

CITY OF APOPKA

Minutes of the City Council regular meeting held on August 16, 2017, at 7:00 p.m., in the City of Apopka Council Chambers.

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

PRESS PRESENT: Teresa Sargeant - The Apopka Chief
Reggie Connell, The Apopka Voice
WFTV – News Channel 9

INVOCATION: Mayor Kilsheimer introduced Bishop Kelvin L. Cobaris, from Impact Church of Apopka, who gave the invocation.

PLEDGE OF ALLEGIANCE: Mayor Kilsheimer said on August 26, 1920, the Nineteenth Amendment was formally adopted guaranteeing women the right to vote. The journey began more than 70 years before at the Seneca Falls Convention, which ended with a passage of a resolution declaring the duty of women to secure the sacred right of voting. Suffragettes worked tirelessly, first winning the right to vote in individual states. When America entered World War I in 1917, women aided the war effort breaking down the remaining opposition to suffrage. By 1918, both the Republican and Democratic parties endorsed women's suffrage which led the way to the passage of the Nineteenth Amendment. He asked everyone to remember the sacrifice and courage of those who fought for the right of each and every one of us to vote as he led in the Pledge of Allegiance.

APPROVAL OF MINUTES:

- 1. City Council workshop meeting July 10, 2017.**
- 2. City Council workshop meeting July 12, 2017.**
- 3. City Council special meeting July 20, 2017.**
- 4. City Council regular meeting August 2, 2017.**

Commissioner Bankson said while not every word is put in the minutes, he did make note that his presentation about making the Council meetings successful on video was not mentioned in the minutes. He also stated on the last workshop he made a presentation about the 25% reserve fund and the minutes did not reflect he had stated this was not something that would cost the City anything, but was a long term solution for a five-year program.

MOTION by Commissioner Becker, and seconded by Commissioner Velazquez to approve City Council minutes of July 10, 2017, July 12, 2017, July 20, 2017 and August 2, 2017 with correction as noted. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

AGENDA REVIEW: There were no changes.

Presentations:

1. Chief McKinley announced the promotion of Captain Randy Fernandez to Deputy Chief and commended him for the work he has done for the City of Apopka. He presented Deputy Chief Fernandez with a trophy recognizing his work and promotion.
2. Eagle Scout Project Proposal: Little Free Library Stations.
Eagle Scout Candidate Michael Ihrig, Troop 211, presented his project for Little Free Library Stations to be constructed and placed in areas to be determined throughout the City. He said he wanted to make sure everyone had the opportunity to have books available to them to read.

MOTION by Commissioner Bankson, and seconded by Commissioner Becker, to approve the Little Free Library Station Eagle Scout project as presented. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

3. Eagle Scout Project Proposal: Dream Lake Park Paver Pathway and Picnic Tables.
Eagle Scout Candidate Adam Speck, Troop 211, presented his project for Dream Lake Park Paver Pathway and Picnic Tables. He said his project was to refurbish and level the brick pathway that leads up to where the bridge used to be at Dream Lake and refurbish and paint all of the picnic tables that are there. He said this has been in a state of disrepair for some years.

MOTION by Commissioner Becker, and seconded by Commissioner Velazquez, to approve the Dream Lake Park Paver Pathway and Picnic Tables Eagle Scout project as presented. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

4. Eagle Scout Project Proposal: Dream Lake Park Bridge.
Eagle Scout Candidate Connor Larsen, Troop 211, presented his project for the Dream Lake Park Bridge and cleanup of the canal. He reviewed drawings that show the rebuilding of the foot bridge, stating the old bridge was flat and his proposal is for an arched design to minimize potential damage from storms and floods. He advised the bridge design will be ADA compliant. He said if Council approves his project, he plans to begin fund raising in early September with an estimated completion date of late November. The estimated construction cost is \$1,500.

Mayor Kilsheimer advised all of the proper review needs to be done and a permit obtained for the construction.

