CITY OF APOPKA

Minutes of the City Council regular meeting held on December 18, 2019, 7:00 p.m., in the City of Apopka Council Chambers.

PRESENT:	Mayor Bryan Nelson Commissioner Doug Bankson Commissioner Kyle Becker Commissioner Alice Nolan Commissioner Alexander Smith City Attorney Joseph Byrd City Administrator Edward Bass
PRESS PRESENT:	John Peery - The Apopka Chief Teresa Sargeant, The Apopka Chief

INVOCATION – Jim Schrock, Apopka Police Department Chaplain gave the invocation.

PLEDGE – Mayor Nelson introduced Apopka High School students SGA Senators Sydney Steiner and Erin Mulholland. Erin led in the Pledge of Allegiance. Sydney gave the fact saying on this day in 1865, by proclamation of the U.S. Secretary of State, the Thirteenth Amendment to the Constitution, outlawing slavery officially entered into force ratified by the required states on December 6.

APPROVAL OF MINUTES

1. City Council regular meeting December 4, 2019

    MOTION by Commissioner Nolan, and seconded by Commissioner Becker to approve the minutes of December 4, 2019 regular meetings. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Nolan, and Smith voting aye. .

AGENDA REVIEW –. City Administrator Bass advised there is a request to postpone Public Hearing Items 4 and 5 to a date to be determined.

PRESENTATIONS:

Mayor Nelson recognized Orange County School Board Chairman Teresa Jacobs and School Board Member Melissa Byrd.

1. 2019 Foliage Sertoma Apopka Christmas Parade Awards
    Pat McGuffin said the Foliage Sertoma Club of Apopka has done the Christmas Parade for 43 years, and it is an honor to bring smiles to people's faces. He thanked the City for all of their help with the parade, as well as other sponsors, Advent Health, Boy Scout Troops, First Presbyterian Church, John Land Community Trust, Loomis Funeral Home, Mayor and Debbie Nelson, One Florida Bank, Orlando Health Physicians, Product Marketing Group, and Greg Spurlock. He, with the help of Lorena Potter, recognized the Christmas Parade Award winners and handed out trophies.
        Mayor's Best Band – Evans High School Marching Band
        Sertoma Special Recognition – Advent Health
        Sertoma's President's Marching and Performance Award:

Second Place – Kid's Dance First Place – 3-D Motion Dance
Sertoma's Governor's Best Float –
Second Place – King's Landing First Place – Boy Scout Troup 211
Sertoma Most Creative Float –
Second Place – Fast Signs First Place – Tiny Tot's of Apopka
Grand Marshall's Best of Theme –
Second Place – The Scotty Foundation First Place – Trinity Christian School

2. 2019 Festival of Trees check donation to the Museum of the Apopkans
   Robbie Manley with the Festival of Trees Committee said this year Diane Haubner and Mary Krueger co-chaired the Festival of Trees. They had 51 trees and 23 wreaths auctioned this year. A check was presented for $6,851.32 to Jack Douglas representing the Historical Society and Museum. He also presented a check from Debbie Nelson of $430 from a fundraiser social media event for the Historical Society on her birthday.

3. 2019 NAWDP Youth Employer of the Year Award
   Mimi Coenen, Chief Operating Officer, CareerSource Central Florida, said she wanted to share an event that happened in Chicago last week. The City of Apopka Youth Works Program was awarded the National Youth Work Force Employer Partner of the Year award. She said there were 24 local work force development boards in the State of Florida and over 600 different work force boards nationally. She said this was a competitive category and she was pleased to say through the leadership of the City of Apopka, inspiration, and support, the Career Source Central Florida was honored to have Mayor Nelson join them in Chicago to receive this award. She stated Dr. Shakenya Jackson was the heart of the city staff for this program.

PUBLIC COMMENT
David Hoffman lives in Rock Springs Ridge and expressed concern that Apopka City officials decided against having the City pay for an official measurement of the land area of Rock Springs Ridge. He said such a step would confirm the accuracy of Mr. McSweeney's investigative findings that contradict the land area assumptions of Mr. Delarosa's submission to the City of a building and development conceptual plan. He declared the City had a duly designated legal authority and was obligated to serve as the arbiter in establishing the land area metrics. He said it was unacceptable that the City decided to defer to Mr. Delarosa to pay for a land area determination at such time he completes an application.

CONSENT
1. Authorize the expenditure of funds from the Federal Law Enforcement Trust Fund for investigative buys and undercover operations.
2. Authorize tree bank funding for additional trees at the northwest recreation complex and city center.
3. Approve amendment #1 of the work squad contract W1164 with the Florida Department of Corrections in the amount of $57,497.00.
4. Approve the sale of alcohol at various upcoming events.
5. Authorize alcohol sales and service at the Cystic Fibrosis Event at Northwest Recreation Complex.
6. Authorize the issuance of blanket purchase orders for fiscal year 2020.
7. Accept the disbursement report for November 2019.

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

BUSINESS

1. Plat – Alta East Shore
   Project: Go Growth One, LLC c/o Michael Kirchner, President
   Location: 2001 and 2209 South Binion Road
   Project Manager: Jean Sanchez
   David Moon, Planning Manager said this was a Plat for the Alta East Shore development and it includes three lots located at the intersection of Harmon Road and Binion Road. The southern lot is 285 multi-family apartments and the two northern lots are for future commercial development and a bicycle trail to be dedicated to the City. The Planning Commission and DRC reviewed the Plat and recommended approval.

   Mayor Nelson opened the meeting to Public Comment. No one wishing to speak, he closed the public comment.

   MOTION by Commissioner Nolan and seconded by Commissioner Becker to approve the Alta East Shore Plat. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

2. Public Safety Communications Tower Site Location Change Order.
   Robert Hippler, Information Technology Director said this item was before Council at the November 6, 2019 meeting as part of the CFX Agreement. He advised Motorola had increases for building and tower increases. City Attorney Byrd reviewed the contract and provided verbiage to negotiate deleting these increases and we are now back to the original costs. The change order is to allow for this on City property rather than the original Lake County property.

   Mayor Nelson opened the meeting to Public Comment. No one wishing to speak, he closed the public comment.

   MOTION by Commissioner Smith, and seconded by Commissioner Nolan to approve the Communications Tower site location change order. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting eye.

3. Economic Development Proposal with the Apopka Area Chamber of Commerce
   Edward Bass, City Administrator said during budget preparation they discussed Economic Development and the implementation. He stated before Council is an Economic Development Proposal that includes a partnership with the Apopka Area Chamber of Commerce. He advised there is funding for this program in the budget. This proposal is seeking to create a partnership between the City and the Chamber to provide an Economic Development package for an opportunity to show case Apopka. He advised we are looking to create an Economic Development Plan, attract new businesses and grow the existing businesses, develop a relationship with broader Central Florida businesses, and part of this includes the Chamber

helping with recruiting and retention of businesses for the Apopka Youth Works program. The cost for the City is $60,000 and $15,000 for the Chamber.

