CITY OF APOPKA MINUTES
Minutes of the City Council Meeting held on November 16, 2022 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

Press Present – None

INVOCATION & PLEDGE OF ALLEGIANCE:

Commissioner Smith provided the Invocation and led in the Pledge of Allegiance. He then provided the fact of the day, as follows: On November 13, 1982, the Vietnam Veterans Memorial is dedicated in Washington, D.C. The long-awaited memorial was a simple V-shaped black-granite wall inscribed with the names of the 57,939 Americans who died in the conflict, arranged in order of death, not rank, as was common in other memorials. The designer of the memorial was Maya Lin, a Yale University architecture student who entered a nationwide competition to create a design for the monument.

SWEARING IN OF COMMISSIONER KYLER BECKER:

Commissioner Kyle Becker was sworn in by his mother, Margaret Becker, and he was also accompanied by his wife and three daughters. Commissioner Becker stated that his commitment to the City is to honor the organizational chart that is published within the budget. The citizens of the City and the front-line employees are the most important people in the City of Apopka. Without the frontline employees that service our population and the citizens that elect the officials to be their representatives, none of this would be possible.

APPROVAL OF MINUTES

1. Regular Council Meeting Minutes of November 2, 2022.

    a. **Mayor Nelson** asked if everyone has had a chance to review and whether anyone had any changes or additions.

b. Hearing none, he asked for a motion to approve the meeting minutes of November 2, 2022.
c. Motion by **Commissioner Becker** and seconded by **Commissioner Velazquez** to approve the **meeting minutes of November 2, 2022.**
d. **Motion carried unanimously,** with Mayor Nelson, and Commissioners Bankson, Nesta, Smith, & Velazquez voting aye.

AGENDA REVIEW

Edward Bass stated there that was one correction to the agenda: Item three (3) under public hearings says first reading, but it is a second reading. All documents attached to the item are correct, it is just a scrivener's error on the front page.

PUBLIC COMMENT PERIOD

Representative Doug Bankson of **585 E. Sandpiper Street, Apopka, Fl 32712** stated that he is very appreciative to the people of the City and the district. He brings greetings to you and he is excited to work together; he wants to make 'thirty-nine shine.' He will be sworn in on Tuesday, November 29, 2022. His two main focuses will be appropriation and legislation.

Dennis New of **105 W. Magnolia Street, Apopka, FL 32703** welcomed back Commissioner Becker. He went on to stated that he would like to remind the commission that they are elected to represent the voters of Apopka, not rule them. We went on to state that at the end of the last meeting the Mayor distributed a sheet that he presented as a City timeline of the Code Enforcement issues, on his home. He obtained a copy and has many questions: 1) why is it presented on a timeline that does not match the public information, that he obtained from the police department, 2) why does the letter, presented on the behalf of the City, say the Apopka Voice reporter, who worked on his opponents' campaign. He has the CD with the City timeline and it only reinforces the lack of trust that he and many others have in this administration. The Mayor seems to believe that he comes because of Code Enforcement issues and nothing could be further from the truth. He comes because he loves the city and has issues with the maleficence involved with the management of this City and its various departments. He stated that he has come here because of information that has proven to be untrue: first was the City reserves were depleted by the previous administration, second was the candidate would work for half salary, then played the system to double his pay and now has stuck an $8,000 a year pay raise into the budget when the commission and tax payers were distracted by the death of a firefighter and safety issues at the fire department. Now the City will pay a second consulting firm to conduct a study on why Firefighter Duran died. Paying a firm for a study is like paying for a survey. Are you doing the study for absolution of where the blame lies? The State Fire Marshall's report was very clear. He went on to state that the City has outdated infrastructure, possibly dangerous water mains, inadequate roadways, lack of sidewalks, and lack of property planning in regards to stormwater runoff. We have flooding issues all over town, not caused by the hurricane, but by the poorly designed runoff systems. He went on to state that after the last council meeting the Mayor threatened a woman with being banned from the City Council Meetings. He concluded by stated that this is not a court, this is a public forum.

