

CITY OF APOPKA

Minutes of the regular City Council meeting held on November 16, 2016, at 7:00 p.m., in the City of Apopka Council Chambers.

PRESENT: Mayor Joe Kilsheimer
Commissioner Billie Dean
Commissioner Diane Velazquez
Commissioner Doug Bankson
Commissioner Kyle Becker
City Attorney Cliff Shepard
City Administrator Glenn Irby

PRESS PRESENT: Teresa Sargeant - The Apopka Chief
Bethany Rodgers, Orlando Sentinel
Reggie Connell, The Apopka Voice

INVOCATION: Mayor Kilsheimer introduced Pastor Steven Jencks of the Apopka Seventh-Day Adventist Church, who gave the invocation.

PLEDGE OF ALLEGIANCE: Mayor Kilsheimer said in the fall of 1620, more than 100 pilgrims set sail from England aboard the Mayflower and two months later made landfall in Plymouth, Massachusetts. Half of the pilgrims perished during the first winter. In the spring, two members of local Native American tribes helped the settlers learn how to successfully farm the land, and by the following autumn they reaped a bountiful crop. To celebrate the harvest and to give thanks, Governor William Bradford called for a feast and invited the local Native American tribes who worked alongside the pilgrims to sustain their colony. The tribes and the pilgrims hunted together and feasted for three days. It became a yearly tradition for the colonists to celebrate their harvest with a feast of Thanksgiving. Abraham Lincoln proclaimed the final Thursday in November to be a national holiday in 1863. Later, Franklin D. Roosevelt signed a joint resolution of congress in 1941, which established the fourth Thursday of November as a national holiday, the day we will celebrate next week as Thanksgiving. He asked everyone to reflect upon the spirit and collaboration between the pilgrims and Native American tribes that made it possible for Plymouth to flourish and for our Nation to give thanks as he led in the Pledge of Allegiance.

APPROVAL OF MINUTES:

1. City Council meeting November 2, 2016.

MOTION by Commissioner Velazquez, and seconded by Commissioner Becker, to approve the minutes of November 2, 2016. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Bankson and Becker voting aye.

PUBLIC COMMENT/STAFF RECOGNITION AND ACKNOWLEDGEMENT

Proclamation:

1. Vietnamese-American Heritage and Freedom Flag Day.
Mayor Kilsheimer read a proclamation recognizing Vietnamese-American Heritage and

Freedom Flag Day presenting it to John McKinney from Tavares. Mr. McKinney recognized other Vietnamese-Americans' with him.

Presentation:

Mayor Kilsheimer and the Council presented Debbie Turner Cancer Center with a check in the amount of \$1,000 from the money raised in October during breast cancer awareness month.

Public Comment:

Pastor Richard King said he was here to request City Council's support in providing the amphitheater venue and all associated costs as an in-kind donation to the Apopka Faith Alliance as they facilitate the Apopka Family Faith and Food Festival on January 7, 2017. He stated Ed Walls was present in support of youth sports and they also support anyone helping the youth.

Pastor Hezekiah Bradford thanked the City for the repaving of Hawthorne Road. He also spoke of the Apopka Family Faith and Food Festival on January 7, 2017, and requested support from the City as one of the sponsors of this event.

Rod Love echoed the prior comments regarding the venue and requesting in-kind donation from the City for the event on January 7, 2017. He also recognized Ed Walls being present to speak on Apopka youth sports and stated he supported youth sports as it keeps children off the streets and helps them learn to build character.

Ray Shackelford said he supported a partnership between the City and the Faith Family and Food Festival. He called on the City of Apopka to consider a naming opportunity whereby businesses and corporations could contribute funds in naming a field on their behalf to help defer costs for the Apopka youth sports teams.

Shirley Sharpe Terrell said she was in favor of the recommendation made by Pastor King to support the Faith and Family Food Festival and asked the City be favorable in waiving these costs.

Pastor Manny Rosario said we have a great opportunity as a City to come together with the faith community to do something to mark the City in a positive way.

Pastor Darrell Morgan said he was Vice President of the Apopka Christian Ministerial Alliance and said he was talking with Pastor Bradford and Rod Love over a year ago and they talked about bringing in music and the gospel for young people to hear. He stated he was excited about the Faith Family, and Food Festival and asked that the City work and partner with them.

