CITY OF APOPKA

Minutes of the City Council regular meeting held on August 19, 2020, 7:00 p.m., in the City of Apopka Council Chambers.

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

PRESS PRESENT: John Peery – The Apopka Chief

INVOCATION/PLEDGE

Commissioner Smith provided the invocation and led in the Pledge of Allegiance. He then provided the fact of the day as follows:

He said that on August 19, 1812, during the War of 1812, the U.S. Navy frigate *Constitution* defeats the British frigate *Guerrière* in a battle off the coast of Nova Scotia. Witnesses claimed that the British shot merely bounced off the *Constitution*'s sides, as if the ship were made of iron rather than wood. The American and British vessels bombarded each other in close and violent action. By the end of the battle, the British ship was a wreck while the Constitution escaped with only minimal damage. The unexpected victory of Old Ironsides against a British frigate helped unite America behind the war effort and made Commander Hull a national hero. The Constitution went on to defeat or capture seven more British ships in the War of 1812 and ran the British blockade of Boston twice. In 1855, the Constitution retired from active military service, but continued to serve the United States as a training ship and later as a touring national landmark.

APPROVAL OF MINUTES

1.Regular Council meeting of July 1, 2020.

Mayor Nelson stated that there has been a correction to the minutes. He said that on the minutes the Motion is listed as approving three Consent Agenda items where there were actually six Consent Agenda items on the agenda and six were approved by Council. Mayor asked for a Motion to approve the amended Minutes.

MOTION by Commissioner Bankson and seconded by Commissioner Smith, to approve the amended minutes of the July 1, 2020, regular meeting. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

AGENDA REVIEW

Edward Bass, City Administrator advised that there are no changes to the Agenda.

PUBLIC COMMENT PERIOD

Naret Teran, Senior Project Coordinator, said he has served the City for six (6) years, next month. He said he tries to be a good example and as a Professional Engineer, his responsibility is to add value and provide leadership in his area of practice. He said that with every year of service, he gains more knowledge and feels more empowered to help the customers that we serve. He said that as a public servant, he feels no sense of entitlement. He said that at the last City Council meeting, a member of the Fire Department stood at this podium and called Public Services the back bone of the City. He said that same individual spoke as to hours worked and hours away from family. He said that he was speaking of a 56 hour work week as opposed to a 40 hour so many of us enjoy. He said in the name of transparency, that individual was speaking of a 24/48 schedule which is 24 hours on and 48 hours off, which provides for two (2) full days off. He said that the typical 40 hour a week worker has 2 days off and it's called the weekend and it goes by quick. He said this misrepresentation of dedication to the job, convinced him to speak up. He said he recalls being on the Pension Board, which was to shine a light on the disparity between General and Fire & Police Pensions. He said he tried to explain the sacrifice to the General Employees who averaged 3% raise while Fire averages 6% and Police averages nearly 5%. He said Pension is based on salary and General Pension accrual is 31% less than Police and Fire and said this is a known disparity that was to be rectified by a vote that has gone unanswered. He stated that these are factors that need to be considered when budgeting for salaries and raisers. He said that merit is defined as to be worthy or deserving and therefore cannot be construed as an entitlement. He said that these are the times that try men's souls. He said that it is during the pandemic that we can sow what it means to be all in this together.

Sam Anderson, Apopka Police Officer, said he's here regarding next year's budget. He said first and foremost, he was the one that wrote the letter regarding the merit program and said he stands behind it. He said he didn't sign it for several reasons and said he believes it represents the general mood within the police department and not the feelings of one person. He said he doesn't think anyone can write a letter that captures everyone's feelings perfectly but someone has to be the voice for those who have concerns and at least the letter got a conversation started. Writing and sending that letter and being here tonight are not acts of cowardice. He said he stood here in 2018 and mentioned just about everything in that letter and it's frustrating that we're here having to fight this battle for the second time in three years. He said that it's not just about COVID and he believes the proof is in the numbers. He stated that as far as numbers are concerned, if we hear that other municipalities are not getting a cost of living adjustment, we may be missing the bigger picture. They may have a merit or tenure based pay plan. He stated that he spoke with the Deputy Chief of Winter Park last week and said that he indicated that their officers with 0-5 years of service get 5% raises ever year as a retention incentive. He further said that their sergeants get 3.5% raises and their lieutenants making

$75,000 or more get a 1% raise. He said that even though you may have heard that a particular city is not getting a COLA, there are almost certainly other built in retention incentives, including fringe benefits, which we often overlook. He said he got a copy of the City of Ocoee's contract yesterday and said that they have a step plan which you may call a show up to work and get a raise program, which is not based on merit, its written in their contract. He said their non-union employees including Public Works and other Departments are getting an automatic 3% raise next year.

He said he wanted to point out that we all received an email City-wide from the Mayor on July 31st with a copy of the proposed budget attached and said everyone received it. He stated that in the third paragraph, the email references a $3 million dollar shortfall in sales tax revenue. He further stated that if you look at the sales tax portion of the budget and subtract next years proposed revenue from this years, it comes to $2,453 million dollars, not $3 million. He said the Mayors email also references a property tax increase which will generate $900 thousand dollars in additional revenue. He said if you look at the revenue portion of the budget and subtract this year's property tax revenue from next years, it's actually over $1million dollars and not $900 thousand dollars.

He stated that finally, the email references the sale of the property of Sandpiper and Rock Springs is closing the remainder of a $1,000,000 million dollar deficit. He said that that parcel is listed at $1, 267,000 million dollars. He said that while you may think of that as being conservative, that's a difference of $919,000 thousand dollars between what the Mayor sent in the email and the budget that was attached to it. He said he wanted to end by saying that they sincerely appreciate what they have here but said that people are not exactly knocking down our door to become cops, if you haven't seen the news recently. He stated that on that topic, we have 98 filled positions of the 112 positions authorized and said his question is, do we have those funds? He then asked if perhaps we could fill three-quarters of those vacancies and use the remainder as a retention incentive for those who are here now. He stated that the cost to hire a new police officer is approximately $100,000 thousand dollars. He said it makes more sense to keep the people we already have.