Commissioner Bankson disclosed he is on the EDC Board with the Chamber of Commerce and he did not attend the meeting when this was discussed. He affirmed that he does not personally gain from this.

Commissioners Smith, Becker, and Nolan all indicated being supportive.

Mayor Nelson opened the meeting to Public Comment.

David Hoffman inquired what guidance they consult to achieve best practices besides the Chamber of Commerce.

Robert Agrusa, Chamber of Commerce said throughout the entire country many communities are collaborating with the local Chamber of Commerce for economic development. He said there are a lot of models that are being done very well and being show cased on a national stage. He stated that the Chamber has researched and reached out to a number of communities that are doing this very well and will model what fits Apopka. He stated there are a lot of great opportunities ahead and businesses looking to grow here.

Phyllis Nicholson asked if this economic development include South Apopka as well. Mayor Nelson responded in the affirmative stating the Chamber of Commerce has a wider base than the City.

MOTION by Commissioner Bankson, and seconded by Commissioner Smith to approve the Economic Development Partnership Proposal with the Apopka Area Chamber of Commerce. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

PUBLIC HEARINGS/ORDINANCES/RESOLUTION (Action Item)

1. Ordinance No. 2690 – Second Reading – Comprehensive Plan – Large Scale – Future Land Use Amendment From Residential Estates TO Residential Very Low Suburban
   Project: Carrol M. and Patricia A. Hamrick
   Location: North of West Ponkan Road and west of Mount Stirling Avenue
   Project Manager: Phil Martinez. The City Clerk read the title as follows:

   The City Clerk read the title as follows:

ORDINANCE NO. 2690

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 RESIDENTIAL ESTATES TO RESIDENTIAL VERY LOW SUBURBAN FOR CERTAIN REAL PROPERTY GENERALLY

LOCATED NORTH OF WEST PONKAN ROAD AND WEST OF MOUNT STERLING AVENUE, OWNED BY CARROL M. HAMRICK; COMPRISING 35.21 ACRES MORE OR LESS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Nelson reviewed the procedure for quasi-judicial hearings.

Joseph Byrd, City Attorney, swore in witnesses.

David Moon, Planning Manager, said this is the second hearing on the Hamrick future land-use amendment to change the land-use category to allow density to go from 1DU/AC to 2 DU/AC. The ordinance had first reading and public hearing with Council approval and approval to authorize transmittal to the state agencies. Development Review Committee and Planning Commission found this to be consistent with the Comprehensive Plan and character of the surrounding area. He advised both DRC and Planning Commission recognized that School Capacity Enhancement, which is a county charter requirement was subject to this project. City Council reviewed the second hearing beginning on November 2, 2019 with postponement to December 4, 2019 to wait for the applicant to address the School Capacity Enhancement concerns. It was again postpone to December 18, 2019. He said prior to postponing these hearings, the City was subject to Florida State Statutes under Chapter 163 that once receiving comments from Florida Department of Economic Opportunity and other state agencies of a 180 day time period to take final action on this case. The applicant sent in a request for an extension of approximately 90 days taking the review period to January 15, 2020. The City is subject to this review period by state law and the applicant has been accommodated for an extension to allow them to move forward addressing the School Capacity Enhancement concerns. He advised over the summer H.B. 7103 came into effect, which impacted the School Capacity Enhancement process. He stated Orange County Public Schools have been trying to address how they will address their concerns with H.B. 7103. Over the past several months, the applicant and city staff has asked for a plan as to when these issues would be resolved with no response. He advised that in support of Orange County Public Schools, as well as the private property rights of the applicant, the City entered into a proposed Development Agreement that requires the developer to open an escrow account for what they would pay OCPS through the Capacity Enhancement Program until such time the issues with the School Board regarding H.B. 7103 are resolved. The applicant signed the agreement that establishes an escrow account they would have to pay within 60 days if Council approves. He advised the County Attorney has issued a letter objecting to this alternative with the escrow account as it deviates from the established process.

Commissioner Becker gave a brief recap of this project up to the second reading, which is where we are currently. He stated, as he understands, the hang-up is with the OCPS Capacity Enhancement Agreement, which is done at the time of future land use amendment. The position of staff is that State Statutes preempt the Orange County Charter and School Enhancement Agreement. The applicant has in effect, agreed to place the same amount that would be collected in an escrow account and ultimately paid to OCPS with the same intention.

Mr. Moon said that was fair to say, but in reality, once the Capacity Enhancement Agreement is established, that is only the first step. The second step is concurrency management that occurs at a later stage by the plat and the requirements placed on the developer with the Capacity Enhancement Agreement are carried over to the Concurrency Management Agreement.

Commissioner Becker said the nuance in what the applicant has offered to do in terms of the escrow account is what he is interested in exploring through when people testify.

Commissioner Bankson said this does not limit the further distinction by the School Board as to capacity. He stated what Council does tonight will not stop them from being able to address that issue moving forward.

Mr. Moon reiterated this places the estimated amount they would have to pay in an escrow account until the School Board resolves its issue with the State Legislature.

Jason Searl, Gray Robinson, representing the applicant said there were three agenda items, this being the first item, second the Major Development Plan, and third the Amended and Restated Development Agreement. He stated they appreciate Mr. Moon and his team's efforts to date, the recommendations that have come from the Development Review Committee, and the Planning Commission. He pointed out they were before Council for the first reading of this Comprehensive Plan Amendment in December 2018. He said this has been a long process and they are making their best efforts to advance the project and move timely. He stated he was available to answer any questions and asked for the opportunity to address anything that would need to be specifically addressed by the applicant after hearing from public testimony.

Mayor Nelson opened the meeting to a public hearing.

Nicolas Thalmueller, Attorney for Orange County, said he was here to state Orange County's objection to the proposed Comprehensive Plan Amendment. He advised a letter written by County Attorney Jeffrey Newton was submitted into the record earlier. He summarized their position stating as a Charter County, Orange County may enact ordinances not inconsistent with general law. The Charter shall provide which ordinances shall prevail in the event of a conflict between county and municipal ordinances. In 2004, voters, by 75%, approved the School Capacity Charter Amendment, which controls within municipalities within Orange County. Any rezoning or comprehensive plan amendments in the City of Apopka, which increase residential density, are subject to compliance with the School Capacity Process. He stated with regard to preemption, there are two ways the legislature can preempt local governments, express preemption and implied preemption. Neither type is present here. Chapter 2019-165 Laws of Florida contain no language expressly preempting local governments with regard to impact fees or reviewed development permits; and since Orange County is the only county in the state with the School Capacity Process, implied preemption is not possible in this instance. As far as they are aware, there has been no judicial interpretation determining that their Charter has been preempted by any of the changes made by Chapter 2019-65. Without any of that, they are unwilling to abandon a process that has been in place for over 15 years. The timeline set forth in Sections 125.022 and 163.033, Florida Statutes, only apply to those applications, which are deemed complete. Without having the requisite School Capacity Process, an application cannot by definition, be complete in Orange County or any of its municipalities subject to the School Capacity Process.

