

Minutes of the City Council Workshop Meeting held on November 2, 2021 at 6:00 p.m., at the Apopka Amphitheater.

PRESENT: Mayor Bryan Nelson
Commissioner Doug Bankson
Commissioner Kyle Becker
Commissioner Alexander Smith
Commissioner Diane Velazquez
City Administrator Edward Bass
City Attorney Michael Rodriguez

CALL TO ORDER

Mayor Nelson called the meeting to order and thanked everyone for coming. He then called upon Commissioner Bankson to provide the Invocation and lead in the Pledge of Allegiance.

DISCUSSION

Welcome/Introductions/Overview - Mayor Bryan Nelson

Mayor Nelson said this is a Council Workshop which means there's no audience participation however if you have a question for one of the panelists, you can ask your question at the end of the meeting. He said we will start with the panelists and then the Commissioners can ask questions about what they presented. He said first up, we'll have the HOA Attorney, Kurt Ardaman, who will provide an overview of their plan they have as far as any land swap goes. He said next we'll have David Evans, representing the golf group and how they think this thing can work. He said following Mr. Evans will be our City Attorney, Michael Rodriguez, who will discuss some of the challenges within the development that we will try and clean up, if we can get to some sort of resolution. He said our last panelist will be the Esler Group who will talk about a possible partnership. He said all of this information is available on the City's website.

Rock Springs Ridge Land Swaps - Kurt Ardaman

Kurt Ardaman, of Fishback, Dominick Law Firm, said he is the Special Council for the Rock Springs Ridge, HOA, said he very much appreciates City Council coming to this Workshop so we can talk about ways that the HOA can ultimately obtain ownership of the approximately 319 acre golf course in Rock Springs Ridge. He said the HOA, its board and the residents have been working on this; the City Council has heard numerous comments by residents and others. He explained that we are here to try to achieve the objective of the HOA acquiring the 319 acres, which is now owned by the golf group. The Engineer for the golf group, David Evans, and the Attorney for the golf group, Tucker Byrd, is in attendance; along with a number of HOA board members.

He said what he presented at the City Council meeting a number of weeks ago was the proposal which was basically a three way agreement, which involves the City of Apopka, the golf group and the HOA. He said in this agreement, the HOA would pay the City of Apopka a sum of money. He said we did not specify that sum of money however we indicated that it would be of fair consideration would be paid to the City of Apopka in order for the City to then convey the Harmon Road, approximately 32 acres. to the golf group. He said simultaneously, the golf group would then convey the 319 acre golf property to the HOA. He said that agreement, which you should have received a copy but said if you don't have a copy, he has a copy he can provide. He said the bottom line is that there is no specified amount. He said he understands that the City has received an appraisal in the amount of \$2.5 million and said we are aware that there are additional letters of intent and proposed offers to the City, far in excess of that. He said he knows there has been discussions by the City Council and Staff about putting this property out for bid. He said the preliminary discussions with some of the board of directors are that the HOA may be willing to pay more than the appraised amount by a substantial amount if the City Council were to go along with the three way swap. He said the three way stop is dependent upon the HOA being able to sell the Kelly Park Road property. He said as a back-up, he said the golf group and the HOA are negotiating a direct swap of the 51 acre Kelly Park property for the 319 acre golf course; however, they do believe that they three-way swap is a more effective and better way for both the HOA and the golf group. It would provide funds that the HOA could use to improve the 319-acres. He stated that they are wedded to these options; their objective is to find a way for the HOA to acquire the 19-acres golf course, which will allow that property to remain undeveloped to residential purposes. He stated that's why he was hired, by the HOA, as their special council, to stop that development, initially. The golf group, who was pushed for development on that property, did file, what he believes was a second application to move forward with that. The City's DRC said that it was defective. He went on to state that if we are not able to come up with a deal, he would expect that the golf group is going to proceed with the development and that is a completely inconsistent with what the HOA and the great majority of what the Rock Springs residents want. We do not want that golf course to be developed and the best way to ensure that it does not ever get developed, for residential homes, is for the HOA to own it. That is why we are going through these extreme efforts for the HOA to own those 319-