Mayor Nelson said there are a couple things that maybe you have misunderstood so first, under the sales-tax reduction, there are two parts of sales-tax so if you look at those numbers, the numbers I provided are accurate. The second thing is that you stated that the property ad-velorom went up $1.2 million a year, that so that is absolutely correct, however what the $900 thousand goes to, that is if we go up a quarter-mil, that is what it will generate, so you're wrong there as well. He said the third part is the sale of Sandpiper and said we could get $1.2 million for Sandpiper and if we do, it will all go toward either reducing outstanding liabilities or toward raises or capital improvements.

Mr. Anderson said that he wants to make sure he is correct on his math and said that for current property taxes, $13.7 million and proposed next year is $14.7 million. Mayor Nelson said that that is because we're adding the quarter-mil. Mr. Anderson stated that was an increase and that is not $900 thousand, it's over $1 million dollars.

Edward Bass, City Administrator said that portion is what the current millage rate is. He said that the Commissioners adopted an additional $900 thousand to fill the gap that you see in the total budget. He said that what you see there is the current millage rate, which is the revenue the original millage rate generates. He stated that the $900 thousand that the Mayor is speaking about is if the raise, which we have set our proposed millage rate point.25 and therefore, that would generate the $900,000 comes from.

Mr. Anderson asked about the estimated sales tax short fall and wondered if it was the half-cent sales tax.

Mr. Bass said you have to look at half-cent and you have to look at revenue sharing, both of these are sales tax. It's under the Municipal Revenue Sharing number.

Mr. Anderson said that he feels that the money is there to which Mayor Nelson said so where is the money? Mr. Anderson stated that $400 thousand dollars is on Fifth Street re-paving central business to which Mayor Nelson stated that that is CRA money. Mr. Anderson said we gave up half million and a million dollars in a red light program with no plan to replace it.

Mayor Nelson stated that if you go back and look at numbers for red light cameras, the net revenue is anywhere near that number. There are revenues and expenses as the City does not keep all of the money we collected.

Mr. Anderson asked why the traffic light fines of $657 thousand dollar are on the budget as a revenue source to which Mayor Nelson stated that there are also costs associated with this

Commissioner Becker said that that particular line item is the ramping down of the closure of the program and the remaining infractions that are still outstanding from his understanding. He stated that generally speaking, during the height of that program, the City was netting just under $1 Million dollars a year as collections were $1.6 Million and the balance was sent to ATS as a cost of service.

Mayor Nelson said that all of that didn't go to the City as some of that money went to the State.

Commissioner Becker said generally speaking, what is the ask for this year? He said that knowing where we're at this year, what is the comfort level that you all feel, understanding that we're probably not going to get you what it's been the past few years. He said what is middle ground here that we can start talking about and as he said, the final date isn't until September 9th so there is still time for us all to discuss at the Council level.

Mr. Anderson said he feels everyone is sensitive to this and he didn't feel there is any unrealistic expectation but if you remove a merit based program, then you remove the incentives for performance. He said this is not a show up to work and get a raise and said that's not the way they do business and never have.

Mayor Nelson said he didn't disagree with that and didn't feel anyone would disagree with that and said he would love to have a merit base program and would love to have 4 or 5% however we felt like the employees deserved something but yet we have 500 employees and across the board from Public Services, to Admin to Fire to Police is $300 thousand/per 1% raise.

Mr. Anderson said the frustration lies in the fact that when he asked the Chief about this, he said that the first hear about the budget cuts was on a PowerPoint last month. He stated that it's frustrating to them that they have no voice, no liaison and said that that's why you see us going in the direction of collective bargaining. He said this is a double-edged sword and they're all aware of this but they don't want to blind-side.

Mayor Nelson said that this shouldn't have been a blind-side and we've been completely transparent and open on the process so he is surprised that the Chief would say that as he came in with a list of things and wants for his budget, including additional benefits. He also said that Fire and Public Works had their lists too but the reality of it is that there are things we have to do and things we'd like to do and raises were a part of that discussion but the numbers aren't there. He stated that it's not to say that in January, if the projections are wrong, maybe we can go back and re-visit this. He said that we struggle with this as we have great employees, there's no question about this but we also struggle as we have constituents out there trying to make ends meet and with 17% unemployment what do we tell those who can't pay their rent that we're going to raise the property tax so we can give the employees more money. He stated that one business in town just laid off 400 workers and another laid off 50 people so what do we tell those people. He said that it's a tough time to look for money when the constituents are struggling hard too.

Commissioner Smith said that he was glad he is here today and said he was the one that made the comment about being a coward at the last meeting and was hoping that the person that made the comment would come forward but said that the reason he said that was that there were several offices that also emailed and said that they were not a part of that letter. He said there were at least two (2) things in the letter that he agreed with and one was the Deputy Chief Position needs to be filled and also that there are 112 Officers that we should have and the Chief asked for two (2) additional officers because of the growth of the City and he believes he needs those officers so he's not in favor of only hiring a third of the officers and appreciates the fact that our Police Department patrols our City and takes care of our citizens and solves crimes so he wouldn't want to lessen those officers available. He said it's not that we're taking the merit pay away, it's just that based upon our budget this year, we're not able to give the merit that your desiring this year. He said all we're asking is for you to work with us and allow us to get through this budget year and see what next year looks like. He said it wouldn't be fair to show partiality to one Department when we value all of our employees.

Mr. Anderson said, well Commissioner, with all due respect, he recalls something similar being said two years ago and we had a one year pause in which, let's be honest, someone in this room got a big raise and here we are again, fighting the same battle. He said it's a politicians promise to which Commissioner Smith said he's not a politician, he's a Servant.