Chris Wilson, Attorney with Marchena and Graham, said he was representing Orange County Public Schools and they were here to object to the City proceeding on the Comprehensive Plan Amendment. He stated they believe this was in violation of the Law, Orange County Charter, and the Interlocal Agreement. He stated they reviewed Mr. Byrd's legal opinion this morning and said they have found some errors and inconsistencies therein. He spoke of the status of the application of the school board, stating there was significant confusion about that. He said the applicant did have applications in for a capacity determination. They withdrew those applications on September 26 and from September 26 until December 12, 2019, no pending application or capacity determination was on file with the school board. On December 12, 2019, Apopka provided them with a Sufficient Capacity Determination Application, and on December 17, they received a Sufficient Capacity Determination Application from the applicant. He stated that yesterday, the school board issued a Capacity Determination letter indicating that indeed there was not capacity at Apopka High School, therefore, the school board cannot certify that there is school capacity. He said next there were two steps, the first being determination, the next, which the letter instructed the applicant was to file a CEA application. He declared the applicant has not filed a CEA application. He affirmed the school board does not have a CEA application on file to process. He stated the city does not have a CEA because the applicant has not asked for it and the school board has not processed it. He stated it was helpful to have some background on the Charter Amendment. He stated it exists so that when one entity in the county wants to approve a Comp Plan increasing residential development, and it impacts another jurisdiction; here being Orange County. Orange County has the ability to say yes or no if there is no school capacity, because Apopka is approving development with more children into Apopka High School where the Orange County citizens are going to be impacted. He said this works the other way. If there were a school in Apopka or just outside Apopka in Orange County and Orange County was going to approve a Comp Plan without school capacity, it would come to the City to approve or deny. He reiterated they do not agree with Mr. Byrd's recommendations to the Council. He stated the Council's options are to deny the Comp Plan today that is well within their discretion, as they do not have adequate public facilities or a CEA. He said an option would be to continue this and require the applicant to submit a CEA application, or they can approve the Comp Plan with a condition that it is not effective unless and until approved by Orange County, consistent with the Orange County Charter. He said he believed these to be the City's options, based on the law. He went on to explain why he believed this to be the options. He stated that as the preemption, there is nothing in the law that says it is preempted and the Interlocal Agreement is an existing contract and there are constitutional protections that say a new statute cannot impair a contract. He said the referenced statutes regarding time, the 180 days, applies to counties and municipalities, it does not apply to school boards.

Amy Envall, General Counsel for Orange County Public Schools, said she would be continuing with what Mr. Wilson has presented. She is also is in support of the County position and what he has stated. She stated it was alleged OCPS was charging impact fees and that is simply not the case, it is requiring a capital contribution from the developer for which Apopka will be required to provide a credit to the developer's impact fees when due. She said another interpretation by the City Attorney was that there was a reasonable reading of 704B.2 as a declaratory statement that the effectiveness of a City ordinance approved by the Council does not occur until the governing board of OCPS approves it. She declared that was not a reasonable reading of Section 704B.2, it ignores the language that states "The ordinance shall provide that the above-described rezonings and comprehensive plan amendments take effect only upon approval of each significantly affected local government, whether the county or municipality therein". She said it also ignores the Orange County Code that implements it. Section 30-740 of Orange County Code defines a Significantly affected local government jurisdiction to be "A local government jurisdiction, either the unincorporated Orange County, or a municipality within Orange County, in which ten percent or more of the student population of a public school that is affected by a proposed comprehensive plan amendment or rezoning reside." She said the significantly affected local government jurisdiction under the code is Orange County as 37.6% of the student population affected by this comprehensive plan amendment are located in unincorporated Orange County. She said, in closing she supports the conclusion that there definitely seemed to be an interpretation Council received from the City Attorney that was conflicting between capacity and concurrency. In this particular case, they are talking about the capacity. She reiterated the City can deny the application due to lack of adequate public facilities, or alternatively could approve it under the condition that it is not effective unless and until OCPS receives the comprehensive plan application approved by Orange County She said to do otherwise is in violation of the Interlocal Agreement (ILA) as well as the County Charter.

Commissioner Becker said to key in on a point, it was said there is no CEA application. He asked if the hang up here is process driven or is it ramifications of what H.B. 7103 is. If there was an application with OCPS, would OCPS actively be analyzing it and going through the approval channels, or is it being tabled until the meeting that has been described by Chairwoman Jacobs on January 10, 2020.

Mr. Wilson said there are two issues, one being they have the Charter and Council is deciding if it is okay to proceed and allow development that overcrowds a school on another jurisdiction without the other jurisdictions approval where clearly is not preempted by State Law. Second, is the question as relates to the application and OCPS standpoint is they finally got an application December 12, 2019, they submitted a capacity determination letter with instructions to put in a CEA application, at which point they will accept the application. He declared the comment OCPS has made is that they are seeking a way forward and that way forward as it relates to the Charter and the ILA means all of Central Florida. He stated the school board did not ask for the change in the law and are trying to figure out a way forward with it. He declared at this point where they are with the application with this applicant is that they do not have a CEA application to proceed.

Commissioner Becker asked if they did have a CEA application, is OCPS actively reviewing those and providing responses to applicants currently.

Mr. Wilson stated OCPS would review it. When asked again by Commissioner Becker if they would provide a response, Mr. Wilson responded in the affirmative.

Commissioner Bankson asked if their position is, as they see it, they are not in conflict with the State Law, that it is just being misinterpreted, or that there is a conflict between the state law, the City, and County Charter and they are trying to work out how to navigate that.

Mr. Wilson stated there was no conflict.

Mayor Nelson said there was no conflict, why were they trying to have this fixed in Tallahassee to which Mr. Wilson said the School Board has said they would like a legislative fix, but at the same time, the School Board is interested in coming up with an interim fix and that takes all parties.

Mayor Nelson said one of the comments made was that regarding jurisdiction and not only is the property in the City, but the school is in the City as well and asked what he was referring to.

Mr. Wilson said he was referring to the County Charter Amendment that applies to the entire county and municipalities that says when you have a school zone where the students in the school zone are in the other jurisdiction and in this case, 37% of the attendance zone is in Orange County.