Tucker Byrd, Golf Group Attorney, stated that the original land swap, involving the City would be a win-win; everyone would come out on top. The golf group believes that the highest economic value, for us, would be to develop the golf course properties. 319 acres is extremely valuable, but the golf group has indicated a real willingness to look at some alternative; probably less economic for us and to be quite frankly, something that would accommodate the wishes of the HOA and the like. We worked hard to come up with an option, the first was the three-way swap. All the golf group wants to do is to realize some portion of the economic value of its asset. The initial thought was that the City would be able to come up with a property that we could acquire and develop and economically benefit from it. The alternative was the second option, which would be a direct swap of the 51-acres that the HOA owns. That would property require some change, as to the comp plan, and Kurt said, and the PUD, and require some cooperation from the City. It may not look like much on the outside, but there has been a lot of progress made in dealing with these issues. A true win-win-win for everyone. David Evans, who is our Crack Civil Engineer, can talk a little bit about any of the issues you think we may face, in terms of doing a deal. We appreciate the Mayor's and Council's efforts in trying to

come up with something so that we can all get along. It benefits the City of Apopka, overall, if all three problems can be dealt with at once.

David Evans, Civil Engineer of Evans Engineering, stated that they have been working on the Rock Springs Ridge property for property four years now, overall. He understands some of the issues with how the property was brought from the County to the City and some of the things that happened along the way. They are certainly interested in working out something with the HOA, just as Tucker and Kurt described. At the end of the day, they were charged with making the submittal to the City for the comp plan change, which was done about two years ago and then a second submittal was done. They do still have some pending comments from the DRC, but they are interested in going back into the City if they don't have to. He went on to state that they have looked at the Harmon Road properties, their favorite, they have enjoyed working with those and they have had some interested parties in those parcels and they've found a way to make those work. It is in a viable area, adjacent to the 429, good access, so they were able to do some explorations, utilities, storm water, etc. With that, they found that those properties were very viable options for this trade; at the same time they did look at the 51-acres, on the north end of Rock Springs Ridge. It has not been developed yet, but at the end of the day it certainly is a viable option as well. We did some layouts and plans on that property and came up with a plan to move forward on that property, if needed. It is denser than what you see in Rock Springs, but with the City's cooperation, which we have already had great cooperation relative to how these properties could be developed, there can be some changes to the overall PD, which would allow more density to be allotted for the entire PD, which would help the 51-acres become viable for a development. The property was miscalculated as far as the area goes, so the number of units on the property are at, equal to, or less than what is allowed based on the one-unit per acre criteria, that was once approved by the County and the City. At this point, in order to make it work there are some changes that have to be made in the PD. He stated that they are willing and able to do that as well. They have seen options on the Harmon Road properties and the 51-acres; the Harmon Road properties are the easiest for them, but the 51-acres as potential as well.

Michael Rodriguez, City Attorney, stated that the HOA's Counsel did bring up two options and at the City's last meeting with the HOA, their position was that it will be option two. The Harmon Road property is not openly on the market and any swap or purchase of the Harmon Road properties will require a vote of the City Council. Therefore then, is when the option 'B' was discussed to provide for what will actually be a swap; a swap of the golf for the 51-acres, Kelly Park Road property. The City will not be involved in that land swap, which is a private arms-length real estate transaction between two private entities. The City would have no say or approval authority. The impact in developing the 51-acres, as it pertains to the City, the City would entertain any application for redevelopment, as it would entertain any application from any property owner within the city seeking to develop property. It would be a two-pronged review, on the part of the City; the applicant would first need to come in and seek an amendment to the future land use map. The future land use map, which is dictated by the comprehensive plan, dictates what allowable densities on property are. As currently approved, Rock Springs Ridge, the planned development, contains two separate future land use maps designations. There is acreage within Rock Springs which has a density of one unit per acre, which basically means, if you have 20 acres, you are allowed to build 20 houses. Another portion of the development, within the development boundaries has a density of 2:1, which means for every acre you're