Sylvester Hall of **3091 Rolling Hills Lane, Apopka, FL 32712** welcomed Commissioner Becker back to the council. He went on to express is concerns with racism in America and the City of Apopka.

Leroy Bell of **2308 Blue Meadow Ct, Apopka, FL 32703** stated that it seems like Apopka has a glimpse of hope; we have Commissioner Kyle Becker back. It does not matter if you agree or disagree with him, he is a man that will give you his best always. He thanked Commissioner Becker. Mr. Bell went on to stated that it is troubling to find Clear Lake and the way it is flooding. His community is across the street and the rain has brought sand all the way back down, in the drainage ditches. He saw the street sweeper out about a week ago, he tried to stop the guy to sweep down the street and he disappeared. He stated that it is time for the citizens to be listened to.

Albert Mckimmie of **Golden Rod Road** welcomed Commissioner Becker back to the council. He went on to state that he is here to discuss Parkview Preserve. Golden Gem Road has recently become a shortcut for numerous other developments in close proximity. The Police Chief and the Sherriff's Department have raised concerns for public safety. He went on to state that this road does not meet the standard criteria for the traffic, in the area and the planning department is aware of it. Orange County is responsible for the road; however, they have no documented plan to upgrade it. He questioned by Parkview Preserve was not made to comply with the same conditions as enforced on Mid Florida Materials, with respect to upgrading their access to the property. He asked why permit planning for 282 homes, on a road that cannot sustain it. He asked if money is being made by those with prior knowledge of information, sharing, and manipulating real estate transactions. Mr. Mckimmie continued with his concerns with approving the development of 3000 homes, at the end of Golden Gem Road. ***Mr. Mckimmie submitted a copy of his full comments to the City Clerk's Office and is available upon request. ****

Michael Duran of **11504 Almo Ct, Clermont, FL 34711** gave and update on the Clydesdales to Apopka. They have been advertising the event and will continue to do so over the next couple weeks. There will be eight (8) Clydesdales with hitches and they will set stage on S. Orange Ave. He encourages everyone to pass the word, it will be a grand event backing up to the Christmas Tree Lighting Ceremony. The will also be doing a $10.00 raffle the winner will have the opportunity to ride on the hitch. 100% of the money collected from that will be donated to the Armando Bullhouse Foundation. There will also be 'Austin Strong' t-shirts for sale, and 100% of those proceeds will go to the Apopka Fire Stations.

CONSENT (Action Item)

1. Execute release of Code Enforcement Lien - 105 West Magnolia Street, Apopka, FL.
2. Authorize the Mayor to execute Subdivision Settlement Participation Form for Opioid Litigation between the State of Florida and Walmart.
3. Authorize the Mayor to execute the Professional Services Agreement with Commit Dance Fitness, LLC.
4. Authorize the Police Department to accept the Edward Byrne Memorial Justice

Assistance Grant (JAG) to purchase police equipment.
5. Authorize the Police Department to purchase two Ford Expeditions from Mullinax Ford.
6. Authorize the execution of piggyback contracts for fiscal year 2023.
7. Authorize the issuance of evaluated and sole source memos.
8. Accept the disbursement report for October 2022.

a. **Mayor Nelson** asked if anyone had any questions about any of the items on Consent.
Commissioner Velazquez asked for an update on item number two: Authorize the Mayor to execute Subdivision Settlement Participation Form for Opioid Litigation between the State of Florida and Walmart. **Michael Rodriguez, City Attorney,** stated that this is not the first settlement form that has been presented on consent, every opioid litigation case, we have had a settlement form. That form authorizes the City of Apopka to participate in the disbursement of the settlement funds. During his report tonight, he will give a report; the State has already begun to do the allocation of the funds. This is the latest case that the state has settled.

b. Hearing no additional questions, he asked for a motion to approve the eight (8) items on Consent.
c. Motion by **Commissioner Velazquez** and seconded by **Commissioner Smith** to approve the eight (8) items on Consent.
d. **Motion carried unanimously,** with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

BUSINESS (Action Item)