Commissioner Smith asked for clarification where he stated they submitted an application on December 12, 2019, but then stated they have not submitted an application. Mr. Wilson explained they have submitted an application for a capacity determination, which is the first step. OCPS then has 15 business days to issue a capacity determination. He said the school board issued a capacity determination yesterday and in that said there was not capacity at Apopka High School and instructed the applicant to submit a CEA application, which has not been submitted.

Dr. Carol McGowin, Director of Student Enrollment, OCPS, said she was here to provide numbers and percentage of students within the Apopka zone. She advised at this time there were 3,611 students who reside in the Apopka High School zone and out of that, 1,356 reside in unincorporated Orange County, which makes it 37.6% of your students that reside in unincorporated Orange County.

Teresa Jacobs, Orange County School Board Chair, former Mayor of Orange County, said she actually was the drafter and proposer of the Charter Amendment of which we speak today. She said she would be pleased to take any questions after making her remarks. She said she regretted being in Apopka under this circumstance, but stated it is extremely important and said they have a great relationship with Apopka and regardless of what decision they make today, we are in this community together. She said we have to make sure we have a thriving community and have schools in place to do that, just as we need homes in place. She stated, to be clear, when she proposed that Charter Amendment, she did not put the power in the School District hands to be so developed. She did not think that was the appropriate role of school government. They have one hat, children. She stated the City has multiple hats and have to reconcile those competing interests. She created that charter amendment in response to a decision that the City of Orlando made approving a large apartment complex and 100% of the children from that complex would attend Dr. Philips Elementary School in unincorporated Orange County. She said this was a unique situation and parents showed up in large numbers. She stated by then they had the Martinez Doctrine in place in Orange County where they were not approving land use and zoning changes if schools were over crowded. At that point, she proposed the Charter Amendment with the goal to make sure every citizen would always have an elected official that would represent them among these decisions. This is the dual approval. She has not had an opportunity to meet with the City Attorney over the self-destruction clause. She said this was put in to appease many of the cities that they wouldn't have that reciprocal dual approval of the county and that was put in as a safeguard so that the cities also would have authority to veto a decision of county government if they chose to move forward with a comp plan or rezoning without schools in place that would affect your citizens. She declared for fifteen years no one has moved forward with a comp plan or rezoning without a capacity determination. She said it is extremely unfortunate that Apopka gets to be the poster child for how we deal with this. She stated Orange County has a number of development approvals they have been putting on hold as OCPS has met with them on several occasions. She said she still thinks there is another option that will resolve the issue. She stated a permanent change to the statute will eliminate any ambiguities, but she feels there is a solution they can all agree. She declared they cannot support Apopka moving forward when the County is in the position of waiting. She said they have to have a solution that works for everybody. This is why they regretfully are asking Council to exercise the option they have in front of them today to deny, or to ask the applicant to agree to continue it one more time.

Commissioner Becker said it all boils down to timing. He asked if there was dependency on the ability to fully action a CEA, either approval entered into with the applicant to secure the capital contributions within the timeframe they are describing. Commissioner Becker said this has been a year in the making, and the applicant has been very patient in terms of the City's demands for this specific development and they are being good stewards to the adjoining neighborhood. He would like to know what the County or OCPS would be committing to make sure our partnership is intact.

Chair Jacobs said in response to the original questions, they have 60 days from the time they receive a request for a Capacity Enhancement Agreement. They have 60 days to negotiate one or determine that they can't. She said they are not here because they have a problem with this project, or with the applicant or counsel of the applicant. She stated they, like the City, are in a situation that they did not create. She stated she is optimistic that on January 10, 2020, they are going to make progress in coming up with a solution in the interim that can move them forward, and come up with the support they need to get a very small change to the statute to make sure there is still a mechanism whereby Orange County can still collect impact fees and the mitigation. She affirmed Orange County throughout the past several years has discounted their mitigation by the impact fees. Their process is to recognize they will ultimately owe the impact fees, so they are discounting that. She stated they can't, in good faith, based on the Charter Amendment and the IOA, move forward with the calculation they have been using. There are other alternatives, but they have to have consensus among other jurisdictions and the development community. She said the reason their counsel is talking about process is because if they do not walk out of here with an agreement, then they have some processes to consider. One is that this will need to be approved by the Orange County Commission, and because the applicant has not completed the process, one would argue it is not right to be in front of you at this time. She said they need to deal with an interlocal agreement with numerous jurisdictions and they need to have consensus on how they are going to do that and legally defend it. It complicates things when the process has not been honored completely. She said she is here because there is so much confusion in where they are in the process and what is to take place. She stated that is not how they want to work and she felt an obligation to make sure the City understood this is not intentional, but they will be in the situation of raising those process issues in a legal venue. Process is insufficient at this point based on Interlocal Agreement.

Commissioner Smith asked if they foresee there will be a solution that will come out of the meeting on the 10th to resolve this issue.

Chair Jacobs said that depends on more parties that OCPS and she has a high level of confidence there is a way to resolve the issue of the impact fee credit. There is another component of this and that is that whether or not the County and how other jurisdictions treat those credits. She stated it is their goal to get back in a position where they are all moving forward.

Commissioner Bankson said there were two different issues, the capacity and concurrency, and then there are the fees. It is his understanding that there is a conflict between H.B. 7103 that affects how you have been appropriating the funds by calling them one thing, and then basically giving credit in the end.

Chair Jacobs said the interlocal actually contemplates two different ways in calculating that fee. The impact fees are the average costs of the student station in an ideal world when the students arrive at the same time and they can open a school. The mitigation fee is to cover the additional costs when that doesn't happen and they have to bring in portables, or move a school up in the plan. So mitigation is separate than impact fees and rightfully cost more. She said the intent of the legislature was to make sure that when people paid, they got credit for what they paid. She said two ways the school district could have calculated it, one way is to include in the mitigation the total cost, impact fee and mitigation. When they do that and then give credit for the impact fees. She said she did not have any confidence level that in Tallahassee when voting on this had any idea on what mechanism they were using in Orange County, the only County that even has this mitigation fee component. This is where she thinks, when they explain the way they are doing this, it will either change the way they are doing this or they will get the change in the legislature.

City Attorney Byrd clarified that that is the burden for OCPS and the County to make. He said he would not make that argument that they are not impact fees. To him, with all due respect to everyone who is here, it is not a well-settled issue. At the end of the day it is not well-settled and as the County Attorney's letter said, this is a case of first impression in many ways. He stated there are opinions out there of other municipal attorneys that a fee eventually that gets credited down to an impact fee is still part of an impact fee and that is then in violation of H.B. 7103. In response to Commissioner Bankson, City Attorney Byrd said until thst is clarified, we are subject to the state law. City Attorney Byrd said every municipality and county is subject to H.B. 7103 in the State of Florida.