Ed Walls said he has been a resident for 17 years and he thanked the pastors for their support. He spoke of a recent negative affect to the Apopka Youth Sports organization due to an oversight by the City that cost their program \$7,500 by not honoring a reserved date of October 29, 2016. He said they had to contact 24 organizations and cancel an event due to the date being double booked. He said this was embarrassing to their organization and the City. He asked the Council compensate their program for \$7,500 for the loss suffered by having to cancel their event. He requested with the tax increase that all fees for youth organizations be abolished.

CONSENT (Action Item)

1. Approve the Disbursement Report for the month of October, 2016.
2. Approve the final extension of the consulting service contracts for Professional Engineering Services.
3. Authorize an expenditure from the Law Enforcement Trust Funds for undercover operations.
4. Authorize the purchase of capital equipment for utility construction and water maintenance.
5. Authorize the purchase of capital equipment for the Streets Division.
6. Authorize Amendment #1 of the Cost-Share Agreement Contract for the Water Reclamation Facility with SJRWMD.
7. Authorize a Cost-Share Agreement Contract for the Water Conservation Program with SJRWMD.
8. Award a contract to Dell Financial Services for the lease of Police Department Laptops.
9. Authorize a contract for the construction of Phase #1 of the Water Reclamation Facility Expansion and Improvements project.
10. Award a pre-construction services contract to Miller Construction Management Inc., for the Fire Station 5 project.

MOTION by Commissioner Becker, and seconded by Commissioner Velazquez, to approve the ten items on the Consent Agenda. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Bankson and Becker voting aye.

BUSINESS

1. Final Development Plan – Canterwood Manor Assisted Living Facility (ALF)

Mayor Kilsheimer advised this was a quasi-judicial hearing and witnesses were sworn in by the clerk.

David Moon, Planning Manager, provided a brief lead-in for the Final Development Plan (FDP), Canterwood Manor Assisted Living Facility, stating it proposes a 125 bed Assisted Living Facility, an 89,000 sq. ft. building with 70 parking spaces. The Preliminary Development Plan (PDP) was previously approved by Council and this is the last step prior to the developer, MJM Associates moving to construction. DRC found the FDP to be consistent with the PDP and the PUD ordinance, and recommends approval.

Joel Hass, Sr. Executive of MJM and Associates, was present for any questions. He thanked the City staff and said they were looking forward to starting the project.

Mayor Kilsheimer 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 Dean, to approve the Final Development Plan for Canterwood Manor Assisted Living Facility, as presented and issue the Final Development Order. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

PUBLIC HEARINGS/ORDINANCES/RESOLUTION

- 1. Ordinance No. 2524 – Second Reading – Small Scale Future Land Use Amendment.** The title was read by the City Clerk as follows:

Mayor Kilsheimer announced Ordinance No. 2524 was legislative and Ordinance No. 2525 was quasi-judicial. Witnesses were sworn in by the clerk.

ORDINANCE NO. 2524

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” LOW DENSITY RESIDENTIAL (0-4 DU/AC) TO “CITY” OFFICE (MAX. FAR 0.30), FOR CERTAIN REAL PROPERTY GENERALLY LOCATED WEST OF SOUTH PARK AVENUE, EAST OF SOUTH CENTRAL AVENUE, SOUTH OF E G H WASHINGTON STREET, NORTH OF EAST 12TH STREET, COMPRISING 0.52 ACRES MORE OR LESS, AND OWNED BY APOPKA HOLDINGS, LLC; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Kyle Wilkes, Planner, said this was the second reading for a small scale future land use map amendment. DRC recommends approval.

Commissioner Velazquez disclosed ex parte communication stating she visited the facility at Turkey Lake and her concerns were addressed.

Mayor Kilsheimer, Commissioner Bankson, and Commissioner Becker also disclosed ex parte communication, advising they also individually toured the facility.

Wendy Packer, Central Florida Recovery Centers, said they currently have a full service counseling and recovery center in Orlando. She stated they were excited to bring their service to Apopka and reviewed their services. She affirmed they plan on getting involved with the City and bring education to the children in the area and bring a positive influence to the City.

Mayor Kilsheimer opened the meeting to a public hearing.

Rod Love said that he, Pastor Bradford, and Pastor King had an opportunity to speak to the applicants and they do believe there is a need for treatment. However, there are some concerns and he advised the applicant is interested in the Apopka Task Force. He maintained the position of not supporting as well as not being against it.

Dr. Ghulldu thanked the Mayor and Commissioners for visiting the Turkey Lake facility. He stated at a community meeting they had almost full acceptance. He asked consideration of a privacy fence with a waiver of the two walls.