1. Appointment of Blanche Sherman as Finance Director
Presented by: Edward Bass
Edward Bass, City Administrator stated that he is recommending Blanche Sherman as new Finance Director. She is very well qualified; she brings experience to Apopka from utilities, transportation, accounting, and finance experience.
Blanche Sherman brought greetings to the council and thanked them for the opportunity. She official start date is December 5, 2022.
Each commissioner welcome Ms. Sherman to the City of Apopka team, while **Commissioner Becker** stated that he is looking to get back to month to month budgeting, transparency with the funds, and full accounting of the reserve balances, in the bank.

   a. **Mayor Nelson** asked for a motion to appoint Blanche Sherman as the Finance Director of the City of Apopka
   b. Motion by **Commissioner Velazquez** and seconded by **Commissioner Smith** to appoint Blanche Sherman as the City of Apopka Finance Director
   c. **Motion carried unanimously,** with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

2. Kelly Park Crossings - Development Agreement
   Owner(s): Kelly Park VB Development, LLC
   Applicant: Lowndes c/o Tara Tedrow
   Location: Southwest corner of S.R. 429 and Kelly Park Road Tract Size: 259 +/- acres
   Project Manager: Jean Sanchez

Jean Sanchez stated that this is a request to approve the Kelly Park Crossings Development Agreement detailing the obligations in both, the developer and the City, and specifying standards and conditions, that will govern the development of the Kelly Park Crossings Project. The Master Plan was recently approved for Kelly Park Crossings. It memorializes the DA current code allowances, for density bonus. Those density bonuses outlined in the DA are codified under section R1A and C in the KPI Form Based Code, in which developments that include a vertical mix of residential and commercial or office, may be entitled to the maximum density and intensity allowed, with the bonus and an additional floor, for every floor use for non-residential use. The second section states that it entitles them the development to one additional floor, for each floor of parking garage, if located above or below the residential, commercial, or office space. The DA also includes the construction timeline of different areas and infrastructure improvements, as well as the minor design modifications, related to crosswalks and setbacks for vehicle station use, specifically. There is a minor change in the DA, under the default section. The recommended motion is to approve the Kelly Park Crossings Development Agreement.

Tara Tedrow, Lowndes Law, 215 North Eola Drive, Orlando, FL stated that the minor change that is proposed is a scrivener's error on their part. The intent was always that, in the event of a default there would be certain parties responsible for exercising self-help rights, to ensure that the project, as contemplated and approved will be developed timely. We just put that language in there to make sure it was clear.
Commissioner Becker questioned a portion under section 5, which states that the City has a right to approve cost estimates, who would do that approval: staff or the council.
Jean Sanchez stated that that refers to the upsizing of utilities, so that would be reviewed by Public Services. **Commissioner Becker** asked if they have guardrails of how much to approve, before it must come back to council. **Vladimir Simonovski** stated that this is just evaluating the difference in the cost, for material. **Commissioner Becker** stated, regarding school capacity, they are already under an agreement that has already been approved, on file, with Orange County Public Schools, as it relates to this property. He asked if they are adding anything to it, at this stage, that would cause that to be out of compliance, for what OCPS already has on the books. **Tara Tedrow** stated correct. There is already a capacity enhancement agreement that has been on the books for quite some time, with Orange County. That allocates some units, that have already been accounted for and cost for mitigation that have already been accounted for, in that agreement. That would need to be paid on a per unit basis. If they go to pull permits and the capacity reservation that they are seeking are not available, at the County, there are protocols in place that OCPS have set, that we would have to follow to mitigate for anything above and beyond that CEA that is already in place. Commissioner Becker then asked is there a joint prospective, for the City and applicant, what constitute 'minor.' **Michael Rodriguez** stated that it is defined in the paragraph, that minor is those that do not materially affect or modify the project, for developments of this type. He

went on to state that if we believe that the modifications go beyond a minor then we can amend the agreement and all amendments do have to come back before the council.
Commissioner Becker stated that the point of contention, for transportation would be Gold Gem Road. It is a County Road and the County should bring it up to standard. Outside of capacity increase, it needs to come up to standard, in terms of general usage. If the expansion is not in the short term, we should still county on Orange County to do the improvements.
Tara Tedrow stated that Pam has been very proactive; they had a call earlier this week and they have a call next week with other developers, with approved projects, in the area.
Commissioner Nesta asked if Kelly Park VB Development will be the developer of everything on this project and **Tara Tedrow** stated that some segments, yes. They will bring in certain specific industry experts to handle parts of that.
Commissioner Smith asked if they have a timeline as to when we will see the road improvement and **Tara Tedrow** stated that that will be determined on the timeline of the overall project.

a. Mayor Nelson then asked if anyone from the Public wanted to speak on this matter.