Chair Jacobs said she doesn't necessarily disagree that this is unsettled territory and we need to settle it. At the end of the day, nothing that has been approved in statute takes away your home rule to make a decision on a comp plan amendment. She declared the City has the authority to deny it. Orange County did this for a number of years until they were able to create this mitigation process. She stated at the end of the day, that decision is not mandated to you by this. To approve or deny is the City's decision to make, and you can deny it based on inadequate public facilities and they have given the City competent substantial evidence.

Rod Olsen said he was concerned about this plan for the following reasons. Apopka High School lacks the capacity. The city staff recommended approval despite the lack of capacity in the school. Approval without OCPS agreement sets the state for uncontrolled future development. Safety of the children is number on in paramount. The use of portables to mitigate out lack of brick and mortar schools is not acceptable. They are not as safe, they are not as secure, and they cost more to operate and maintain. Wolf Lake Elementary has 40 portables, 1121 students packed into a building for 744. The Wolf Lake Middle School has 16 portables, third most in OCPS 38 middle schools, 1458 students jammed into a building for 1090. He asked what kind of planning is that. What infrastructure, where was the city, where was OCPS, where were the parents and taxpayers. He said we have allowed portables to become a way of life in Apopka. Apopka has 154 portables, 97 are active classrooms in the middle and elementary schools, and no bathrooms in 43% of them. He stated weather events trigger all portables emptying into the schools. OCPS is paying $1.1 million a month in rent of 1863 portables. He said we are the fourth largest school district in the state, and we are number one in portables. You have to add the top three schools together to exceed the number of portables we have in Orange County. Overcrowding has school resource officers doing traffic management. Over capacity results in multiple Wolf Lake Middle students having to go into the gymnasium or the library during the morning before school starts because of altercations in school. He stated sixth and seventh graders are concerned they will have to move away from their friends because their parents are so concerned they want to move their children. The proposal that Hamrick development is right in the Wolf Lake doorstep. He said the city's intervention at OCPS earlier this year moved Apopka's first proposed school from 2027 to 2022 at the site on Jason Dwelley. He stated overcapacity has not triggered elementary and middle school for this development, only because that school is on the three-year plan. He said these students will go into the Wolf Lake Schools. Apopka and OCPS do not have the resources, infrastructure, and ability to effectively manage the current level of growth based upon current school over capacity, need for new schools, need for roads, need to repair the current roads, need for adequate event parking, need for park and recreational development, and needs for business development. As our Chamber Chair stated, growing responsibility. Not having adequate space in schools and using portables is not being responsible. He declared we have all failed our children, teachers, and school administrators. He said our historical lack of planning, lack of dedicating enough resources to support our current needs, much less affectively manage additional growth will only be compounded by approving the Hamrick development. He stated it is time to say no and no more kicking it down the road. He said we should not be the first to step aside with the 2004 Charter Amendment. He said quoting Edmund Burke, "Nobody made a greater mistake than you who did nothing because he could do only a little." He declared the Council can do something and stated we should not move forward with this Hamrick without OCPS certification. He stated they must vote no, safety of our children is the most important thing.

Jason Searls said on the timing on the determination was relative to the math associated to the property. He said Hamrick is only a portion of this project; the other property is not subject to the Comprehensive Plan Amendment. That property had different land-use and zoning and was more dense. Notwithstanding, even on the most conservative day, the impact to the school is only the 35 dwelling units. He stated when H.B. 7103 went into effect in June 2019, he went through the process of engaging with OCPS staff. He advised these two individuals are no longer with the school board, and over the course of July, August, and September he had numerous conversations with these individuals and met with them at their offices to discuss what will happen to the OCPS CEA program and process now that the House Bill passed and nothing was cemented. He said there was continual dialogue and they are working towards resolution. He stated they created language for their Development Agreement that was presented to the City in an attempt to move this forward. He said he believed everyone here was acting in the best faith to try to come to a resolution that works for all. He said this discussion over the summer and fall culminated in an email from Jamie Boerger to him and Mr. Moon copied that he read into the record; "While OCPS met with the County over a week ago, we still don't have a draft template for CEA's CMA's. I understand from David's email that the City Council is tentatively scheduled for November 6th. I don't think we will make this timeline, but I also don't know what the timeline is at this point. As soon as I know more we will let you know." He stated as heard earlier, they have continued this a couple of times as they try to work through resolution with the school board. He affirmed this was October 1st and he had a client whose clock is running out on a Comprehensive Plan Amendment with the State, as heard from Mr. Moon, and he has a client who has partners, lenders, and contract obligations. He needs to move this forward and waiting for a global uniform process that is going to work its way through countywide is just not an option for them. This is why they crafted the language that resulted in a development agreement that city staff supports. He stated essentially they are taking the money and placing it in deposit with the City. The agreement states*; "In the event the school board, after the date of this agreement institutes a new Capacity Enhancement Program resulting from the enactment of any statutory provisions amending section 163.31801 Florida Statutes on or after July 1, 2019, then the City, upon written request by the developer, agrees to release any such funds to the school board for the developer's participation in any such program by the school board."* Further down the agreement states; *"If Orange County Public Schools executes a Capacity Enhancement Agreement with Wekiva Pointe or subsequent property owner of the property before the escrow account is established, then the conditions of the CEA will apply and the escrow payment shall not be required."*

Mr. Searls said to tell them what the process is and they will follow the process, he declared they know that they are not the only property and owner of property with this issue. They know of more than ten properties in unincorporated Orange County that have pending applications and have been put on hold. He stated, even notwithstanding them and this specific case, stating this is bigger than them, in his mind, he has not heard yet from OCPS regarding the development agreement and the draft has been sent to them. He declared they are not trying to avoid any program, just tell them what it is and they will do it. It is a regrettable position, but it is a forced position and they have been in this for a year. As of today, he has not heard why it is not acceptable, but for they want a global uniform countywide process. He said this could take months or years to come to fruition. He affirmed they have proposed a one off solution and would like to move forward.

Commissioner Becker inquired if the calculation mentioned earlier was an ILA change, and is this documented in the ILA agreement, or is that per the Charter. In response, Chair Jacobs advised the calculation is in the ILA and it contemplates two different ways of calculating. She said for them to resolve this the fair thing to do is to amend the ILA and obviously that would take some time as all governmental bodies would be involved.

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

Commissioner Becker said during the future land-use change they collect the capital contribution and it is calculated through the enhancement agreement process. The applicant has said they are going to penny for penny escrow the amount the school board would collect. At the time the property is platted it will give the true amount of lots that will be impacting the local schools. He gathers that at that point in time there is a punitive effect of whatever is in H.B. 7103 that is driving this conversation. He asked if this was correct.