Commissioner Becker said going into our budget workshops was the time to air this stuff out. He said he's heard what he's said about communication and that there was a general unawareness and whether that was a top down messaging issue or just general awareness, there was a miss as we're having this conversation now rather than the budget workshops. He said that during the budget workshop, we should've been saying that if we're not doing these merit increases, commensurate to other bench mark Cities and other agencies are doing, we stand to not be able to fill positions, we stand to attrite additional positions so we've missed that opportunity and now we're here today. He said that the comment that Naret said that a general employee is the same as a Police or Fire employee, he said fundamentally disagrees with this as there are high risk components to both Police and Fire. He said he went on a ride along on the night shift and it was eye opening to see what types of calls they respond to and the environments that they work in. He said that he understands that he gets how the Administration has come up with the 1% COLA because they're trying to deal with a revenue shortage that we haven't seen in recent years so it's a mechanism to at least give the employees something. He said that he disagrees that we need to stay where we are right now between now and September 9th and said that there's room for us to put a little bit more in terms of a merit in addition to the COLA that we've already budgeted for. He stated that we need to remember, new development coming in takes a while to come on to the tax rolls. He said on a good year, we may average 400-450 CO's that come onto our tax base. He said that we invest almost 60% in Public Safety, whereas our ad-velorem property tax revenue only comprises less than 20% so it's an inverse relationship so anytime we want to say across the board, we're going to five a 6% pay increase, you almost need to grow your property taxes base by 12% of more. He said at the end of the day, we're asking for long term certainty. He said that perhaps some of the driver of this is the Mayor had done some inspection of the Pension program and perhaps there was some concern and miss-information about the motives of that exercise but that would have had to come before Council before anything could take shape on this as well so he said this may have caused some uneasiness for the employees. He said if we look at the general employee pool and you look at the public safety high risk positions, if we did another 1% for general and another 2% for public safety, you're looking at about $614 thousand dollars that we would need to go and find between now and September 9. He stated that he felt that this is doable. He feels there may be some opportunities to find some dollars and felt that we can do something if we all put our heads together. He said that long term strategy, he thinks it's a strategy conversation to discuss what our merit program or COLA program would be. He asked whether there was a happy median between setting a certain COLA percentage to make sure people have confidence in knowing that they'll get something every year and then how do we build merit on top of this that you have confidence as a Council in us that we act as your "Quasi Union" without having union representation as he feels that this will add a layer of complexity and negotiations that the Council shouldn't have to deal with as we should have a mutually supportive relationship that we need to have. He said that this late in the game, he would position ourselves to put another 1% for General and 2% for Public Safety on top of the COLA that we already have and find that additional $615 thousand, give or take.

Mr. Anderson said he agrees that we could have constructive conversations in the future. rather than being caught off guard.

Michael Rodriguez, City Attorney, advised the Members of the Council that if there are other members of the Police Department that want to speak, they have the right to do so, he doesn't want to jump ahead to what would be part of the City Attorney's presentation, but said he wanted to advise them to allow them to speak but not participate any further in debate as the matter has already been brought before the Public Employees Relations Commission (PERC) for potential organization of the members of the Police Department so he said he didn't want to begin with any statements that are done by the Council, especially where the Council is not taking any action but the matter has already moved to the state for potential organization by the employees. He reiterated that the Council should allow the speaker and move on to the next speaker without engaging in any dialog as he does not want any comments that may prejudice the City as this has already before PERC.

Robert Campbell, Apopka Police Department, said that after the last conversation, he will yield his time back and just say that he hopes the Council follows through with what Commissioner Becker said and thinks that he is really working for the employees.

Jefferson Werts, Apopka Police Department, said that he wanted to say one thing about the General Employees. He said respects them but as you see right now, he has a bulletproof vest on and he said they go from 0-90 to back to 0 in the blink of an eye. He said to take the Police Department and loop them in with the General Employees is a travesty. He said he has a physical fitness requirement, they don't and for him to be looped into that, where he has to maintain his physical fitness, rubs him the wrong way.

Jeff Condello, 3307 Clarcona Road, Apopka spoke about the Randall Academy Impact Fee Concession. He said that he employs approximately 300 people at his company. He said they're opening a school called Randal Academy which currently has 10 students attending, beginning August 25, 2020. He said the kids are learning a trade in addition to required learning. He said he received an invoice in the amount of $52,000 for impact fees, including $43,000 just for traffic impact fees, which he doesn't feel are appropriate and asked that we waive or reduce all or a part of these fees.
Michael Rodriguez, City Attorney, stated that the Council does not have the authority to waive impact fees and this would've needed to be addressed at the time of Development Review.

CONSENT (Action Item)

1. Approve the DFL5 Lot 3 Mid-Florida Logistics Park Construction and Transportation Impact Fee Agreement.
2. Authorize staff to execute a lease agreement renewal with the Omega Church Broadcasting Network.
3. Authorize the Police Department to accept funding from the BJA FY 2019 Edward Byrne Memorial Justice Assistance Grant, JAG-Countywide (JAGC) Program.
4. Authorize the Police Department's grant application for FY 2020 Edward Byrne Memorial Justice Assistance Grant (JAG) program.
5. Authorize the purchase of a new ambulance for the Fire Department.
6. Authorize the issuance of blanket purchase orders for FY 2020.
7. Accept the disbursement report for July 2020.

Mayor Nelson asked whether there is anything that needs to be pulled off the Consent Agenda and hearing none, he asked for a motion to approve the seven (7) items on the Consent Agenda.

MOTION by Commissioner Bankson, and seconded by Commissioner Becker, to approve the seven (7) items on Consent. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

BUSINESS (Action Item)

1. Designate a chair for the Professional Auditing Services Evaluation Committee and appoint the remaining two committee members.
   Presented by: Jamie Roberson

   Jamie Roberson, Finance Director said that this is a request to designate a chair for the Professional Auditing Services Evaluation Committee and said that per Statute, this committee must be chaired by an elected official and be presented with a total of three (3) members at a minimum. She said that administrative selection was provided for the two (2) remaining members for appointment. One of the appointed members is a Finance Director from the City of Oviedo, named Gerry Boop, who lives in this area and the other is a local resident and CPA, named Steve Lorow. She asked the members of City Council to select someone to be the chairman of this committee for the Audit RFP, which is for the selection of the auditors, who will do our financial audit for the City.