   Albert Mckimmie stated that Golden Gem Road was built without proper foundations. Mid Florida Materials upgraded the road to carry the heavy traffic; there is no traffic allowed from Kelly Park down to Mid Florida Materials because the road has no subbase to allow heavy traffic.

   Commissioner Becker stated that he agrees with the comments and something must be done to Golden Gem, as this project to moves forward.

b. Mayor Nelson closed the public hearing and asked for a Motion to approve the Kelly Park Crossings- Development Agreement.
c. Motion by **Commissioner Becker** and seconded by **Commissioner Nesta** to approve the Kelly Park Crossing-Development Agreement.
d. **Motion carried unanimously,** with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

PUBLIC HEARINGS/ORDINANCES/RESOLUTION (Action Item)

1. Ordinance No 2972 - Second Reading - Small Scale FLUM – Ace Property
   Owner(s): Ace Property, LLC
   Applicant: Lam Civil Engineering, Inc. c/o Quang Lam, P.E.
   Location: 447 Alabama Avenue
   Tract Size: 1.28 +/- acres
   Project Manager: Jean Sanchez

   Mayor Nelson asked if there were any changes which Jean Sanchez stated there are no changes.

a. Mayor Nelson then 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. 2972.
c. Motion by **Commissioner Nesta** and seconded by **Commissioner Velazquez** to adopt Ordinance No. 2972.
d. **Motion carried unanimously,** with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

2. Ordinance No 2973 - Second Reading - Small Scale FLUM – 3207 Clarcona Road
Owner(s): 3207 Clarcona Road, LLC
Applicant: Vihlen & Associates, P.A. c/o Sidney L. Vihlen, III
Location: East of Clarcona Road, west of SR 414 and north of Stone Road
Tract Size: 10.08 +/- acres
Project Manager: Jean Sanchez

Mayor Nelson asked if there were any changes which Jean Sanchez 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. 2973 at First Reading and hold over for Second Reading and adoption.
c. Motion by **Commissioner Smith** and seconded by **Commissioner Becker** to adopt Ordinance No. 2973.
d. **Motion carried unanimously,** with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

3. Ordinance No 2974 - Second Reading - Change of Zoning - 3207 Clarcona Road
Owner: 3207 Clarcona Road, LLC
Applicant: Vihlen & Associates, P.A. c/o Sidney L. Vihlen, III
Location: East of Clarcona Road, west of SR 414 and north of Stone Road
Tract Size:10.08 +/- acres
Project Manager: Jean Sanchez

Mayor Nelson asked if there were any changes which Jean Sanchez 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. 2974 at First Reading and hold over for Second Reading and adoption.
c. Motion by **Commissioner Nesta** and seconded by **Commissioner Becker** to adopt Ordinance No. 2974.

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

4. Ordinance No 2979 - Second Reading – Annexation – 3405 W. Ponkan Road
Owner: Phillip and Patricia Simmons
Applicant: P&P Buildcon, LLC
Location: 3405 W. Ponkan Road
Project: 9.95 +/- acres
Project Manager: Roxann Read

Mayor Nelson asked if there were any changes which Jim Hitt stated there are no changes.