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

MOTION by Commissioner Becker, and seconded by Commissioner Velazquez, to adopt Ordinance No. 2524. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

2. **Ordinance No. 2525 – Second Reading – Change of Zoning.** The City Clerk read the title as follows:

ORDINANCE NO. 2525

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, CHANGING THE ZONING FROM “COUNTY” R-3 (RESIDENTIAL) TO PLANNED UNIT DEVELOPMENT (PUD-PO/I-RESIDENTIAL); FOR CERTAIN REAL PROPERTY GENERALLY LOCATED WEST OF SOUTH PARK AVENUE, EAST OF SOUTH CENTRAL AVENUE, SOUTH OF EAST G. H. WASHINGTON STREET, NORTH OF EAST 12TH STREET, COMPRISING 0.52 ACRES MORE OR LESS, AND OWNED BY APOPKA HOLDINGS, LLC; PROVIDING FOR DIRECTIONS TO THE COMMUNITY DEVELOPMENT DIRECTOR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

David Moon, Planning Manager, advised City Council can take action upon the waiver request. He advised it is a Planned Unit Development, which allows flexibility and special design. He stated the intent of the Land Development Code did not provide a means to circumvent a regulation and provide something that would be considered less quality. He advised this request was not made prior to the Planning Commission meeting and was not reviewed by the Planning Commission.

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

MOTION by Commissioner Becker, and seconded by Commissioner Dean, to adopt Ordinance No. 2525. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

3. **Ordinance No. 2526 – Second Reading – Temporary Moratorium – Dispensing of Medical Cannabis.** The City Clerk read the title as follows:

ORDINANCE NO. 2526

AN ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON THE DISPENSING OF MEDICAL CANNABIS WITHIN THE CITY OF APOPKA; PROHIBITING ANY AND ALL DISPENSING OF MEDICAL CANNABIS DURING THE MORATORIUM PERIOD FOR ANY PROPERTY WITHIN THE CITY OF APOPKA; ADOPTING FINDINGS OF FACT; PROVIDING DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE

Mayor Kilsheimer opened the meeting to a public hearing.

The following spoke in opposition to the moratorium on dispensing of medical marijuana for such reasons of the opportunity to open jobs in the area, limiting the opportunity of obtaining investors for an additional two potential grow areas, and a request to exclude the designated grow zones. It was also reiterated that this was for medical cannabis.

Jose Sikaffy
Glen Treadwell
Raymond Hogshead
Rod Hogshead
Bob Barkett
Bill Dewar
Fred Curley
Michael Stone

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

Chief McKinley said he understands the concerns on the moratorium, but he stated the City has changed in the last year and a half, stating the grow areas are now surrounded by subdivisions. He stated looking at history, Colorado started with medical marijuana and he gave statistics of related crimes. He added that this is not federally regulated. He affirmed the Department of Health has been provided six months to develop regulations.

City Attorney Shepard said the City adopted Ordinance No. 2388 in anticipation of the Charlotte's Web statute that passed and also the potential of medical marijuana in 2015 that did not pass at that time. The idea was to put something on the books to provide the City the ability to control its own destiny if this did pass, which it now has, and if the state chose to pre-empt us from regulating our own. However, the state could pre-empt the ordinance. He stated there will be no dispensing until the Department of Health has the rules done. This six month moratorium to allow the City to look at our law to make sure it is compliant with what comes out, in practical effect will not affect anyone. He advised that just based upon the amendment, there are already portions of our ordinance that are problematic.

Discussion ensued regarding public safety, if certain areas could be excluded from the moratorium, and the time frame in conjunction with the state providing six months for the Department of Health to set guidelines.

MOTION by Commissioner Bankson, and seconded by Commissioner Velazquez, to adopt Ordinance No. 2526. Motion carried three/two with Commissioners Dean, Velazquez, and Bankson voting aye, and Mayor Kilsheimer and Commissioner Becker voting nay.

Council recessed at 9:14 p.m. and reconvened at 9:20 p.m.