allowed to build two houses; therefore, if you have twenty acres, you are allowed to have twenty houses. What that does not mean is you get one acre per house. The comprehensive plan actually encourages within the area north of Ponkan and we are adjacent to the Wekiva study area. It requires that the highest allowable densities be 2:1. Any development or redevelopment within the Rock Springs boundaries will require a land use amendment to permit an allowable density, but it cannot go higher than 2:1. Once the densities are done and that is a process that involves review by the City's Development Review Committee, their recommendation goes to the City's Planning Commission, the Planning Commission hears the request at a public meeting, the Planning Commission issues a recommendation to City Council. City Council has first public hearing on the amendment to the land use map. After the first reading, if the City votes to approve the amendment, depending on the acreage and because of the total acreage on the site, it will cross a threshold with the State of Florida. The application and request is then submitted to the Department of Economic Opportunity with the State of Florida for their review and is also reviewed by the Regional Planning agencies. Once the state has completed its review, the matter returns to the City Council for what is called an Implementation Hearing or Approval Hearing; that is a second public hearing. Once that is approved, the land use map designation is changed for however the application is presented.

Michael said, as of now, we do not have an application to review for the change to the land use and densities. The second prong to any request to redevelop Rock Springs Ridge will then be an amendment to the Planned Development Agreement. Rock Springs Ridge is governed by a Planned Development Agreement (PDA) that has been amended three times prior. The PDA dictates the number of units that can be built, based on the approved density, the acreage, and any of the other permitted uses that will be allowed. One of the things that was discussed would be to "clean up" what our misunderstandings, misapplications, and sometimes unfortunately, misinformation relating to the permissible development with Rock Springs Ridge. Such an application to amend the PDA Agreement would then be able to clean up the designated densities and have them match with the approved lots and also accommodate any redevelopment that will be conducted on the 51-acre parcel. One of the things that has been proposed, that could be reviewed by the City would be to change the land use designation for your golf course. Right now, as of today, and since this has been approved, the golf course has a residential land use designation, so the acreage of the golf course counts towards a residential land use. He said another thing that was discussed was to change the density of the entire planned development to the 2:1 density, which is the maximum density allowed under our Comp Plan. That would accommodate the existing lots, plus any additional lots that would be accommodated under the 51 acres, and would make up the overall density allowed under the PD. He said one of the things that has been proposed would be to change the density of your golf course. He said all of these would be contemplated as an application that would be brought to the City. This would be an amendment to the PD and the City would review these under 2 Public Hearing in addition to being heard by the Planning Commission and the Development Review Committee. He said that would be a way to designate what would be allowable density, including the 51 acres. He said that's the overview of the City's involvement in this real estate transaction and based upon our last meeting, the City would undertake and review an application involving a private real estate transaction between the golf group and the HOA, which would be a swap of the golf group for the 51 acres.

Mayor Nelson said the Estler Group (the golf group) is here and said with the speakers we've already had, while it's still fresh in everyone's mind, why don't we open it up to the City Council members, for questions and said if you'll note who your question is directed at and we'll try and get the answers for you.

COUNCIL DISCUSSION

Commissioner Velazquez said she's surprised with the 3 party agreement because after speaking with the City Attorney yesterday, her understanding was that this was no longer being considered and said she's surprised that Attorney Ardamon is still presenting this. She said she understood that the HOA would be dealing directly with the golf group regarding the 51 acres and said she didn't understand why this was given to us at this moment.

Mayor Nelson said we just heard from our Attorney and said when we left the meeting, that was not a part of the agreement. **Commissioner Velazquez** said she's listening and said he hasn't made that clear. **Mayor Nelson** said he did and said that was the first thing the Attorney said. **Commissioner Velazquez** asked Michael to clarify.

Michael confirmed that he said Option 1 was not an option on the table and said we had agreed for the golf group was going to come and see what could be done for that development. He said the City cannot and will not statutorily agree to any zoning designations by contract.