MOTION by Commissioner Velazquez, and seconded by Commissioner Bankson, to approve the Dream Lake Park Bridge Eagle Scout project as presented. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

PUBLIC COMMENT/STAFF RECOGNITION AND ACKNOWLEDGEMENT

Public Comment:

Veronica Rogers said she was here to thank the City of Apopka and Commissioners for all of their help for the event at Phillis Wheatley Park in April. She thanked Dr. Shackelford for believing in them and donating toward the project. She stated they showed much unity that day and said unity is

what this community needs. She said they need to learn to work together on projects and even if there is disagreement, there needs to be some resolution for our children's sake. She stated she looked forward to our City moving forward together.

Pastor Richard King said he read an article that disturbed him because it challenged the integrity of the City of Apopka and its citizens. He stated this article dealt with how candidates generate money for elections. He said he would like this Council to consider discussing campaign finance reform in order to strengthen integrity of government in the sunshine. He said the reform implemented in the City of Miami Beach in 2016 presented the roadmap for preventing perception of wrong doing. He stated this was a citizen initiative and asked that the Council afford them the respect of responding to their request.

Pastor Hezekiah Bradford said he would like to first give condolences to the families in Charlottesville, Virginia over this sad tragedy that transpired. He stated he would like to make mention to what Pastor King spoke about, as it did appear in our local newspapers about campaign finance reform. He asked that his words and request for campaign finance reform are at least worth a discussion by Council. He stated we hear a lot about campaign finance reform on a national level all the time. He also spoke of the reform in the City of Miami Beach.

Rod Love recognized Commissioner Becker and his being an Eagle Scout, stating the young men that presented projects today exemplify all that is good in this City. He asked Commissioner Becker, as an Eagle Scout, to let them know that the not-for-profit of Florida Economic Consortium will make sure there is a \$500 donation to start the bridge. He said he wanted to echo what Pastors King and Bradford addressed and said they went through a process of researching on how to come together and contribute to resolving some of the issues they consider are outstanding. He stated when they did the research, they found that the City of Miami Beach implemented campaign finance reform successfully. He said Apopka can be a leader in this County and Central Florida by taking the lead in instituting campaign finance reform. He stated they were offering this for consideration of the City Council and ask that they hold workshops and have discussions regarding campaign finance reform. He said if they did not see the merit in having this discussion on campaign finance reform, to respond as to why they do not see merit in holding this discussion.

Ray Shackelford said he echoed the sentiments and concerns of the preceding speakers as it related to campaign finance reform. He stated we can and must do better to protect the integrity of the City of Apopka. He said we have an outstanding Council and called upon the Council to guide us and put the interests of the people above special interests. He asked Council not to ignore this concern regarding campaign finance reform. He secondly wanted to say he has noticed the City has allowed the Apopka area CONA to put their meeting dates on the City website and called upon Council to allow other community based organizations to do the same. He asked that pictures on the City website reflect all diversity of the City of Apopka. He stated in his experience he has never come across a late proposal being accepted in the bidding process. He said to be clear, in reference to the Splash Pad he was not against the company, but he is against the process that took place.

CONSENT (Action Item)

1. Authorize execution of the Sewer and Water Capacity Agreement for Carriage Hill subdivision.
2. Approve the serving of wine for a Wings and Wine event at the Museum of Apopkans.
3. Approval for Alcohol Sales at the Summer BBQ Showdown and Steak Cookoff.

4. Accept Notification of Application or the Edward Byrne Memorial Justice Assistance Grant Program.

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

BUSINESS

- 1. Acceptance of a Trails Grant and the required funding match for Kit Land Nelson Park.**

Glenn Irby, City Administrator, said the City recently applied for a grant from the Florida Department of Environmental Protection and has been notified we were successful in that application, subject to Council approval. He explained this grant is to build an exercise trail in Kit Land Nelson Park that will connect to the West Orange Trail. He advised this grant has a 40% match requirement of \$80,000. He advised this match will come from funds at year end that have not been expended from the general fund. Staff recommends acceptance of the grant and approval of the matching funds.