Commissioner Bankson agreed to be the chair as Commissioner Becker is already tasked with the Lake Apopka Natural Gas Board and Commissioner Smith is our designated representative for the League of Cities.

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Mayor Nelson asked for a Motion to appoint Commissioner Bankson to chair the Professional Auditing Services Evaluation Committee.

MOTION by Commissioner Smith, and seconded by Commissioner Becker to appoint Commissioner Bankson to chair the Professional Auditing Services Evaluation Committee. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

MOTION by Commissioner Smith, and seconded by Commissioner Becker to appoint Gerry Boop and Steve Lorow to serve as the two (2) remaining members of the Professional Auditing Services Evaluation Committee. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

PUBLIC HEARINGS/ORDINANCES/RESOLUTION (Action Item)

1. Ordinance No. 2742 – Second Reading - Comprehensive Plan – Large Scale – Future Land Use Amendment
   From: "County" Rural and "County" Industrial
   To: "City" Industrial
   Owners: American Sanford Four, LLC; Steven R. Rubright; JP Holdings, Inc.; Rubright Properties, LLC; Rubright Family, LP; JP Holdings, Inc. and James Scott Pridgen; Douglas & Lisa Surrett and James P. Purdy
   Applicant: Poulos & Bennett, LLC, c/o Kathy Hattaway
   Location: West of North Orange Blossom Trail, north of Hogshead Road
   Project: 349.37 +/- acres; Max. 9,131,134 sq. ft. non-residential
   Project Manager: Bobby Howell

   Mayor Nelson asked if there have been any changes since the first reading to which Jim Hitt, stated that there are none.

   Mayor Nelson asked if there is anyone from the Public that would like to speak on this item and hearing none, he asked for a motion to adopt Ordinance No. 2742.

   MOTION by Commissioner Smith, and seconded by Commissioner Bankson, to adopt Ordinance No. 2742. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

Mayor Nelson stated that Ordinance No. 2780 is the sister Ordinance to 2742 and was moved up and heard 2nd rather than 4th on the Agenda.

4.. Ordinance No. 2780 – Second Reading - Change of Zoning / Planned Development Master Plan
From: T (Transitional District)
To: PD (Planned Development District)
Owners: American Sanford Four, LLC; Steven R. Rubright; JP Holdings, Inc.; Rubright Properties, LLC; Rubright Family, LP; James Scott Pridgen; Douglas & Lisa Surrett and James P. Purdy
Applicant: Poulos & Bennett, c/o Kathy Hattaway
Location: West of North Orange Blossom Trail, north of Hogshead Road
Project: 349.37 +/- acres; 6 lot industrial park
Project Manager: Bobby Howell

Jim Hitt, Community Development Director said there is a minor change to the Ordinance itself, under Section I (a)., regarding a clarification of language. He said that this is an overall Planned Development (PD) but, this language allows a developer to create a separate PD, within the Master PD/Master Plan itself. He said the goal is to clarify this a means to create a separate PD agreement, aka Development Agreement, for any relevant portion of the PD. He said that this will be required to be provided at the time of each minor or major development plan submittal. He said this will ensure that they're handled separately from the Master PD.

Commissioner Becker asked whether any subsequent PD would still go by the mandate that only light and heavy industrial uses are permitted. He said he wants to be sure the developers can't go back and submit a separate PD for residential.

Mr. Hitt stated that there are no residential uses permitted in this Master PD.

Mayor Nelson asked if there is anyone from the Public that would like to speak on this item and hearing none, he asked for a motion to adopt Ordinance No. 2780 with the minor adjustment.

MOTION by Commissioner Bankson, and seconded by Commissioner Smith, to adopt Ordinance No. 2780. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

2. Ordinance No. 2776 – Second Reading - Comprehensive Plan – Small Scale – Future Land Use Amendment
From: Agriculture
To: Industrial (Max. 0.60 FAR)
Owner: 3307 S Clarcona LLC
Applicant: Vihlen and Associates, P.A., c/o Sidney L. Vihlen, III
Location: East of Clarcona Road, north of Stone Road
Project: 5.85 +/- acres; +/- 152,895 non-residential sq. ft. (IND Future Land Use, 0.6 FAR)

Project Manager: Phil Martinez

Mayor Nelson asked if there have been any changes since the first reading to which Jim Hitt, stated that there are none.

Mayor Nelson asked if there is anyone from the Public that would like to speak on this item and hearing none, he asked for a motion to adopt Ordinance No. 2776.

MOTION by Commissioner Becker, and seconded by Commissioner Smith, to adopt Ordinance No. 2776. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

3. Ordinance No. 2777 – Second Reading - Change of Zoning
From: AG (Agriculture District)
To: I-L (Light Industrial District)
Owner: 3307 S Clarcona LLC
Applicant: Vihlen and Associates, P.A., c/o Sidney L. Vihlen, III
Location: East of Clarcona Road, north of Stone Road
Project: 5.85 +/- acres; +/- 129,111 sq. ft. non-residential
Project Manager: Phil Martinez

Mayor Nelson asked if there have been any changes since the first reading to which Jim Hitt, stated that there are none.

Mayor Nelson asked if there is anyone from the Public that would like to speak on this item and hearing none, he asked for a motion to adopt Ordinance No. 2777.

MOTION by Commissioner Smith, and seconded by Commissioner Bankson, to adopt Ordinance No. 2777. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

5. Ordinance No. 2787- Second Reading - Cemetery Fees Rate Increase & Establishment of Cemetery Perpetual Care Fund.
Approve an amendment to the City of Apopka Code of Ordinances, Amending Chapter 26 - "Cemeteries", Section 26-4, "Fees"; and Establishing a new section, Section 26-13, Cemetery Perpetual Care Fund.
Presented by: Susan Bone

Susan Bone said there were a few minor language clarifications and a correction on the double-interment space cost for non-resident rate at $1800 rather than $1,900.

