Taco Bell, and their properties are contiguous. He added that he feels the “flying arches” is not a sign since it has no letters on it, but just a part of the design of the building.

Commissioners McQueen, Till and Dean concurred with Commissioner Arrowsmith’s comments.

MOTION was made by Commissioner Till, and seconded by Commissioner McQueen, to grant the appeal and allow the “flying arches”. Motion carried 4-0, with Mayor Land, and Commissioners Dean, McQueen, and Till voting aye, and Commissioner Arrowsmith abstaining and filing a Form 8B.

ORDINANCES AND RESOLUTIONS - There were no Ordinances or Resolutions.

SITE APPROVALS – There were no site approvals.

MAYOR'S REPORT

Mayor Land advised they would come back to the Department Reports and Bids.

1. Report from the City Attorney and recommended action for Council. – Mayor Land said as a carryover from the last meeting, the City Attorney will be reporting with regards to the landfill matter.

City Attorney Frank Kruppenbacher reported the City conferred with Hopping Green & Sans Law Firm in Tallahassee that has helped the City with a number of issues with the Department of Community Affairs, and our Land Planning and Comprehensive Plan work. They also conferred with Bob Nabors of Nabors Giblin & Nickerson, who is a Constitutional expert in Florida regarding issues of that nature. He advised he then met with Mayor Land and CAO Anderson to work through the recommendation before the City Council today. He reviewed these recommendations to include immediately adding a resolution to the agenda today based upon emergency circumstances by placing a moratorium through June 30, 2012, on any more landfills being opened within the City of Apopka or the conversion of any landfills within the City of Apopka to a different classification, to assure the City has time to study the issue and draft the appropriate ordinance prohibiting the same. The second step would be to immediately adopt a resolution expressing the City of Apopka's opposition to any new landfills within a specified number of miles of the municipal limits to be determined by the City Council, and conversion of any existing landfills within that radius to a different classification. The third step is to authorize City staff to bring to the City Council an ordinance that updates the City's ordinance and include permanent prohibition to landfills within any City zoning classification or the conversion of any existing landfills beyond their current licensed use. The fourth step would be to authorize the Mayor to present, at the Mayor's Committee on landfills, the following City of Apopka positions as actions that should be recommended by the committee:

- A. Evaluation of privatizing the county landfill operations and evaluation of making the county's landfill operations more financially efficient;
- B. Equitable sharing of the tipping fees by and between the county and cities within Orange County;
- C. An Evaluation of all options to reduce the cost of trash disposal to the citizens of Apopka;
- D. Evaluate options for oversight of the existing landfill within the City; and
- E. Authorize the Mayor to request inclusion of citizens in the Mayor's study committee process.

City Attorney Kruppenbacher advised that this doesn't mean they should be privatized or that they shouldn't, but that this should be evaluated; whether there were ways to make it more efficient if they don't privatize, with the goal of reducing the costs to the citizens.

Commissioner Till requested an explanation of recommendation "D".

City Attorney Kruppenbacher said the City never permitted this landfill, but annexed it into the City limits to have better control. He stated one of the things the Mayor wanted to evaluate, in light of the regulator controls currently in place, is if it would be more prudent and better to either de-annex the Vista Landfill, or to turn management and control of it back over to the County, as part of an overall "landfill consistent approach" throughout the regions. However, no decision has been made; it is just to evaluate and would require Council's approval.

City Attorney Kruppenbacher went on to report that the fifth step is to authorize the Mayor to send communication to all Apopka registered voters explaining the City's position; the history of the landfill approved by Orange County in the City, and the actions being taken by the City including a mail-in advisory preference ballot.

Mayor Land said questions would be entertained and then go forward with the recommended resolutions.

In response to Commissioner Till questioning whether the resolutions would withstand legal challenge, City Attorney Kruppenbacher said he specifically had the attorneys in Tallahassee draft the resolutions because of their experience with this regard.

Discussion ensued regarding the mileage radius of municipal limits for any new landfills or conversion of existing landfills and the legality, as well as being date-specific with the moratorium.