Mayor Kilsheimer said this will bring more people to the park. He advised Dr. Jackson was also working on a FRDAP (Florida Recreation Development Assistance Program) grant for the playground.

Mr. Irby affirmed the City has been awarded the FRDAP grant, however, the plan is in excess of the grant fund of \$50,000. He explained the funds are in the FY 17-18 budget and once it is approved, soon thereafter the work will begin on the playground.

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

MOTION by Commissioner Becker, and seconded by Commissioner Bankson, to approve acceptance of a Trails Grant for Kit Land Nelson Park and the matching funds. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

- 2. Final Development Plan – Shoot Straight Warehouse Addition – 1351 Tropicana Circle.**

Mayor Kilsheimer announced this was a quasi-judicial hearing. Witnesses were sworn in by the Clerk.

Pam Richmond, Senior Planner, said this was the Final Development Plan (FDP) for the Shoot Straight Warehouse, Phase IV, and request for approval from City Council. She reviewed the location of the addition on a map stating the warehouse expansion will be added on to the existing building. The parking lot will be rearranged to accommodate 83 additional parking spaces required for the new building and the safe traffic circulation through the parking lot will continue. She advised the existing buildings house a gun sales showroom and a handgun and rifle range. The additional space will be used for warehousing. DRC found the FDP to be consistent with the Comprehensive Plan and Land Development Code and recommends approval. The Planning Commission at their August 8, 2017 meeting recommended approval.

Mayor Kilsheimer opened the meeting to a public hearing.

Terri Morrell said while driving on U.S. 441 she saw a trailer backing into Shoot Straight and this was concerning to her. She wanted to confirm that trucks will not be backing in from U.S. 441.

Mr. Moon said as part of the site plan review process, the engineer for the project is required to show the truck turning movements within the site plan. He advised the City Engineer reviewed those turning radiuses and they met the standards. A truck should be able to access the site without backing out or into the site.

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

MOTION by Commissioner Bankson, and seconded by Commissioner Dean, to approve the Final Development Plan for the Shoot Straight Warehouse addition, Phase IV. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

3. Plat – First Street Retail Center Plat (aka Tractor Supply Site) – 180 East First Street.

David Moon, Planning Manager, said this matter is primarily a technicality. The Tractor Supply is already under construction and ready to open. As part of the staff requirements, the Tractor Supply site was asked to consolidate the existing lots into one parcel. The plat performs as a replat to create one unified development parcel. DRC and Planning Commission recommend approval.

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

MOTION by Commissioner Velazquez, and seconded by Commissioner Becker, to approve the Plat for First Street Retail Center. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

PUBLIC HEARINGS/ORDINANCES/RESOLUTIONS (Action Item)

1. Ordinance No. 2582 – First Reading – Banning medical marijuana dispensing facilities.

The City Clerk read the title as follows:

ORDINANCE NO. 2582

AN ORDINANCE ESTABLISHING A PROHIBITION OF MEDICAL MARIJUAN TREATMENT CENTER DISPENSING FACILITIES WITHIN THE BOUNDARIES OF THE CITY AS AUTHORIZED BY SECTION 381.986, FLORIDA STATUTES; PROVIDING LEGISLATIONVE FINDINGS; PROVIDING FOR CONDIFICATION; MORATORIUM CONTINGENCY; SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

David Moon, Planning Manager, said City Council has already approved a moratorium that has been in effect for the past two months. This moratorium was approved to provide staff with time