Attorney Ardamon said your Attorney is absolutely correct and said that it is improper and illegal for a City or a County to enter into a contract to zone or comprehensively change any property and that's what this 3 party agreement contemplates. He said we understand that City Attorney and the Mayor don't like the 3 party agreement, and prefer the swap and said it's not his position, nor is it the Mayor or the Attorney, rather, it's the City Council's position. He said he's been asked to present this as an agreement but if you say no, we understand that. That's your option and if the City Council does not want to do this, we have a back-up plan which is the direct swap of the 51 acre piece for the 319 acre golf course, which the City would not be involved in, as the City Attorney explained.

Commissioner Velazquez said at this time, she's confused and said up until this workshop, she was told that this was strictly about the 51 acres and was an agreement between the HOA and the golf group. She said she always thought that the Harmon property was a City asset and should've been put out to bid and not used as a private sale to a private group. She said that way, others would have the same opportunity to buy the Harmon property. She said we still have a tower that sits on the property and is used by our first responders and is still viable.

Commissioner Bankson said on proposal #2, the swap between the HOA and the golf group, he said he can't remember if it was Tucker or the Golf Group that mentioned about the certain City concessions and asked if you were referring to the 2 prong approach or was there some other concession you were referring to.

Mayor Nelson said he thought what that was referring to goes back to Errol. He said whatever we do for Rock Springs Ridge, we have to be consistent and do the same for Errol Estates. He

said one of the things we talked about was if Errol were to reinvigorate their golf course and get the clubhouse up and running, we as a City would entertain the idea of a TIF (Tax Incremental Financing) to allow them up to 3-5 years-worth of incremental taxes above that in order to allow them to get things going and do the things they need to do. He said at the end of the 3-5 years, the City would then collect those additional dollars.

Tucker Byrd said overall, in order for the second option to work, the 51 acres would have to be developable so we'd have to come to the City for the necessary approvals. He said the City Attorney is absolutely correct that in order to make adjustments to the 51 acres, you'd have to make adjustments to the overall PUD. He said if the 51 acres is not developable for any reason, the option swap doesn't work. He said if we go with option 2, we need the City's approval in order for us to make any of it work. He said he suspects that the HOA would need certain approvals to the now 319 acres. He said on top of that, there may be grants that we may be eligible for. He said what we need is for the City to understand that we're coming in and with approvals, this works but without approvals, none of this works.

Mayor Nelson said, we were talking about the possibility of being able to help them with grants for a playground or other amenities and said obviously, it's a Public, Private Partnership and we're happy to help where we can but things like the FRDAP Grant are only available to government entities so we will do what we can to help. He said another thing is that we have the reclaimed ponds that we have in the back haven't ever been used. He said at the time the golf course was operating, their water bills were upwards of \$300,000 a year and said if they were able to use the stormwater that goes into those ponds for irrigation, that would lower the operating costs for the Estler Group.

Commissioner Bankson said to **Tucker Byrd** that he had answered what he was thinking that this was. He said he's nervous at opening the PUD as it may open up an avenue that ends up taking away from the people. He said for him, the end goal is self-determination for the citizens and protection of their assets but it also has to be the win-win in that sense and asked what the best course of achieving that would be. He then asked **Michael** to clarify his statement about the golf course being residential use and asked if that was for the entire 319 acres to which **Michael** confirmed.

Commissioner Smith said in that in the event that the golf group swapped the 51 acres for the golf course that the PUD could be reopened at which time could be reevaluated as to whether it can be 1 or 2 homes per acre. He said you're taking out the 301 acres for the golf course so do we have any idea of how many homes could be built.

Mayor Nelson said **David Evans** has been working on this so we'll have him comment. David Evans said we've run the calculations and provided a couple of different scenarios. He said the property on the 51 acres varies but with a product that works for the economics for the golf course swap, we're talking about 300 to 350 units on the 51 acres and would likely be townhomes.

Commissioner Becker said since that was the most immediate thing said, townhomes would require a comprehensive plan amendment to get past the 2 DU per acre as everything north of

Ponkan would preclude that unless we made an overall increase in DU per acre in that same area, correct?