a. **Mayor Nelson** asked if anyone from the Public wished to speak on this matter. **Albert Mckimmie** stated that this proposed development is next to DR Horton on Ponkan Road. DR Horton currently has two developments, one on either side of the road, this would be annexed to that. He has concerns from all the traffic from these new developments would end up coming along Golden Gem Road. **Ryan S.** stated that this is an annexation for 10 acres, 9.95+/-, it is continuing to the west with parcel, which is DR Horton. **Commissioner Becker** asked if this will be adjoining two or if it will be a stand-alone development and the response was it will be a standalone development. **Mr. Ryan** stated that they will come back in with a Small-Scale Plan Amendment and a Rezoning. It will be two dwelling units per acre, for twenty units on site; custom homes. **Commissioner Nesta** asked if this is connecting to Phils Lane or if they are doing a roundabout and **Ryan** response no, this will be a cold-a-sac. They had a community meeting about two weeks ago and the residents in the area had concerns about the usage of Phil's lane. **Commissioner Nesta** asked what is the threshold to have a second entrance and the response was twenty-five units. **Commissioner Becker** asked if the entry on to Ponkan be a safe distance from the entrance to the west neighborhood and **Ryan** stated that there will be driveway separation, according to code. **Commissioners Becker** stated that in previous council meetings we have gotten plans around repaving the roads within the City, but having a plan for Golden Gem Road would be helpful when we go into dialogue, such as this.

b. **Mayor Nelson** closed the Public Hearing and asked for a Motion to adopt Ordinance No. 2979.
c. Motion by **Commissioner Nesta** and seconded by **Commissioner Becker** to adopt Ordinance No. 2979.
d. **Motion carried unanimously,** with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

5. Ordinance No 2975 - First Reading - Change of Zoning – Avian Pointe PD Amendment
Owner(s): Apopka Clear Lake Investments, LLC c/o Frank Bombeeck
Applicant: NV5, Inc c/o Jason Mahoney, P.E.

Location: South of Peterson Road, north of Lust Road and east of SR 429
Future Land Use: Residential Medium
Tract Size: 127.21 +/- acres
Project Manager: Jean Sanchez
Remove From Table.

Motion by **Commissioner Smith and seconded by Commissioner Nesta** to remove Ordinance No. 2975 from the table.

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

Jean Sanchez stated The Avian Pointe – PD was adopted and Master Plan was approved on September 19, 2018, through Ordinance Number 2671. The subject property is approximately 127.21 acres in size and is zoned PUD (Planned Unit Development) and has future land use designations of Residential Medium Density and Residential Low Density. The subject property is located south of Peterson Road, north of Lust Road and east of SR 429. Access to the development is via Grand Avian Parkway. The applicant is requesting to amend the Avian Pointe – PD and Master Plan, proposing an increase in the total amount of residential units that were previously permitted. Development design standards from the current Master Plan are carried over to the Proposed Master Plan. The original Avian Pointe PD Master Plan was approved via Ordinance No. 2433 and amended via Ordinance Number 2671, permitting up to 758 residential units consisting of single-family, townhomes, multi-family units, a shared use recreation area, and a parcel for a school. The applicant is requesting to increase the number of multi-family unit by 56 units, changing the project density from 7.36 dwelling units per acre to 7.95 dwelling units per acre and multi-family unit total from 482 to 538. The maximum permitted density in the multi-family portion of the PD is 10 dwelling units per acre. The DRC recommends approval and the recommended motion is accept the first reading of ordinance number 2975 and hold it over for second reading.

Commissioner Velazquez stated that she still has concerns regarding the amendment to fifty-six units and her concerns has been, from the very beginning, does it change the footprint of the project.
Commissioner Smith asked what determines if you have a dry pond and a wet and; also, what is the size for requirement for a high school. Jean stated that the school parcel is approximately 14.9 acres. **Mayor Nelson** added that they also have the shared recreation. **Commissioner Becker** asked if there were any traffic impact analysis done on the additional units, additional parking considerations, the perpetuation of the school and capacity, etc.