to review the new state laws that were under preparation to help regulate the medical marijuana industry within the state of Florida. Deputy Chief Randy Fernandez, himself and Erin DeYoung, attorney for the Police Department, and Mr. Moon, have reviewed the state laws and recommend a permanent ban be placed on the dispensaries for medical marijuana. The Planning Commission met on August 8, 2017, and recommends approval to City Council for this prohibition of dispensing medical marijuana citywide. He advised the City of Apopka adopted Ordinance No. 2388 on May 6, 2015, regulating and governing the location and extent of the cultivation, processing, and dispensing of medical marijuana within the City of Apopka. The sale and processing is allowed in two designated grow areas through that ordinance. He stated a need to regulate medical marijuana emerged on June 16, 2014, when Governor Scott signed the Compassionate Medical Cannabis Act of 2014 into law, allowing the cultivation, processing and dispensing of low THC cannabis statewide. He advised the ban on dispensing does not affect the cultivation or, the processing in the two designated grow areas. The new laws adopted by the Legislature limit the ability of local governments, through their zoning process, to manage the location and extent of dispensing of medical marijuana within their communities. He advised two alternatives were granted to local governments: either to ban on a citywide basis; or to treat medical marijuana dispensaries similar to the zoning of pharmacies. He stated other local governments in the area saw the need to ban the dispensing of medical marijuana. He said the new laws limit how the City can orchestrate an ordinance to deter or guide marijuana dispensing from residential areas, from the proximity to schools, churches, and parks. He advised the current ordinance in place is not consistent with state laws, thus there is a need to modify the current ordinance as it relates to the dispensing of medical marijuana. He reviewed information regarding the traffic impact based on information Deputy Chief Fernandez found from the state of Colorado that shows medical marijuana dispensaries generate more traffic on a daily basis than a pharmacy or specialty retail center does. DRC and Planning Commission recommends to approve Ordinance 2582 at First Reading and carry it over for a Second Reading.

Commissioner Bankson said he discussed this with Deputy Chief Fernandez. He said it would be a great concern for Apopka to be an attraction point. The ordinance does not prohibit people who genuinely need this for medical purposes from obtaining this product and it does not prohibit those who are in the industry from producing.

Commissioner Dean said he was against having a dispensary in the City of Apopka. He does support the idea of medical marijuana being delivered to the person in need.

Commissioner Velazquez said being retired law enforcement she has had her own experiences with dispensaries. She said the state language is not friendly with the local municipalities. She would like to see a moratorium rather than a permanent ban to allow us to work with the legislators on language. She inquired if we know how it is being delivered.

Deputy Chief Fernandez advised there is a section in the statute that allows for deliveries and it is very clear on the method and manner of delivery. He stated this was not stopping those who are in need from getting this medication. We are just addressing the store fronts and how we will regulate this as a zoning issue. He stated under our current code, pharmacies are allowed in a lot of different areas. He said our original ordinance removed areas that we did not want to have medical marijuana dispensed. He stated the state took that option away from the City, so it was felt the best thing to do at this point is to ban dispensaries. He said we were in the process of re-writing our code, and perhaps there is some other avenue we can do to make this work.

Attorney DeYoung explained a moratorium has a specific end date. The ban is for as long as the City desires. If in six months to a year, the City decides to do something else, or if the legislation has changed, they can come back and make changes.

Commissioner Becker said he had several points he wanted to cover with regards to what medical marijuana is and what it would be for our City. He said it is an undisputable fact that medical marijuana is now legal in our state and by extension, any business that transacts in it is a legitimate business. He stated the idea that dispensaries will pop up all over, he fully agrees that we need the right mix of business in our City and not to have high concentrations of anything. He said the state law is very strict with regards of who they will award licenses to, 17 licenses statewide, and each will have 25 dispensaries. He stated this was an opportunity to create jobs for Apopka. He said the third option is to change the language regarding pharmacies to a policy that is all encompassing of pharmacies and dispensaries in a way that the City wants to govern them. He stated the State is very strict about the operations of these establishments. He affirmed he had made several calls to city officials in the state of Washington where they have both medical marijuana and recreational marijuana. He said the two city officials he spoke with had nothing but praise to say about their implementation without any increase in crime in their opinion. He agreed that people will have access to delivery, but the idea that this will remain a free service is unlikely. He said he fully supports home rule entitlements for our local municipalities, but it took a ballot initiative from our voters to even get this on the ballot after years of lobbying with the state legislators. He said they are being asked to invoke a ban on something with no long term strategy other than to wait and see if the state does anything else. He stated he would like to see Apopka be the model for how Central Florida takes this and create short and long term strategies about the implementation of medical marijuana to benefit our residents who need this type of medication.