Michael said not necessarily as it's because the Comp Plan encourages cluster development and said hypothetically, the current units within the PUD, as permitted, are 1340. Commissioner Becker said 1337, to which Michael said 1337 are vested of which 1320 have been built.

Michael said that's based on a mix of 1:1 – 1:2 and said if we remove the golf course and take the remaining acreage, which is 800 overall acres (+/-). He said if we take the remaining 800 acres, and change the land use designation to 2:1, there would then be a permissible density on the site of 1600 units. He said so you take the units that are already there, and said to clarify, any change in the land use designation is not going to change the property rights of the current homeowners. He said a unit is a unit and said a townhouse is not equal to 2 units because it's a townhouse and said here we're talking about 800 acres so it doesn't matter in terms of density.

Commissioner Becker said the point he was trying to make is that in our current Comp Plan and the current Land Use designations within Rock Springs Ridge, it's not guaranteed that there's going to be even 2 DU per acre in entirety and would have to come before Council to which Michael confirmed. Commissioner Becker further stated that he didn't want to live in the world that might be versus what is reality currently and said the way our current code is written, and the designations within that community, would preclude townhomes in that area currently. He said our code cites that you cannot build townhomes on a residential estate or on a very low suburban land use designation. Michael said correct to which Commissioner Becker stated that the point he was making and said we're getting outside of the scope of what he thought this workshop was about. He said the fact is that all of this will have to come before Council for the normal hearing process anyway. He then said let's take a step back and said what he's more interested in is why we are here in the first place and that is to contemplate the idea of a land swap. He said a lot of the people here tonight, if not most, were here in April where the idea of this tri-party agreement/land swap was presented. He said it was administratively led with the idea of the City owning it for a period of time and doing some of the things you described regarding the fixes to the PUD. He asked if he's hearing this correctly in that Staff is now against doing anything with Harmon Road.

Michael stated that his understanding is that because there's never been any type of formal action to put the Harmon Road property up for sale so there's no formal action for this Council to consider, hence, this is why it's never been brought before you at a Council meeting. He said in the case of the Airport FBO as well as the Sandpiper property where the staff brought it forward for authorization to put it up for sale as well as the authorization to accept the highest bid. He said that's never been done for the Harmon property.

Commissioner Becker asked how then could we have made that representation back in April to this group of people. Michael said his understanding is that was an option to be considered.

Michael further stated that the direction that he's been given is that there is no formal offer to put the Harmon Road property up for sale; to accept any offers for the Harmon property, despite the fact that there have been unsolicited offers for the Harmon property.

Mayor Nelson said we got an update on the appraisal for the South side of Harmon road in the amount of \$2.9 million for the 23 acres. He said he'll send a copy of this to everyone. He said all of these options will be at the will of the Council.

David Estler, a golf course architect said he'll be brief and thanked the Mayor, staff and the Council for providing this forum. He said government is not easy and is certainly not simple but at least it's out in the open and they should be credited for providing this forum. He said again, my name is David Estler and I'm a golf course architect. He said this is my partner, David Fermín and were both from the Chicago area and both have an extraordinary interest in this property. He said we've been following this project for about 10 years and said he grew up in the area. He said he's been very impressed by the Rock Springs Ridge HOA board in trying to avoid litigation in trying to do this relatively peacefully.

David Fermin said that David laid it out and said he's been a golf course developer, lessor, lessee and has also spent the better part of 25 years in a municipal setting and said it scares him Counselor Michael but he understood what you were saying and said this was a very technical explanation. He said there's momentum on your side and he commends you all for this but said he thinks there's a light at the end of the tunnel and we're interested in exploring it. He said we would provide a more modern version of golf and said this is a concept we're working on. He said thank you for the opportunity. **Mayor Nelson** asked him to provide a brief summary which David provided a scenario of how his company has helped in that arena.

Mayor Nelson thanked everyone for coming out and said he hoped that everyone can walk away with some good information.

ADJOURNMENT - 7:22 p.m.

Bryan Nelson, Mayor

ATTEST: _____
Susan M. Bone, City Clerk