City Attorney Byrd said a punitive effect for OCPS, and as stated in his memorandum he has not seen and in all conversations, they have not heard of a proposal in any way. He said we have heard this, but have not seen any calculation, though it does not have to be given to the City. In the event of litigation, who does have monetary damages if denied by Council is the developer. He stated that is part of what needs to go in the calculus of Council's decision. The County and OCPS would get an injunction. The developer, on the other hand, receives an injunction plus whatever money lost, he will come to the City. He reiterated, with all due respect with his colleagues and leaders of OCPS and Orange County, while they will be names in a suit, they will be dismissed because it was not their decision. He declared the City will be left when it comes down to monetary damages. He said Council has to decide what risks they will have.

Commissioner Becker said if we are just saying this is a process issue, then why are we having these conversations. He stated he would venture to guess there are plenty of future land use changes occurring frequently in the Horizon's West area where school capacity is not present at that time. He stated these are boiler plate where they are doing these CEA's as long as there is capital contribution and by the time you plat, you are handed the mitigation. He declared if the applicant is saying they are going to give the same amount of dollars then there is precedence with OCPS to do these capital enhancement agreements, and approve them knowing there is not existing capacity which is the whole driving force behind them. If the applicant is saying they are going to commit to that, would there not be time after all this is settled with H.B. 7103, wouldn't there be time to settle the impact fee and mitigation prior to that juncture so not to inversely impact parties.

City Attorney Byrd said given the language that is in the Development Agreement with the escrow account, he believes that to be true. He advised the City of Apopka did not sign off on the 2011 ILA and we are not under it. He said we are on the 2008 ILA. He stated there is no commitment on how quickly this will be resolved and that is why staff has said it is reasonable with what the developer has asked to do here by placing money in an escrow account, but they will indemnify Apopka and indemnify OCPS. He suggested we will not be the last to have to deal with this. He said his concern for Council is that we have to obey the statute. He said they state the timelines of these applications don't apply because the application is not complete. He stated to say they have not gone through the process, to be very clear, we know there is evidence in the record from his memorandum that there hasn't been processing of CEA's and CMA's from OCPS since H.B. 7103 came out this summer. The application is not complete because they are not processing CEA's and CMA's. He said he understands their dilemma, but his concern is the City of Apopka and what will happen in terms of what the City will have to do in regard to a developer who has very much complied over and over through a tumultuous time in a year. He said postponing would take the applicant agreeing. He stated he did not see how there would be a global resolution to this on January 10, 2020. The two issues are who you would rather go against in court, OCPS and the County or the Developer.

Commissioner Bankson said if that money is in escrow, is it merely release the money to them.

City Attorney Byrd responded in the affirmative and said that was the whole point of the escrow account.

Commissioner Nolan said when you start talking about the bills that go through, legislation starts in January. To her this is a lack of the County being prepared. She said she respects everyone in the county, but this has been a year that they have seen this coming, so why is this just now being discussed and development being slowed down. This affects our children and it affects people's jobs while they wait.

Commissioner Smith said should this be approved tonight, a precedence is being set for other developers to come and do the same without the agreement. He said the developer has been cooperative with the city and has done all they have been asked. On the other hand, citizens have slapped our hand for approving developments knowing our schools are overcrowded and our out was that OCPS approved it. Now, here we are with a project not being approved by OCPS, but we have been asked to approve this development.

City Attorney Byrd said whether this sets a precedence or not, in this case, you have a unique situation where someone is willing to enter in an agreement and put an escrow account together to do a CEA. They are not pushing back, they are asking what the process and resolution is. He stated the Apopka High School issues are addressed just like they would be addressed if H.B. 7103 never was passed, we would have a CEA and moving along. The developer is willing to do what they have to in terms of the CEA and the CMA to make their contribution in terms of children attending the school.

Commissioner Becker inquired in terms of the failed number on Apopka High School, the documentation we have is less than five students to which Mr. Moon advised he did not have that information with him.

Commissioner Becker inquired if we have had an enhancement agreement rejected by the County where they did not offer to go that route. Mr. Moon explained the procedures are set forth within the school planning agreement, which is what the counties, municipalities, and school board accepted as a means to address over capacity. He said we have not had an agreement denied. Commissioner Becker said for Council to entertain a motion of denial on this for fear the CEA would not be approved by OCPS would be counter to what we typically see in Apopka.

Mr. Moon said this was a unique situation where the developer is willing to place the money in escrow earlier that he would half to pay.

Commissioner Becker said if it is the same dollars as the CEA process, why can we not address some of the discrepancies when we go to plat and have further conversation during the mitigation cycle of this.

City Attorney Byrd said he thought that was the general intent here and the reason for setting up the Development Agreement the way it is.

Commissioner Bankson said to clarify the mitigation is what protects us from the further overcrowding issues. The school board can say if you are over capacity you will have to pay so much more in to fund building appropriate schools and facilities to house students. If that is the case, while he shares the concerns about schools and safety, at times portables are necessary to balance so not to overbuild the schools. He said by moving forward there are stop gaps to save us if there is an over capacity they are unwilling to work with.

Commissioner Smith asked what does approval with conditions look like.

City Attorney Byrd said what Attorney Newton is asking Council to do is to approve this with the condition of having the Board of County Commissioners approve this as well.

Mayor Nelson said he was a little disappointed that we are here at the eleventh hour to try and fix something that could have been corrected in the summer or fall. There was nothing until last week we received a call to come down to meet to work on a solution and once there told there would not be a meeting. He said H.B. 7103 was not by accident, it is there for a reason and he feels it is there to stay. He said he was not willing to fight the state legislature on this. He declared we want to work with the County and the School Board, and hopefully come up with a resolution. He stated he was willing to go to Tallahassee and help with a resolution. He asked for a motion from the Council.

MOTION by Commissioner Nolan, and seconded by Commissioner Bankson, to adopt Ordinance No. 2690. Motion carried 4-1 with Mayor Nelson, and Commissioners Bankson, Becker, and Nolan voting aye, and Commissioner Smith voting nay.

Council recessed at 9:20 p.m. and Reconvened at 9:27 p.m.