Mayor Kilsheimer said he agrees with virtually everything Commissioner Becker said. He stated when the staff came to him with the proposal he was against it. However, the legislature, in implementing the law has essentially turned this into something that is not a decision about medical marijuana or the value or the need people have for it. He declared this was a zoning issue. He said most of the other cities, with the exception of Oviedo, are moving in the direction to ban dispensaries. He stated at this point in our period of growth, Apopka needs to take control of our growth strategy and come up with a balanced approach. He said the legislature, in this regard, has taken that out of our hands. He thought we stepped out front when we passed the grow zone ordinance previously. At that point the plan was that all dispensaries would be associated with the business that received the grow licenses. He said he thinks the legislature will hear enough from the cities across the state that they will revisit this sooner than later.

Commissioner Becker inquired if there was an option to update our code to treat both pharmacies and dispensaries as a special exception to allow more scrutiny on both ideas, bringing it through another level of scrutiny from the City so either staff or Council could look at it that way rather than do a total and complete ban on something that is legal.

City Attorney Shepard responded in the affirmative, stating that is an option and it is an option in certain cities more readily than here. He said Ponce Inlet is going to consider that, and similar to Maitland, to take the pharmacy categories available and draw that down. He declared this will probably have the support of the pharmacy community. He said if the idea is to limit the amount

of dispensaries that is a way to accomplish this. The difference is the City of Apopka has a lot of undeveloped areas, so it would be a fairly substantially large area. He reiterated the City of Apopka is not like other cities that are built out.

Commissioner Becker said we have no certainty about what the state legislature is going to do in regards to this legislation, but we do know we have land and we know other pharmacies will come into this City, so we need to solve for that and solve for not having an influx of establishments selling medical marijuana.

Mr. Moon said if City Council would choose to take the special exception approach, we do not have criteria associated or developed with that special exception. He stated staff would need time to prepare for that and the current moratorium expires August 30, 2017. If Council decides to deny the ordinance before them this evening, then we will have an open door for medical marijuana dispensaries. If they approve the ordinance before them, they have the option to come back later and take the approach to special exception.

Commissioner Bankson said we need to get the plan of special exception in place before we leave this open.

Mayor Kilsheimer said the City Council has the ability to direct staff to develop a special exception policy, however, if we let the moratorium expire without having something in place, then it is open and we could see a proliferation of dispensaries.

Mayor Kilsheimer opened the meeting to a public hearing.

Derek Ryan said he is the chairman of the Libertarian Party of Orange County and they supported Amendment 2. He said 384,000 Orange County residents voted for Amendment 2. He spoke of pharmacies and the sale of opioids. He said Apopka has an opportunity to be a leader in what is an agricultural industry. He said Ormond Beach also has not banned dispensaries. He said if a resident of Apopka obtains a prescription through the proper process for medicinal marijuana at 10:00 a.m. on Friday morning, if this ordinance passes, they will not be able to have it delivered by the weekend, but they could go to a local dispensary and pick it up.

Rod Love said Commissioner Becker brought up diversity as it relates to the nursery growers. He said when this initially passed there was a great argument based on the specificity of the legislation to which many looked at as blocking a lot of nursery owners out. He said medical marijuana was a Schedule I drug and opioids are listed as a Schedule II drug. He stated he hears the concern of law enforcement and said Council can specify the security measures for dispensaries to have in place. He expressed concern of the risk for the people making deliveries. He said the City of Apopka needs to get out in front of this and do it right.

Pastor King said medical marijuana dispensaries is complex and said while he did not support the use of recreational marijuana, he did support the use of medical marijuana. He stated people would have to travel to pick up or have their prescriptions shipped and asked what was in the best interest of the people in need. He said it would be a marvelous opportunity for the City to be at the forefront of setting up dispensaries for medical marijuana.