Mayor Nelson asked if there were any questions about the changes and asked if anyone from the Public would like to speak on this item. Hearing none, he asked for a motion to adopt the amended Ordinance No. 2787.

MOTION by Commissioner Bankson, and seconded by Commissioner Smith, to adopt the amended Ordinance No. 2787. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

6. Resolution No. 2020-16 - First Reading - Martin Place Phase 2 Neighborhood Improvements District Special Assessment.
   Presented by: Chuck Vavrek

Chuck Vavrek, Administration Department said that this is for the creation of a Special Assessment area. He said for clarification purposes, this resolution will be brought forward for two readings in order to allow the public to have enough interest to come and address their concerns, should they wish to do so. He stated that this is a little out of the ordinary to do two readings for a resolution but this will allow the public to come to either a day or a night meeting to ensure everyone has an opportunity to come. He said that basically, the resolution is dealing with Phase II, where we had the failure of the retention pond and said that there two phases to Martin Place. Phase I, the original development and Phase II. He said that the ownership of the Pond was by the Homeowners Association and was created in July of 1987 and was later dissolved by the Division of Corporations on October 11, 1991. The City did, at that time, create a Code Enforcement Case on this for violations however, unfortunately, as the property was owned by the Homeowners Association, we had nowhere to go with the enforcement of this. He stated that the City did everything we could do on our side. He said that the fees that will be assessed have not been published yet, all this is doing is notifying the State, the County and the Property Appraiser of our intent to create the assessment. He said that after January, we will have the figures and they will have to be published and put out to the Public for a Public Hearing, so those fees will have to come back before Council to be assessed at that time.

Mayor Nelson said so what you’re saying is that the costs will all be transparent at that time to which Mr. Vavrek said yes, they will be clearly stated and every property owner will be notified.

Mr. Vavrek stated that he has reached out to all of the property owners trying to identify a Homeowners Association or who may have been involved with the association but got no response, however, he was able to locate someone that used to be on the board years ago who has been able to provide information regarding the ownership of the property in order to transfer this into the City so that we can maintain this going forward. He said that prior to this meeting, he sent out a second notice that we were having a Public Hearing for the creation and the enabling resolution to create the assessment.

Commissioner Becker inquired whether the ultimate assessment will only be on Phase II or would it be the entire Phase I & Phase II or whether this was an umbrella HOA for the entirety to which Mr. Vavrek stated that the first phase didn’t have an HOA, but had an Architectural Review Board. He said that that would be separate as that language only addressed architectural review. He further stated that Phase II had an established HOA so they are totally separate. He said we do need to address Phase I as that pond has not been taken care of either bit that will be separate.

Victor Alas, who resides at 553 Swallow Court, and a long term resident said that he’s had some conversations with Mr. Vavrek and expressed his concerns about it and sent him a few emails and hasn’t had a response, which he understands but at least it’s on file. He said the reason he’s here is that he opposes the special assessment but understands the need for it. He stated the reason he opposes it is that he doesn't think the City ever filed for any bids for the work, he was told that they used a current contractor to save money. Mayor Nelson asked if this was originally or for the fix to which, Mr. Alas stated for the repairs. He said his other concern is with the delays on the project with all of the rain washouts and said he doesn't know why this is taking so long and if we have a hurricane, it's going to wash out again and cost more money. He said there are tires and garbage in the pond and has photos of that. His third concern is that the area in general is in very bad condition concerning Code Enforcement and said Mr. Vavrek said he will address those issues. He said that because the area is in such bad condition and you're wanting to increase property taxes but property values are going to decease due to the way the area looks. He said it's extremely bad including high grass, broken down or abandoned cars, trash build up, broken fences. Lastly, he feels that the City needs to take some ownership in this financially for letting the area and the pond get to the situation it did.

Edward Bass, City Administrator, said that he can give an update on the project and said that COVID delayed the project due to awaiting parts but said he understands we're getting close and within a few weeks the project will be complete. He also said that he is not sure where the number that Mr. Alas mentioned regarding the $1.5 million, came from to which Mr. Alas stated this was a figure that was a quote he heard it would cost from the road washout. Mr. Bass said that this is why we reacted so quickly on this because this issue could've turned into a $1-2 million dollar road project as it continuing to cave in toward Vick Road. Mr. Bass stated that the project was budgeted around $150,000 to do the whole project and said that when we come back with the numbers, there are some components that the City will share responsibility in including some of the lines that are going into the pond and when we get back to you on the numbers, the numbers will identify what components are the responsibility of the City and which are responsibility of the HOA and stated that there will be options of ways that we can amortize these costs.

Alfonso Herrera, 597 Martin Place Blvd. stated he is one of the original owners that live there and said he remembers when they had the HOA, they had a lot of problems so they dismissed them because he said that they weren't doing any improvements. He stated that from the moment the HOA was dismissed, he felt that it was the responsibility of the City to take care of the pond. He said he lives near the pond. He said the only problem that he sees is the mosquitoes in the pond. He said this should've been cleaned out from the beginning and the City should've taken responsibility for the pond. He said he doesn't think it's fair for the City to assess them for this. He stated that there are a lot of renters that live and they don't care. He further stated that he realizes that it is the responsibility of the owners of the houses but he feels that from day one, the City had the responsibility as they made the agreements.

Mayor Nelson stated that that the pond is the responsibility of the homeowners association and one of the things we're working on is a program for street lighting for neighborhoods and said that we can add our storm water ponds and maintenance of those into this MSBU, which is a small taxing unit for communities where there is not a strong HOA or a non-existent one so that it gets taken care of and gets put on your tax bill versus trying to collect the money from each individual homeowner.