Tom Sullivan, Robinson Law Firm stated that parcel B5 (the school) is 14.91 acres, that was deeded to OCPS in July of 2021 and there is a shared recreation agreement between the property owner and the school board. And the school is intended for K-8. There was a traffic study done, at the beginning of the project and it showed that it was a dominium impact that did not cause additional road segments to fail. This developer built Grand Avion Parkway and it has added some benefits to the area, but these units are geared toward young professionals. They are smaller units and this has always been a great location for multi-family. There will not be an additional unit, we can fit them within the footprint that was there; there are five buildings there and it does not increase the height. There is additional parking provided because of the additional units requested. Mr. Sullivan noted that they confirmed that certain portions of the project do drain to Clear Lake, specifically twenty-three percent. This phase, Phase B2 does not drain to Clear Lake, it drains to Lake Apopka. **Commissioner Velazquez** asked how do you add fifty-six units to five buildings.

Jason Mahoney stated that with the fifty-ix additional units, that is when we are referring to phase 2B, which is the five buildings in the northwest corner of parcel B2. Fifty-six units for five buildings is about eleven units per building; and when there are four floors per building, you are only talking about fitting three more units per floor. The architect is going to establish a new floor plan and unit layout, in each building to incorporate those additional units.

Mayor Nelson asked Mr. Mahoney to discuss the drainage portion of the project.
Jason Mahoney stated that went over the where each basin drains to: Basin 'F' drains to Lake Henninger, Basin E and D drain to Clear Lake directly, and everything else discharges to Lake Apopka. The amount of area that drains to Clear Lake is approximately 20.86 percent, so much of the development goes to Lake Apopka. **Mayor Nelson** stated that we know there are some issues with the ponds, that do drain to Clear Lake, so the developer of the rust color (map shown on screen) will have to fix the stormwater condition that we have there. **Jason Mahoney** confirmed that that is also Clear Lake Investments. **Commissioner Becker** stated that the plans of the rust colored basin, going into Clear Lake and operating successfully has been proven false. There is breakage in the expectation of how the ponds and drainage are working. He finds it hard to believe that there will be no impact. He does not have anything that is certain for him to make the decision that fifty-six units will not perpetuate a flooding issue, it's not in our packet. Additionally, he stated that he does not have a traffic study.

Commissioner Smith asked what determines where you will place a dry pond, as opposed to a wet pond. **Jason Mahoney** stated that it is not a location, but dry ponds create more opportunity for pollution abatement and water quality treatment and wet ponds create more chance for attenuation. Very few of the lakes in Apopka are designed as wet retention.
Mayor Nelson asked if it is also true that a wet pond you must have almost double the amount of storage versus a dry pond. **Mr. Mahoney** stated yes, but only because a wet pond must have a certain amount of water that always remains.

Commissioner Nesta stated that in the meeting earlier today regarding Clear Lake, it concerns him that Avion Pointe has failed drainage ponds; the same developer that did those ponds are requesting to do these. He also stated that the representative from St. Johns, that was here today did not seem confident in the application. Commissioner Nesta stated that he has low confidence that this will be fixed.

Tom Sullivan stated that the permits that were shown on the screen and given to the clerk were issued in 2021. This is always where that water was supposed to go. In terms of the traffic impacts, they did submit a study, although it is not apart of the packet it can be incorporated into the packet for the second reading. He went on to state that staff is recommending approval and he believes that that recommendation includes review of the study. The key point that he wants to bring out is that they have satisficed the criteria for the rezoning request that is in the code, staff and Planning Commission have recommended approval, as well. He understands that it was tabled at the first meeting, due to the drainage issues and they came back and presented the council with the information for tonight, specifically regarding this portion of the property and the fact that Lake Apopka is the receiving body, not Clear Lake. **Commissioner Smith** asked that if this is passed at first reading, for second reading is it possible to bring an animation of how the water from pond two will flow across to Lake Apopka and the response was yes. **Commissioner Becker** asked if the current dry pond working as designed and **Mayor Nelson** stated that he believes that one is and one isn't. **Commissioner Becker** stated that he has reasonable doubt that these ponds will work as designed. **Commissioner Smith** stated that he understood that it was not working as designed because there was a hard pan that they identified and they were going to go back and remove it.

City Attorney, Michael Rodriguez reminded the council that information from separate meeting that is not a part of these meeting, should not be brought into this meeting. Unless, at second reading the people from the outside meeting be brought in. This is a quasi-judicial hearing. The only information that should be brought up in this meeting is information presented at this meeting or in the agenda packet.