City Attorney Kruppenbacher advised the Council has no authority once you go outside the municipal limits. He further explained that by passing this resolution, they were only doing so as a body representing the citizens of Apopka, making the City's official position as it relates to landfills known to the County Commission, which has that jurisdiction. He affirmed the reason a date was placed on the moratorium was because the courts have been strict that moratoriums should be reasonable in time. He said the ordinance would be in place well in advance of that date.

Following discussion Mayor Land suggested making it a 1-mile radius and also add the language *any landfill that would adversely affect the citizens of our city* and then determine that at a future time.

City Attorney Kruppenbacher read Resolution 2012-01 by title only:

RESOLUTION 2012-01

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF APOPKA,
FLORIDA, ESTABLISHING A TIME-LIMITED MORATORIUM ON THE**

APPROVAL OF NEW LANDFILLS OR THE CONVERSION TO A DIFFERENT CLASSIFICATION OF EXISTING LANDFILLS WITHIN THE CORPORATE LIMITS OF THE CITY OF APOPKA, PROVIDING THAT THE TIME-LIMITED MORATORIUM WILL EXPIRE ON JUNE 30, 2012; PROVIDING FINDINGS; PROVIDING A DEFINITION; PROVIDING 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 McQueen, to adopt Resolution 2012-01.

In response to a clarification by Commissioner Till, City Attorney Kruppenbacher explained this resolution essentially keeps everything in a status quo and represents that the City is moving forward in this time-frame to prepare an ordinance to make permanent what we can as prohibitions. During that time the City Council will be obtaining input from the public and the benefit of the committee's input.

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

City Attorney Kruppenbacher read Resolution 2012-02 by title only to include the modification:

RESOLUTION 2012-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, EXPRESSING OPPOSITION TO LOCATING NEW LANDFILLS OR THE CONVERSION TO A DIFFERENT CLASSIFICATION OF EXISTING LANDFILLS WITHIN CERTAIN DISTANCES FROM THE CORPORATE LIMITS OF THE CITY OF APOPKA, OR THOSE THAT ADVERSELY AFFECT THE CITIZENS OF APOPKA, OR THE CITY OF APOPKA, FLORIDA; PROVIDING FINDINGS; PROVIDING AN EFFECTIVE DATE.

City Attorney Kruppenbacher advised the motion includes authorizing the changes in the body of the resolution to comport with those modifications and to correct any scrivener's errors.

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

MOTION by Commissioner Till, and seconded by Commissioner Dean, to adopt Resolution 2012-02, as presented. Motion carried unanimously with Mayor Land, and Commissioners Arrowsmith, Dean, McQueen, and Till voting aye.

DEPARTMENT REPORTS AND BIDS – There were no department reports or bids.

MAYOR’S REPORT (continued) Mayor Land reported receiving a card from the Family of James W. Ferguson, expressing their appreciation for the beautiful flowers sent by the city in memory of Mr. Ferguson. He said Mr. Ferguson retired in 1992 from the City of Apopka.

Mayor Land also reported receiving a letter from Steven Deviese, Parade Chairperson, for the 35th Annual Christmas Parade, expressing appreciation on behalf of the Foliage Sertoma Club of Apopka, for participating in the parade held Saturday, December 10.

OLD BUSINESS

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

NEW BUSINESS

1. **Council** - Commissioner Till reminded the Council members the Florida League of Cities (FLC) is hosting a Webinar tomorrow, from 2 p.m. to 3 p.m. The team will be talking about some of the key issues that will be coming forth in this year’s Legislative Session which begins January 10th. Also, they are going to be talking about advocacy. She encouraged the Council members to be a part of the Webinar.

Commissioner Till also reported the FLC is hosting Legislative Action Days in Tallahassee on January 24th and 25th.

2. **Public** – There was no new business from the public.

ADJOURNMENT - There being no further business to discuss, the meeting adjourned at 2:30 p.m.

Following the call for Adjournment, Michael Cooper approached the dais and said he wanted to speak during New Business, but did not hear when it was called. The City Council remained while he spoke at the dais regarding: Enterprise Zone, and Clean-up of Lake Marshall and Bradshaw Road areas. Community Development Director said he will contact Orange County regarding the Enterprise Zone matter, and Chief Manley said there are already pending Code Enforcement activities in this area.

ATTEST:

John H. Land, Mayor

Janice G. Goebel, City Clerk