Michael Rodriguez, City Attorney said it's important to note that even though the HOA has been administratively dissolved, this HOA was created prior to the creation of Chapter 720, Florida Statutes so it's actually governed as a non-profit corporation under Chapter 617, Florida Statutes so we have to treat it as disposition of corporate property and the storm water retention area is actually the private property of a dissolved corporation. He stated that the obligations of maintenance do not automatically fall on a local government because a corporation is dissolved because it is still private property of a corporation. He said we have been working to locate the two named officers as a dissolved corporation still has the ability to dispose of its property but we need the proper authorization of the officers of the dissolved corporation to actually dispose of the property so the City can attempt to conduct maintenance.

Mr, .Herrera said that he hopes that the City will consider that many people are not working now because of the Covid and that if we can stretch it out for the longest time possible so that it's the smallest amount of money possible.

Michelle Freeman, 583 Martin Place Blvd. said she moved in the community in 1998 and never heard of an HOA nor has anyone approached her for any dues and said that before she moved in, her mother has that house and she did not pay any HOA dues either. She said she feels that this assessment is unfair to put the burden on the homeowners since it went so long un-kept. She said there are a lot of trees that have built up in this area for many years and has watched it deteriorate. She said that she's on furlough, since April 1st and this would be another hardship for her.

Mr. Vavrek clarified that the last speaker lives in Phase I and we are not currently addressing Phase I right now and is not what's being heard tonight. He stated that he has worked with Chief McKinley and they are aware of the Code Enforcement violations and are addressing them. He stated that he spoke with Vladimir Simonovski and said that the project is on schedule to be completed within the next two to three weeks. He stated that with regard to the cost and the bidding, this was an emergency cost and the City used an existing contract we had with a construction company to make the repairs.

Commissioner Becker said the point has already been made in that had this gone further, we would be talking about a much higher burden of cost. He also commented that the trees are the responsibility of the homeowners and HOA in terms of trimming and nuisance free. He said the City's responsibility would be for sidewalk issues, if applicable.

Commissioner Bankson asked if there are any trees in the City's Right of Way to that can be addressed to which Mr. Vavrek stated that he is not aware of any but will check on this. Commissioner Bankson said that one positive side would be that for several years there haven't been any fees assessed but if we spread this over a longer period, it should be more feasible.

Commissioner Smith asked for clarification as to whether even if the trees are hanging over the roadway, if the homeowner is still responsible to which Mr. Vavrek stated yes, unless we were to determine that this was an imminent threat. He said that if it's our sanitation truck going through and hitting the trees and creating debris up to which Mr. Vavrek stated that when that occurs, Public Services notifies us and Code Enforcement works to resolve it.

Mayor asked if there was anyone else from the Public who wanted to speak. Hearing none, he asked for a motion to approve Resolution No. 2020-16 at first reading and hold over for a second reading and adoption.

MOTION by Commissioner Smith, and seconded by Commissioner Becker, to approve Resolution No. 2020-16 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

7. Resolution No. 2020-17 - First Reading - The Oaks at Kelly Park Street Lighting District Special Assessment.
   Presented by: Chuck Vavrek

Mayor Nelson gave a shout out to Chuck Vavrek and said that this was his brain child a long time ago and said that he wants to look at legacy costs and said that these are the costs that keep creeping up every year with no end in sight. He said one is that back in 2011, we addressed for Retirement Medical which we just added $5 million to the liabilities on the City's books because of the increasing medical liability. The second one we just finished was the Cemetery costs. He stated that the Cemetery is running at a minimum of $50,000 loss every year so we have in place within the next 20 years that will be taken care of. The third legacy cost is the street lighting within neighborhoods and as we add new neighborhoods, the cost to the City for all of these street lights is approximately $600,000 and every new neighborhood we add, without this type of agreement, the City pays another couple of thousand per neighborhood. He stated that long term, this will get us into a stable position that we can move forward with.

Chuck Vavrek stated that this is an enabling resolution that creates a special district for the Oaks at Kelly Park Street Lighting District, Special Assessment. He said that this development was approved by City Council a few months ago and building is underway. He stated that we have reached out to the developer and the developer has provided a letter requesting that Council consider putting this into an MSBU for future street lighting costs. He said those costs will be assessed against the Ad-Velorem tax bill when it goes out. He said that we take the street lighting bill and divide it amongst all of the residential properties within the development. He stated that the City will pay the bill but the money will go into a trust that can't be used for anything except street lighting and that money will then be used to pay for the cost of the street lighting in the future. Mr. Vavrek said that he's coordinating this with Community Development and in the future, we will start running these through when new development plans come in. He said that within the next few meetings there will be some older developments coming through.

Commissioner Smith inquired about the cost of maintenance for the street lighting to which Mr. Vavrek stated that the maintenance is part of the electric bill. He said the street poles don't belong to us, we pay for maintenance on each of the poles.

Commissioner Bankson said he loves this approach to it and said it's a sustainable financial model and the user is the one who takes the cost of this so this is a great plan.

Commissioner Becker said his only question was that this sets a precedence and inquired as to whether other municipalities have this model to which Mayor Nelson replied that Orange County uses this model. Mr. Vavrek said the City of Oviedo uses a similar model but they spread it across every property owner in the City.

Mayor Nelson said that one of the other things we can look at down the road is that Orange County assesses storm water retention ponds. He said if you have a HOA that's not active, this MSBU assessment will take care of street lights and the storm water retention maintenance. He stated that what happens in an economy downturn, some people stop paying their HOA dues so what happens is the 60-70% of people are paying their portion plus the 30% of the people who aren't paying just to keep the grass mowed and the street lights on. He said this way, it's on the tax bill so it will get paid.

Mayor Nelson asked if there is anyone from the Public that would like to speak on this item and hearing none, he asked for a motion to approve Resolution No. 2020-17 at first reading and carry it over for a second reading and adoption.

MOTION by Commissioner Bankson and seconded by Commissioner Smith, to approve Resolution No. 2020-17 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

8. Resolution No. 2020-18 - First Reading - Bridle Path Development Street Lighting District Special Assessment.
   Presented by: Chuck Vavrek
   Mayor Nelson asked if there is anyone from the Public that would like to speak on this item and hearing none, he asked for a motion to approve Resolution No. 2020-18 at first reading and carry it over for a second reading and adoption.