Ray Shackelford said he supports the ban of dispensing medical marijuana until we have clear language from the Florida Legislature. He stated with as a person with a background in public health he values ways to improve the health status of people, but in an effective and sufficient way for overall success. He too is concerned about the access to medical marijuana and reiterated his support in banning dispensaries for now in the City of Apopka.

Mari Morrell said she has been working as a pharmacy technician for more than ten years and has seen a lot of patients in varying degrees of health. She stated she has seen the difficulty it is for them to try various medications and not being able to function due to the side effects. She said when someone finds something that works for them, being able to access it is key. She stated she read the description of what the legislature requires for security for these facilities and she would feel much safer in one of those facilities than she would in a corner pharmacy.

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

Mayor Kilsheimer said they could pass the ordinance, but at the same time direct staff to examine ideas for a special exception process to be brought back to Council.

City Attorney Shepard said they could direct staff and to further ask them to look at zones where the special exception might coincide with grow areas.

Mayor Kilsheimer reiterated this was not about medical marijuana, but this was a zoning issue, especially as it relates to the particular conditions in the City of Apopka in that we have so much open area for development. He stated if we don't take measures now to protect the City, we could see a proliferation beyond what our residents are going to say is acceptable. He said it would be appropriate for this Council to approve the ordinance as proposed and at the same time direct staff to develop an approach to special exceptions to allow us to revisit this issue.

In response to Commissioner Bankson inquiring if hospitals had the ability to provide medical marijuana in an emergency type situation, Attorney DeYoung said each patient can have a caregiver that helps with giving the medication. She explained a caregiver could have multiple patients and gave an example of a caregiver could be a Hospice worker. She said a caregiver has an identification card and the medical marijuana goes through a dispensary, not a pharmacy. Pharmacies and hospitals do not have access to medical cannabis.

MOTION by Commissioner Bankson, and seconded by Commissioner Velazquez, to approve Ordinance No. 2582 at First Reading and bring it back for a Second Reading, with the guidance to staff to visit the language regarding special exceptions and bring this back to Council. Motion carried 4-1 with Mayor Kilsheimer, and Commissioners Dean, Velazquez, and Bankson voting aye, and Commissioner Becker voting nay.

2. **Resolution No. 2017-15 – Wireless Facilities in the Public Rights-of-Way.** The City Clerk read the title as follows:

RESOLUTION NO. 2017-15

**A RESOLUTION OF THE CITY OF APOPKA, FLORIDA, OPPOSING
THE EROSION OF HOME RULE AUTHORITY EFFECTED BY THE**

ADVANCED WIRELESS INFRASTRUCTURE DEPLOYMENT ACT; SUPPORTING THE HOME RULE AUTHORITY GRANTED AND GUARANTEED LOCAL GOVERNMENTS BY THE FLORIDA CONSTITUTION; ENCOURAGING THE FLORIDA LEGISLATURE TO RETURN FULL HOME RULE AUTHORITY TO LOCAL GOVERNMENTS WITH RESPECT TO WIRELESS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY; EXPRESSING SOLIDARITY WITH OTHER LOCAL GOVERNMENTS OF ORANGE COUNTY, FLORIDA, IN SUPPORTING TECHNOLOGICAL ADVANCEMENT WHILE PRESERVING THE AUTHORITY OF LOCAL GOVERNMENTS TO ENACT REGULATIONS THAT PRESERVE AND PROTECT LOCAL COMMUNITY VALUES AND INTERESTS; PROVIDING AN EFFECTIVE DATE.

Mayor Kilsheimer said this is an issue that was brought forward by the Orange County Council of Mayors. On a regular basis the Mayors of all cities in Orange County meet and discuss issues of mutual concern. This issue was brought to them recently due to the Florida Legislature essentially taking steps to eliminate the home rule authority from local cities with regards to the roll out of next generation technology. Municipalities have concerns regarding the appearance of their communities when these devices roll out. He stated the 5G technology devices will be installed about every block. He said while these devices are small, every wireless company has their own version and will want to place these in as many locations as they can in order to gain the coverage needed. He stated, as it stands, local governments are prohibited from any regulation of those devices. He said the mayors collectively proposed passing a resolution that the Orange County Council of Mayors can take to the Florida League of Cities and go back to the wireless companies to come up with some design standards that all the cities and wireless companies can agree on. He said the resolution was written by Drew Smith of Shepard & Smith Law Firm and paid for by the City of Edgewood, in an effort to give cities more control over the aesthetics of this next generation of technology.