Mayor Nelson stated that we can always come to second reading with all the information bought forward.

Jason Mahoney stated that ponds two, four, and six are not apart of parcel B2 so they are not apart of the item that is on the agenda tonight.

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 Ordinance No. 2975 at first reading and hold over for second reading and adoption.
c. Motion by **Commissioner Smith** and seconded by **Commissioner Nesta** to approve Ordinance No. 2975 at first reading and hold over for second reading, with a requirement that the applicant bring an animation showing how the water flows to Lake Apopka. Mr. Sullivan stated that they will add a condition of approve that St. Johns River Water Management District's permit conditions are followed, including, without limitation, no drainage from Parcel B2 going to Clear Lake.
d. **Motion carried three-two,** with Mayor Nelson, and Commissioners Smith and Nesta voting aye and Commissioners Becker and Velazquez voting nay.

6. Resolution No. 2022-49 - Determining the necessity and public purpose, and authorizing the acquisition of property located at 562 Snowden Road, Apopka, by eminent domain or through negotiation for the expansion of the future Apopka Water Reclamation Facility and Reclaim Water Storage Reservoir

Presented by: Michael Rodriguez

Michael Rodriguez stated that the property owner was notified and an offer for the property was made, as required under Florida Statute. A fair offer was made, based on the appraised value of the property. At that point, administration reported that Mr. Rouse, the property owner, declined the offer and was represented by council. At that time Michael delt with council and advised council that the City would proceed with these first steps. Yesterday, he finally got a hold of the attorney and it turns out that his council no longer serves as his council. The property owner has had concerns regarding the proceeds of the sale of his property and his intention to exercise a 1033 exchange, which would allow an extra time for him to reinvest the proceeds of the sale. Under a 1033 exchange that is property that is subject to being condemned or under the threat of condemnation. To proceed forward a resolution of necessity is needed. At that point, this property is under threat of condemnation.

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. 2022-49.
c. Motion by **Commissioner Nesta** and seconded by **Commissioner Smith** to approve Resolution 2022-49.
d. **Motion carried unanimously,** with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

7. Resolution No. 2022-51 - FY23 Budget Amendment
Presented by: Edward Bass

Edward Bass stated that this resolution requires a budget amendment for a total of $30,431 for a JAG grant.

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 2022-51.
c. Motion by **Commissioner Velazquez** and seconded by **Commissioner Becker** to approve Resolution 2022-51.
d. **Motion carried unanimously,** with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

8. Resolution No. 2022-52 Wayfinding Signage
Presented by: Pam Richmond

Pam Richmond gave a presentation of the new Wayfinding Sign plan and design created by her and Edward Bass. A copy of the images and PowerPoint is available upon request.

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 2022-52.
c. Motion by **Commissioner Velazquez** and seconded by **Commissioner Nesta** to approve Resolution No. 2022-52.
d. **Motion carried unanimously,** with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

CITY COUNCIL REPORTS

Commissioner Velazquez welcomed Commissioner Becker back to the council and Michael to define who will become the Vice Mayor. Based on the City's Code and the Charter, the commissioner who has served the longest amount of years will be offered the title of Vice Mayor. If that commissioner declines, then the commission will then vote. Therefore, Commissioner Becker would become the Vice Mayor and he accepted the position. Commissioner Velazquez went on to congratulate State Representative Doug Bankson on his election. She stated that she attended the Veteran's Day program and it was very nice. She ended her comments by recognizing Mis. Apopka, who was introduced to the City on Saturday. Her name is Sarah Sarver.

Commissioner Becker asked for full transparency with full agenda packets. He also stated that he also attended the Veteran's Day Ceremony, it was a very nice event and Miss. Apopka did a great job with the national anthem.

Commissioner Smith stated that he also attended the Veteran's Day and it was great. He also welcomed Commissioner Becker back to the council. He also stated that this month is National Education Month and he is participating in the Teach-in Program; hats off to all the educators.