   MOTION by Commissioner Smith and seconded by Commissioner Becker, to approve Resolution No. 2020-18 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

9. Resolution No. 2020-19 - First Reading - Avian Pointe Development Street Lighting District Special Assessment.
   Presented by: Chuck Vavrek

   Mayor Nelson asked if there is anyone from the Public that would like to speak on this item and hearing none, he asked for a motion to approve Resolution No. 2020-19 at first reading and carry it over for a second reading and adoption.

   MOTION by Commissioner Becker and seconded by Commissioner Smith, to approve Resolution No. 2020-19 at first reading and hold over for a second reading and adoption.

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

10. Resolution 2020-23 – FY19/20 Budget Amendment
Presented by: Jamie Roberson

Jamie Roberson, Finance Director said that this Budget Amendment is to fund the appropriations for the repair to the traffic signal cabinet located at the intersection of Park Avenue and Lester Road that was damaged on August 16, 2018 by a vehicle that lost control. She said we received about $31,000 in insurance proceeds back in 2018 so this amendment is actually coming from the reserves from the streets funds so that we can go ahead and make the repair. She stated that the estimated cost was slightly increased from the original quotes in 2018 from $31,000 to about $37,000 and said we've added a cushion in there for a contingency in the event that something arises when they go to make the repair. She said this also includes an amendment for funding and appropriation for the Marden Road Developers Agreement, which is an agreement that we entered into several years ago for the improvements that were made at Marden Road. She stated that we only have about $700,000 left to pay off on that. She further stated that the development, Alta East Shore line, there's about $600,000 that we 've already collected in impact fees and with the payoff and what we've collected in Alta East Shore, we will likely not need to make a sipp payment in 2021. She said there's also a 2019 Edward Byrne Memorial JAG Countywide Grant that's a pass-through from Orange County for the Police Department which is a supply oriented grant and is approximately $12,000.

Mayor Nelson asked if there is anyone from the Public that would like to speak on this item and hearing none, he asked for a motion to adopt Resolution No. 2020-23.

MOTION by Commissioner Bankson and seconded by Commissioner Becker, to adopt Resolution No. 2020-23. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

11. Resolution No. 2020-24 - Calling a special election and a runoff, as needed, for the purpose of electing the City Council Commissioner for Seat 2, providing for the qualifying period, and election dates.

Michael Rodriguez, City Attorney, stated that this is a resolution pursuant to Florida Statutes which memorializes what was pronounced in the proclamation at the last meeting. He said this resolution establishes dates and procedures and begins the process for the special election for the vacancy of Seat 2.

Mayor Nelson asked if there is anyone from the Public that would like to speak on this item and hearing none, he asked for a motion to adopt Resolution No. 2020-24.

MOTION by Commissioner Smith and seconded by Commissioner Becker, to approve Resolution No. 2020-24. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

CITY COUNCIL REPORTS

Commissioner Bankson said he missed the last meeting as he was away on a long awaited vacation so he said he essentially unplugged and missed all of the wonderful fireworks. He said he held his comments based upon the City Attorney's recommendation. He said this is a challenging time for all of us.

Commissioner Smith said that he attended the virtual Florida League of Cities Conference due to the Pandemic via Zoom. He said they went through all of the Resolutions and discussed them all and made a few tweaks here and there. He said he saw our Finance Director on Zoom and she did a great job at representing the City. He said on Friday, he attended the annual meeting where the outgoing President gave a speech and the new President, Tony Ortiz was installed as were the rest of the new board members. He said they recognized the Hometown Heroes and said he'd like to see if we can find someone to nominate next year as it appeared that every City was represented except for Apopka. He said he also wanted to say that we value all of the employees of Police, Fire and the General Employees and we don't want Departments pitting against one another. He said some may be more high risk than others but we value them all.

Commissioner Becker said he agrees with Commissioner Smith's sentiments and he gave praise to the teachers and said he can't thank them enough and if there are any teachers watching, he wants them to know he has such tremendous respect for what our teachers are doing and he hopes that we still continue that close relationship with our school board member to help in any way that we can.

CITY ADMINISTRATOR REPORT

Edward Bass, City Administrator gave a brief introduction of Mr. Jeff Weatherford, candidate elect for the new Public Services Director said he hoped that Council will agree with him and appoint Mr. Weatherford. He said Mr. Weatherford comes from Huston and has a lot of experience in drainage, roadway and streets and said we're very fortunate to have him.

Mr. Weatherford said he's real happy to be here. He stated he's a civil engineer with more than 25 years of experience and has worked with both public and private sectors. He said as Mr. Bass said, recently, he spent about 15 years with the City of Huston, where he just retired as the Director of Transportation and Drainage Operations. He said he's certified as a professional Traffic Operations Engineer and has served as the City Traffic Engineer for Houston. He said he's looking forward to all of the exciting things we're going to be doing.

Commissioner Bankson said he enjoyed meeting Mr. Weatherford and said his resume speaks for itself and is looking forward to working with him.

Commissioner Smith welcomed Mr. Weatherford to Florida and said he apologized for not being able to meet with him on Monday but did get to meet him prior and said welcome to the City of Apopka.

Commissioner Becker said thank thanked Mr. Weatherford for the opportunity to meet on Monday and discuss his priorities. He said he is excited about his background and experience and the ability to have his expertise in house.

Mayor Nelson said he is proud of Mr. Weatherford's resume and the things he will bring to the table for the City of Apopka and asked for a Motion to approve Jeff Weatherford as our new Public Services Director.

MOTION by Commissioner Bankson and seconded by Commissioner Smith, to approve Jeff Weatherford as our new Public Services Director. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, and Smith voting aye.