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

MOTION by Commissioner Velazquez, and seconded by Commissioner Bankson, to approve Resolution No. 2017-13. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Dean, Velazquez, Becker, and Bankson voting aye.

CITY COUNCIL REPORTS – There were no reports.

MAYOR’S REPORT – Mayor Kilsheimer said he, Mr. Irby, and the City Attorney had a discussion regarding the Splash Pad earlier in the day and he asked City Attorney Shepard to address this matter.

City Attorney Shepard said it is fair to say the Splash Pad has been in the news and he has paid attention to the arguments and positions put forth by those who are interested, he has come to a conclusion to make a recommendation. He stated our bid documents allow the following: under section 7 it states, “The City of Apopka reserves the right to reject any and all responses, or any part

of any response, to waive any informality in any response, or to re-advertise for all or any part of the work contemplated.” In Section 14, it states, “No binding contract will exist between the proposer and the City until the City executes a written agreement.” He advised that has not happened and it goes along with the idea that there has been no award. He said Council’s action was to instruct staff to tailor the proposal to see if it could be worked out and somehow come within the amount of the budget. He stated, in addition, it states, “The award may be made to the source which offers the best value to the City. The City reserves the right to reject any and all bid offers, to waive non-material irregularities, or technicalities, and to re-advertise for all or any part of the solicitation as deemed in the best interest. The City will be the sole judge of the best interest.”

City Attorney Shepard said with those as the foundational provisions of the bid document, if there is an award and the City receives a bid protest, they could be facing an injunction not allowing the City to proceed while that plays out through the court system. If we can eliminate all of that by going through the process again, even if it delays for 30-60 days, to him is a better option and should take away this issue. He stated this should solve the problems that have been brought out by this process as recorded, sometimes incorrectly in the media, and eliminate any question that there is anything other than an attempt to get the best deal for Apopka. He reiterated his recommendation is to go back out a third time and re-bid.

Mayor Kilsheimer said over the last two weeks of all the issues they have had to deal with, he has heard more about this issue and the process than any other issue that has come before this City Council. He stated it is important to him that the process of the City of Apopka be viewed by the public and all perspective bidders as being as scrupulous as we can possibly make it. He said he also believes that the process we have engaged in up until this point has been scrupulous. He stated we have followed all of the rules, and everything has been provided for in the bid documents. The action Council is being asked to do is to reject the two bids for the Splash Pad and rebid the process.

Commissioner Bankson said he would be abstaining, as his brother works for one of the companies that bid.

MOTION by Commissioner Velazquez, and seconded by Commissioner Dean to reject the two bids for the Splash Pad and rebid. Motion carried 4-0-1 with Mayor Kilsheimer, and Commissioners Dean, Velazquez, and Becker voting aye. Commissioner Bankson abstained and will file a Form 8B.

Mayor Kilsheimer said with regards to the discussion during public comment regarding campaign finance reform, his stance on this would be that it is inadvisable to take government action to limit the ability of people to participate in the public process. He stated he thinks it is the wrong thing for the City of Apopka to do, stating every campaign contribution is publicly reportable, everyone receives the chance to contribute, and the voters are entitled to look at a candidate’s entire record, including all campaign finance contributions.

Commissioner Bankson said Pastor Bradford stated he has sent information out and he never received anything regarding the action in Miami Beach.

Commissioner Becker said he would be open to looking at this.

ADJOURNMENT – There being no further business the meeting adjourned at 9:24 p.m.

Joseph E. Kilsheimer, Mayor

ATTEST;

Linda F. Goff, City Clerk