Commissioner Nesta welcomed Commissioner Becker. He went on to ask the Fire Chief for a quick update on the hiring process. **Chief Wylam** stated that they have made 16 contingent offers and all 16 have accepted. Five Firefighters will complete orientation next week and be placed on shift with another five following. They will start another process on January 16, 2023. They hope to fill all 18 positions within this fiscal year. **Mayor Nelson** asked how many applicants applied and **Chief Wylam** stated that there was about thirty applied. **Commissioner Velazquez** asked about when the 9/11 memorial will be returned and Chief sated that I will be put back up tomorrow. **Commissioner Nesta** went on to ask for an update on the Diversity, Equity, and Inclusion and **Mayor Nelson** stated that they had a meeting at the Billie Dean center and no one showed up, so they will need to put together another meeting. **Commissioner Nesta** requested that all the council members stop by Fire Station 4; he feels that it is the one that needs the most TLC. Staff are addressing most of his concerns. He went on to ask about the Apopka Annexation Workshop and Edward Bass stated that the first meeting was canceled and November 29th was the date suggested. All council members were okay with that date, so the meeting will now be Tuesday, November 29, 2022 at 6:00pm. Next, **Commissioner Nesta** stated that this week the K9-9K/5K is coming up and the Apopka PD K9 unit will be there showcasing their talents. He also asked if we will have tables added to the orchestra coming up. **Radley, Parks and Recreation Director** stated that we have ordered twenty-four tables and we will be selling twenty for public use. We have set four tables aside for city use. The tickets will be sold via event bright. Each table holds 10 people per table. This event will be held December 10th.

CITY ADMINISTRATOR REPORT

South Apopka Annexation Workshop Rescheduled Date – Tuesday, November 29, 2022 at 6:00pm.

Radley stated that we are planning our ADA Inclusive Playground for Public Input on Saturday December 3, 2022, rom 9:00am to 11:00am. This will run at the pavilion behind the Amphitheater. We will also be hosting Arts in the Park, that same weekend.

Commissioner Becker asked will they will consult with professionals on the ADA Inclusive Playground and **Radley's** response was yes. We want to get the public input, but we will still be consulting with experts in the play field. He stated that we will also be looking for public input on the Northwest Expansion Project. **Mayor Nelson** stated that we, as a council, need to put a dollar amount to it and Radley will work on that.

Commissioner Velazquez thanked Radley for responding to the concerns from neighbors of the Amphitheater and asked him to elaborate on that. **Radley s**tated that they are looking to move the end time for Sunday events to 9:00pm**.**

CITY ATTORNEY'S REPORT

1. Update - First Round of Payments from Opioid Litigation Settlements

   Michael has broken the settlements down into the categories below and given the amounts from each category, in which the City will be receiving.

   a. Distributor's – from this fund the City will be receiving $7,121.18.
   b. Jansen Settlement - $7,421.94
   c. Teva Pharmaceuticals - $4,705.86
   d. Allergen Pharmaceutical - $698.62
   e. CVS - $327.29
   f. Walgreens - $473.11
   g. Walmart - $27,405.49

The monies must be tied to specific uses that the State has outlined. Some are for treatment or prevention programs. He can then sit down the PD to go over where they want to allocate these funds. The overall estimate that the City will be receiving is in the ball park of about $48,000+/-, to be used for opioid prevention or treatment, for the residents of Apopka.

2. Southwick Commons

   All the council members have been subpoenaed to be witnesses at the trial, which is scheduled for Monday. Our council will be preparing a Motions of Protection order to try to not have them not have to testify.

MAYOR'S REPORT

1. Clear Lake Meeting Recap
2. Upcoming State of the City – November 18, 2022 at 8:00am at the VFW
3. Veterans Day Program Recap – Great program at the VFW
4. John Land Gala – Thursday, November 17, 2022 at 5:30pm at the VFW

He also stated that he and Pam went over to the CFX and got approval of the land swap with them. Lastly, there will be two youth groups coming on Friday. One group will be painting the gym and another group will be helping at Camp Wewa; both groups will have about forty kids.

ADJOURNMENT

The being no further business the meeting adjourned at 9:31PM.

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Bryan Nelson, Mayor

Attest: ____

Victoria D. Parks, Deputy City Clerk