Mr. Bass provided a quick update on the rate study and said that we received correspondence back from the contractor, Rofftellis, regarding the water and sewer rates and said that due to Covid, they have had to extend their deadline to December 30, 2020. He said all of this will come back to a Public Hearing and will be presented to the Council. He said the roof at Public Services was leaking and we've reached out to the insurance company as there is damage to the inside of the building. He said we have the building dried out and have moved the employees affected by the damage. He said the insurance company indicated there may be a portion that they may be able to cover, pertaining to the damage on the inside of the building. He said currently, we're getting quotes currently and are looking at a couple of vendors that did work on the City Hall roof and are getting additional quotes. He said that currently, we have a bid out for a roof contractor, however, this is an emergency situation and said he doesn't think we'll have time to wait on this roof. He said there is funding in this budget for this and will make sure we get the best price.

He said the road resurfacing project will begin in September and said the delay was related to Covid and it has really put a toll on all of our vendors but we've been pushing them. He stated that he's glad Mr. Weatherford is here to oversee this project.

CITY ATTORNEY'S REPORT

Michael Rodriguez provided an overview of the NEB litigation and said the litigation was commenced in June of last year, in which we were filing an action against the billing provider for emergency services. He provided an overview of where the lawsuit is today and said that there are three defendants, NEB, Three Rivers, who is alleged to be the actual parent company of NEB and Mr. David Sulick, who is the individual who negotiated the contracts. He stated that we believe in their allegations that were asserted that David Sulick has enough contacts with Three Rivers in which the Court has actually ruled that there is enough to tie Three Rivers to NEB for the case to move forward. He further stated that shortly after he joined the City, the Circuit Court did grant, in part, and deny, in part, Three Rivers, NEB and Mr. Sulick's Motion to Dismiss. He said they granted Mr. Sulick's individual Motion to Dismiss, due to the way the original Complaint was written, the Court did not find enough facts in the Complaint to tie Mr. Sulick to the counts. He said the way it was drafted, all allegations were on all three together and since then, we have amended the Complaint and narrowed down the counts. He stated there are counts against the Corporate Entities, NEB and Three Rivers for conversion, fraud, and breach of contract and a separate count against Mr. Sulick individually for fraud and inducement. He further stated that he believes this will survive any Motion to Dismiss. He said that during that time, Three Rivers and NEB submitted what's called an Offer of Judgement, which under the Rules of Civil Procedure and Florida Statures, if a Defendant submits an Offer of Judgement, which is that they will receive a Judgement in that amount. If you proceed forward in the Judgement that they requested is within a certain percentage of that amount, then you are liable for their attorney fees. He said that once we received the amended Complaint, we submitted a counter settlement offer. He said that because these are confidential settlement negotiations, he will not go into the details tonight but will speak with each of you individually to present the offer and the counter-offer. He said that when it's time to make a decision, he advises we sit in Executive Session and discuss. He stated that independent of the action, he continues to work with the Fire Department and there are some concerns we have regarding record keeping on the part of NEB and Three Rivers and one of the biggest concerns is that they're still in possession of all of the records. He said that the records are subject to Chapter 119, Florida Statutes, yet they're being held outside of the State of Florida.

He said that we did receive receipt from the Florida Public Employees Relations Commission that they received a Petition for Registration of Certification of a Union on behalf of the Police Department Employees. He stated that this was filed by the Police Benevolent Association and he will be filing a Notice of Appearance on behalf of the City with PERC so that the paperwork be sent to him so he can keep abreast of it. He stated that PERC has issued that the matter is in what's called the Registration and Certification Proceedings in which they are seeking to be certified as the bargaining unit, on behalf of the Police Dept., and he said that under Florida Statures, this is the proceedings for the City to have any objections. He said he will be requesting a copy of the Petition from PERC to see if there are any basis for objection on the part of their Petition. He stated that PERC does require a Notice be posted at the Police Department and we will prepare them for posting. He said he does not have the details for the basis of the Petition until such time as he reviews. He said once he was made aware of this, he spoke with a colleague of his, the City Attorney of Deland and they have a unionized Police Department and strongly recommended we seek outside Counsel that specializes in Collective Bargaining to assist the Legal Dept. He said collective bargaining negotiations could run around $20,000 and possibly more. He further stated that he strongly advises limiting communications as these can possibly be used against the City. He said his door is always open.

Commissioner Bankson asked if there was any turning back to which Mr. Rodriguez stated that PERC has currently been given notice that their application is sufficient. He stated that now, we have the opportunity to review this application and make any objections. He said based on the timelines, any potential collective bargaining will likely effect FY2021-22.

Commissioner Becker said he doesn't want to misstep and asked if it's best to take a step back to which Mr. Rodriguez said that it's important to not offer negotiation. He said that with all due respect to the officer that spoke earlier, we don't know if he is authorized to speak on behalf of the group of employees who are attempting to organize so it's best to err on the side of caution.

MAYOR'S REPORT

Mayor Nelson said we have the updated numbers for Covid and they're trending down in the right direction. He said he recently read an interesting article from the Wall Street Journal regarding strapped States and parallel recovery which provided that as of 2019, the median State had 7.8% of it's General Funds set aside as reserves. He stated that we're way above that and have worked hard to get where we are and thought that would be of interest. He said tonight from 1:00 a.m. until Thursday morning, the road crews will be working at the intersection of Piedmont-Wekiwa and 436 regarding some improvements for Pedestrians and one lane will be closed. He stated that we've had 4 people pick up packets to run for Seat 2, Michael Griffin, Yesinia Baron, Diane Velazquez and Gene Knight. He said Jill Semento of Parks and Rec asked if we could do a Launch Ed, which was mandatory for all of High School, Middle and Elementary School students.. He said her idea was to open up the Billy Dean Building at Alonzo Williams Park to the kids whose families didn't have internet and they had 15 kids sign up. He said Ms. Semento reported that one of the kids that signed up, his mother lost her job and they are not living out of her car and because of this program, his mother was able to job hunt and has secured a job now.

ADJOURNMENT - There being no further business the meeting adjourned at 9:23 p.m.

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Bryan Nelson, Mayor

ATTEST: ____________________________

Susan M. Bone, Deputy City Clerk