2. Major Development Plan – Hamrick Estates
Project: Wekiva Pointe, LLC, c/o Annette L. Peck Trust
Location: 3220 Pittman Road
Project Manager: Bobby Howell

Bobby Howell, Senior Planner said the applicant is requesting approval of a Major Development Plan for 111 unit single family home development on 55.5 acres to be developed in two phases. The property is located at 3220 Pittman Road, north of Ponkan Road and south and west of the Rock Springs Ridge subdivision. Part of the Comprehensive Plan residential development north of Ponkan Road cannot exceed more than 2 DU/AC regardless of the density permitted under the future land use designation. The property had two zoning designations, RSF-1A and MU-ES-GT with the northern half of the property the RSF-1A and the southern half is the MU-ES-GT. In the Mixed Use-East Shore-Gateway lot sizes of minimum of 7,500 square feet and a lot width of 70 feet are proposed in accordance with that code requirement. Minimum lot size for the RSF-1A is 12,500 square feet and a lot width of 95 feet are proposed. The entire development has a minimum living area of 1,800 square feet is proposed and the same setbacks are permitted throughout the development. He advised development of the northern portion of the property is subject to the requirements of the development agreement approved by the City Council on April 15, 2019. Per Section 2-A of the development agreement, no vehicular connection will be permitted to the Rock Springs Ridge subdivision by Mt. Stirling Avenue. He affirmed this is detailed on the Major Development Plan. The development is accessed by Pittman Road and plans have been submitted for upgrades to Pittman Road and in accordance with the development agreement that will be considered as the next agenda item. All lots within the subdivision will be accessed by two internal roadways that will be dedicated to the City of Apopka. There will be a stub out to the south of lot 67 that will facilitate future connection of the property to the east at such time it develops and this does not allow connection to the Rock Springs Ridge subdivision. Tracts F and H are noted for stormwater retention and detailed on the Major Development Plan. Per Section 29b) of the Development Agreement a 25 foot wide landscape buffer will be adjacent to the Rock Springs Ridge subdivision located in a tract owned and maintained by the HOA and there will be an easement dedicate to the City of Apopka. He advised that per code 20% of the site is required to be preserved as open space and the plan preserves 24% as open space. There is a tree save area on the eastern portion of the property in the perimeter open space that is detailed as part of the open space program for the development. Development Review Committee and Planning Commission recommend approval.

Commissioner Becker pointed out an area that states the project will be developed in a single phase, but it is to be developed in two phases. He stated Tract E is a landscaping tract or buffer area that would require the applicant or future developers to come back to the City to revise the plan to entertain possibly connecting there. He also pointed out the 25 foot buffer is in the plan and will happen. The trees will be saved where possible.

Mr. Howell advised once this is platted and it is on the plan as Tract E a road cannot go through there, as it is dedicated an open space, buffer tract.

Jason Searls, Gray Robinson, here on behalf of the applicant and also with him is Jeff Summit, the Engineer for the project. He stated as the plan has evolved and they entered into an April 2019 Developer’s Agreement with the City that required the 25-foot minimum landscape along the border. In the final engineering of this, it increased to 90 plus feet, enhancing the buffer. He advised they also made a best effort of saving trees and that came back at about a 90% preservation. He said one of the nuances of this is they started under the old Land Development Code (LDC) and they are now finishing under the new LDC. He stated under the new LDC if you have a subdivision that is greater than 75 lots you are required to put in a community pool. He said their client has committed to certain off site road improvements to Pittman Road as a result of the negotiated concession of not using Mt. Stirling for access. He affirmed they have discussed with staff and will be seeking an amendment in the future for a waiver to the pool requirement because of the additional cost contemplated with the Pittman Road improvements that were not originally contemplated.

Commissioner Bankson said he appreciated the increased buffer and asked if to the north there was an increase with more foliage.

Jeff Summit, Engineer for the project said they were working to save as much as they could and he moved the pond a little further to the south and will be saving the majority of the trees on the north side.

Mayor Nelson opened the meeting to a public hearing.

Chris Wilson, Attorney on behalf of OCPS said this was related to the prior hearing on the future land use amendment and the school board would object with this proceeding, as they believe the City has not followed the ILA, the Law, or the Charter Amendment. He said they register their objection and incorporate their comments from the prior hearing.

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

MOTION by Commissioner Smith, and seconded by Commissioner Nolan, to approve the Major Development Plan for Hamrick Estates. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

3. Amended and Restated Development Agreement – Hamrick Estates
Project: Wekiva Pointe, LLC, c/o Annette L. Peck Trust
Location: 3220 Pittman Road
Project Manager: Bobby Howell

David Moon, Planning Manager, said this item is on a Development Agreement for the same project. The general items addressed in the Develoment Agreement include the construction of Pittman Road, and the design requirements for Pittman Road. There are development design standards that require the minimum house size in terms of livable area is 1,800 square feet. He said the southern portion, known as the Peck property, would have allowed a minimum house size of 1,350 square feet and this agreement requires a larger house size than required by the zoning. Buffer requirements of a minimum 25 feet on the east and south portions of what is formerly known as the Hamrick property, then there is the limitations on access to Mt. Stirling Avenue and utility connection point requirements. Finally, the conditions on the school capacity enhancement and concurrency. He affirmed payment has to be made within 60 day of the execution of the Development Agreement.

Jason Searls said he concurs with the presentation. He said they have touched on the Development Agreement as it relates to the two previous matters before Council tonight. He said he would be happy to answer any questions.

Mayor Nelson opened the meeting to a public hearing.
Chris Wilson, representing OCPS said they object to this going forward, stating this Development Agreement does not meet the requirements of the Interlocal Agreement, Charter, or the Law. He stated there is a specific process in place in Orange County if the School Board is unable to certify capacity, the process is you approve a FLUME and then say it is subject to Orange County Board of County Commission approving it, and that did not happen this

evening. Second, he said is the dollar amount, stating they did not receive a CEA application so OCPS has not submitted how much they should pay, so how would you know if OCPS has sufficient funds to cover these additional students at Apopka High School. Mr. Wilson said although he does not agree with Council's argument on impact fees, the characterization that their capital contribution is an impact fee, reiterating he does not agree. However, that is his position and may argue that. Under his (referring to City Attorney) argument, you are requiring this applicant to pre-pay those fees which is in violation of the new house bill mentioned. So, you are approving under his analysis and illegal agreement. He reiterated they object and register the prior comments from the two prior hearings.

City Attorney Byrd said the City of Apopka is not requiring anything. The applicant has voluntarily done that and H.B. 7103, particularly the section on impact fees does not prohibit the City from engaging in terms of someone who is willing to pay. It only says we cannot require it.

Commissioner Smith asked if there wasn't a formula for calculating the fees, to which, City Attorney Byrd said there is a formula and he is assuming that OCPS is not saying it is not going to continue further on processing what is before it now in the matter, notwithstanding the decision here. He said if they are, then he would like to hear that stated for the record from the Attorney for OCPS that they are not going to continue.

Mr. Wilson said a CEA application has not been submitted to process, so how would they know what to pay. Commissioner Smith said he was inquiring if there was a formula for calculating the mitigation fees. Mr. Wilson said the Interlocal Agreement has two formulas for calculating.

Commissioner Bankson affirmed the City does not move forward until that has been resolved and paid.