- 4. Ordinance No. 2528 – Second Reading – Annexation.** The City Clerk read the title as follows:

ORDINANCE NO. 2528

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 WEST OF SHEELER AVENUE AND SOUTH OF EAST 13TH STREET; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION by Commissioner Velazquez and seconded by Commissioner Bankson, to adopt Ordinance No. 2528. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

5. **Ordinance No. 2529 – Second Reading – Annexation.** The City Clerk read the title as follows:

ORDINANCE NO. 2529

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 SHIRLEY L. LITTLE LIFE ESTATE LOCATED WEST OF CENTRAL AVENUE AND NORTH OF OAK STREET; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION by Commissioner Dean, and seconded by Commissioner Becker, to adopt Ordinance No. 2529. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

6. **Ordinance No. 2530 – Second Reading – Annexation.** The City Clerk read the title as follows:

ORDINANCE NO. 2530

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 JERRY OWENS AND LINDA S. OWENS LOCATED WEST OF MARDEN ROAD AND SOUTH OF KEENE ROAD; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION by Commissioner Velazquez, and seconded by Commissioner Becker, to adopt Ordinance No. 2530. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

7. **Ordinance No. 2531 – Second Reading – Annexation.** The City Clerk read the title as follows:

ORDINANCE NO. 2531

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 WON CHUL LEE, MYONG SEA LEE, BONG JIN CHOE AND CHONG SOON CHOE LOCATED EAST OF PLYMOUTH SORRENTO ROAD AND NORTH OF KELLY PARK ROAD; PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

MOTION by Commissioner Bankson, and seconded by Commissioner Velazquez, to postpone Ordinance No. 2531 to the December 21, 2016 meeting. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

8. **Resolution 2016-34 – Workers’ Comp Legislative Review.** The City Clerk read the title as follows:

RESOLUTION NO. 2016-34

A RESOLUTION OF THE CITY OF APOPKA FLORIDA REQUESTING THE FLORIDA LEGISLATURE AMEND CHAPTER 440, FLORIDA STATUTES, TO ADDRESS THE FLORIDA SUPREME COURT’S RECENT DECISIONS RELATED TO FLORIDA’S WORKERS’ COMPENSATION SYSTEM.

Sharon Thornton, Human Resource Director, said recently there were some Supreme Court decisions that removed the cap on attorney fees, as well as the limit on temporary total disability. She said this was in support to ask the legislature to review the worker’s compensation system.

Mayor Kilsheimer opened the meeting to a public comment. No one wishing to speak, he closed the public comment.

MOTION by Commissioner Bankson, and seconded by Commissioner Velazquez, to approve Resolution No. 2016-34. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

CITY COUNCIL REPORTS

Mayor said they have had public comment and will now hold discussion between the City Council and Staff regarding the request by the Ministerial Alliance. He asked the City Attorney to provide input.

City Attorney Shepard said the issue raised is whether the City Council can waive fees for a religious event. He said the answer was yes you can, however, the persuading factor is what this means to them as a community. He pointed out a fee structure was adopted some time back that is to apply to all community organizations and this applies when the city venues are used. He stated this was put in place so they were not put in a position to choose between the merits of one organization over another. He advised the Supreme Court term for this is “view point discrimination” and he gave several court examples before the Supreme Court stating it was not so much the separation of church and state as much as it was the regulation of the message. He affirmed if you waive for one message, then you must waive for all.

Discussion ensued regarding partnering on the event and Commissioner Becker inquired if Council had the discretion.

City Attorney Shepard said Council can take the risk, but his advice would be to stay out of this situation since a policy determination has been made. Following further discuss, he suggested the organizers contact the Mayor Land Community Trust, which was set up for matters such as this.

Mayor Kilsheimer asked David Burgoon to comment on Mr. Walls’ request.

David Burgoon, Recreation Director, explained that he and Mr. Walls met a few times about their playoff schedules. He said in those conversations he told Mr. Walls to send him the dates and they would block them. He stated since those conversations, he received an email from Mr. Walls about a football game the week prior to October 29, 2016, and to his knowledge that was the games they were talking about. Three days later AAU was requesting the field and it was available and offered to them. In the same week he was notified from one of his staff members that they had games coming up that was not on the books. He informed Pop Warner there was already a schedule for October 29, 2016 and AAU had already paid their fees for that day, therefore, they were not available. This is why he is here to request reimbursement for the fees he lost from that day.

It was the consensus of City Council that this discussion be continued by Mr. Irby and staff with Mr. Irby keeping Council informed.

MAYOR’S REPORT – Mayor Kilsheimer reported this past week the Chair of Lake Apopka Natural Gas Board, Ann Dupee, passed away. The City of Apopka was represented at her Celebration of Life ceremony by Commissioner Dean, Glenn Irby, Jim Hitt, and former Commissioner Bill Arrowsmith.

ADJOURNMENT – There being no further business the meeting adjourned at 10:22 p.m.

Joseph E. Kilsheimer, Mayor

ATTEST;

Linda F. Goff, City Clerk