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

Commissioner Becker asked for information from the City Attorney in regards to the action taken in the two previous hearings, stating there are claims the City is not operating in a legal concept. He said Council is acting on the testimony the City Attorney is providing.

City Attorney Byrd responded in the affirmative, and the understanding of the law. He affirmed that he was not saying what Council has done today is consistent with the Interlocal Agreement and consistent with the Charter. As he has pointed out, there are ways that preemption relates, notwithstanding the arguments they have made. He stated everything here has been done in good faith and in terms of what else is the City to do when there is a time clock running.

Commissioner Becker asked if we need to clarify in the motion that they put in the escrow account the amount of money that would be equal to the capital contribution as outlined in the ILA.

City Attorney Byrd said that language is already specific to the ILA and it is the intention.. He stated if the applicant is not opposed to adding language that the fee will be pursuant to the ILA.

Mr. Searls advised they did not have a problem with that language, stating if anything, they are overpaying under the Development Agreement.

MOTION by Commissioner Becker, and seconded by Commissioner Nolan, to approve the Amended and Restated Development Agreement for Hamrick Estates, with the language that the capital contribution would be calculated based off the ILA formulas. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

4. Ordinance No. 2741 – First Read - Comprehensive Plan – Text Amendment – Future Land Use Element – Policy 3.1.r
   Project: City of Apopka
   Project Manager: David Moon.

ORDINANCE NO. 2741

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 POLICY 3.1.R; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION by Commissioner Nolan, and seconded by Commissioner Smith, to postpone to a date to be determined. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

5. Ordinance No. 2742 – First Read/Transmittal - Comprehensive Plan – Large Scale – Future Land Use Amendment
   From: “County” Rural & “City” Mixed Use
   To: “City” Mixed Use – Airport Support District
   Project: Rubright Area Properties
   Location: West of North Orange Blossom Trail, north of Hogshead Road
   Project Manager: David Moon.

ORDINANCE NO. 2742

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” RURAL & “CITY” MIXED USE TO “CITY” MIXED USE – AIRPORT SUPPORT DISTRICT FOR CERTAIN REAL PROPERTY GENERALLY

LOCATED WEST OF N. ORANGE BLOSSOM TRAIL AND NORTH OF HOGSHEAD ROAD, OWNED BY AMERICAN SANFORD FOUR, LLC, STEVEN R. RUBRIGHT, JP HOLDINGS, INC., RUBRIGHT PROPERTIES, LLC, ALTERNA MORTGAGE INCOME FUND, LLC, RUBRIGHT FAMILY, LP, JP HOLDINGS, INC. & JAMES SCOTT PRIDGEN, DOUGLAS & LISA SURRETT & JAMES P. PURDY; COMPRISING 424.41 ACRES, MORE OR LESS, PROVIDING FOR SEVERABILITY; AND FOR AN EFFECTIVE DATE.

MOTION by Commissioner Smith, and seconded by Commissioner Nolan, to postpone to a date to be determined. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

6. Ordinance No. 2745 – First Reading – Land Development Code - Glitch Amendments
Project: City of Apopka
Project Manager: James Hitt – The Clerk read the title as follows:

ORDINANCE NO. 2745

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE CODE OF ORDINANCES, PART III – LAND DEVELOPMENT CODE, ARTICLE 1: GENERAL PROVISIONS, SECTION 1.8 TRANSITIONAL PROVISIONS; ARTICLE 3: ZONING DISTRICTS, SECTION 3.3 RESIDENTIAL BASE ZONING DISTRICTS AND SECTION 3.6 SPECIAL PURPOSE BASE ZONING DISTRICTS; ARTICLE 4: USE REGULATIONS, SECTION 4.2 PRINCIPAL USES; ARTICLE 5: DEVELOPMENT STANDARDS, SECTION 5.2 LANDSCAPING AND BUFFER STANDARDS, SECTION 5.3 TREE PROTECTION STANDARDS, SECTION 5.5 FENCES AND WALLS, SECTION 5.6 EXTERIOR LIGHTING, SECTION 5.8 NEIGHBORHOOD COMPATIBILITY STANDARDS, SECTION 5.10 SIGNS, AND, SECTION 5.13 ROADS, STREETS SIDEWALKS AND BIKEWAYS; ARTICLE 10: DEFINITIONS AND RULES OF MEASUREMENT, SECTION 10.2 RULES OF MEASUREMENT, SECTION 10.3 USE CLASSIFICATIONS AND INTERPRETATION OF UNLISTED USES AND ZONING DISTRICT BOUNDARIES; AND, APPENDIX "A": KELLY PARK FORM-BASED CODE, K.2. d. AND g; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND SETTING AN EFFECTIVE DATE.

James Hitt, Community Development Director, said this was clearing up glitches to the new Land Development Code. He said he would be glad to review in detail, or take any questions by Council.

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

MOTION by Commissioner Nolan, and seconded by Commissioner Bankson, to approve Ordinance No. 2745 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

7. Resolution 2019-24 - FY19/20 Budget Amendment
   Presented by: Jamie Roberson - The City Clerk read the title as follows:

RESOLUTION NO. 2019-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, AMENDING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019 AND ENDING SEPTEMBER 30, 2020, PROVIDING FOR A BUDGET AMENDMENT.

Jamie Roberson, Finance Director advised this was a budget amendment for FY 19/20 and she would answer any questions Council may have.

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

MOTION by Commissioner Nolan, and seconded by Commissioner Smith, to approve Resolution No. 2019-25. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Nolan, and Smith voting aye.

CITY COUNCIL REPORTS –
Commissioner Nolan said Sertoma did an amazing job with the Christmas Parade. She said the car she was in broke down and they immediately made other accommodations.

Commissioner Bankson said all parties were working together in a positive way regarding the development by the Airport.

Commissioner Smith inquired about the street lights and whether funding had been located for this matter. Mr. Bass advised they were still working on this and advised they were reviewing the ordinance. He said they will bring a plan back to Council.

Commissioner Becker also commented on the Christmas Parade and said the evening with the Symphony was phenomenal. He wished everyone Happy Holidays.

CITY ADMINISTRATOR REPORT – No report

CITY ATTORNEY'S REPORT – No report.

MAYOR'S REPORT – Mayor Nelson reported the new traffic lights at McGee, S.R. 436 and 441 will begin flashing on January 3, 2020 and operational on January 10, 2020. He also reported the dedication of the Billie Dean Community Center will be this Saturday and there was an entire day of events planned for the dedication and opening of Alonzo Williams Park. He advised the Apopka High School football team will be recognized Friday night between the JV and Varsity basketball games.

ADJOURNMENT – There being no further business the meeting adjourned at 10:02 p.m.

ATTEST:

Bryan Nelson, Mayor

Linda F. Goff, City Clerk