

CITY OF APOPKA

Minutes of the regular City Council meeting held on August 6, 2014, at 1:30 p.m., in the City of Apopka Council Chambers.

PRESENT: Mayor Joe Kilsheimer
Commissioner Bill Arrowsmith
Commissioner Billie Dean
Commissioner Diane Velazquez
Commissioner Sam Ruth

PRESS PRESENT: John Peery - The Apopka Chief
Roger Ballas - The Apopka Chief
Steve Hudak - The Orlando Sentinel
Various TV News Reporters and Cameramen

INVOCATION AND PLEDGE OF ALLEGIANCE – Commissioner Arrowsmith introduced the Reverend Jim Page of the Apopka Calvary Church of the Nazarene, who led in the Invocation.

Mayor Kilsheimer said on August 7, 1782, General George Washington established the original Purple Heart, then known as the Badge of Military Merit, to honor soldiers for their meritorious actions. The honor was bestowed upon only three soldiers during the Revolutionary War and though the award was not abolished, the award was not proposed again until after World War I. The Purple Heart was reinstated on February 22, 1932, the 200th anniversary of George Washington's birth, and since its reinstatement, nearly two million Purple Hearts have been awarded to American service men and women for their injuries received in service to our great Nation. He asked everyone to remember the sacrifice and bravery of the men and women of our armed services, as he led in the Pledge of Allegiance.

PRESENTATIONS

1. Recognition of Representative Bryan Nelson - Megan Sirjane-Samples, Florida League of Cities

Former Apopka Commissioner Kathy Till, representing the Florida League of Cities, presented Florida House Representative Bryan Nelson with the Florida League of Cities 2014 Legislative Appreciation Award for his service to the citizens of the State of Florida and the City of Apopka.

Representative Bryan Nelson thanked the Apopka City Council and the citizens of Apopka for their support.

Mayor Kilsheimer stated that during his short tenure in public service, he has found Representative Nelson to be accessible and a mentor to elected officials.

EMPLOYEE RECOGNITION

1. **Samuel H. Anderson – Police/Field Services – Five Year Service Award** - Mayor Kilsheimer said Sam was unable to attend and will be presented his award at a later time.
2. **Jose A. Diaz – Police/Field Services – Five Year Service Award** - Mayor Kilsheimer said Jose was unable to attend and will be presented his award at a later time.
3. **Charles B. White – Police/Field Services – Ten Year Service Award** - Mayor Kilsheimer said Charles was unable to attend and will be presented his award at a later time.
4. **Joyce E. Boland – Public Services/Director’s Office – Ten Year Service Award** - Mayor Kilsheimer said Joyce was unable to attend and will be presented her award at a later time.
5. **Charles W. Shaw, Jr. – Public Services/Water Distribution Maintenance – Twenty Year Service Award** - Mayor Kilsheimer said Charles began working for the City on July 18, 1994, as a Utility Service Worker I. He transferred to Utility Billing and his title changed to Meter Reader on March 8, 1995. Then, on July 16, 2007, Charles was transferred to Water Distribution Maintenance as a Utility Service Worker II, which is his current position. The City Council joined Mayor Kilsheimer in congratulating Charles on his years of service to the City.
6. **Michael E. McLaughlin – Finance/Utility Billing – Thirty Year Service Award** - Mayor Kilsheimer said Michael started working for the City as a Laborer on July 23, 1984, for Sanitation. On March 20, 1987, he was promoted to Meter Reader for the Water Department. Michael transferred to Finance/Utility Billing and his title changed to Cashier/Customer Service Clerk on August 19, 1996, which is his current position. The City Council joined Mayor Kilsheimer in congratulating Michael on his many years of service to the City.

PRESENTATIONS

2. **Apopka Charter Review Committee Final Report - Linda Laurendeau** - Charter Review Committee Chairperson Linda Laurendeau gave a brief presentation of the function and tasks assigned to the Committee. She presented the Final Report, as follows:

Recommendations of the Charter Review Committee include:

- (1) To transition an increase in City Council seats to seven by the time Apopka’s population reaches 80,000 people, which is predicted to be by 2020.
 - (2) Term Limits - Not to impose term limits for elected officials in Apopka
 - (3) Districting - Continue Apopka’s practice of electing at-large, and serving at-large.
- Additional recommendations by the public only included qualifying by petition method, and establishing a review of the City Charter every specific number of years.

Ms. Laurendeau concluded her presentation by identifying the members of the committee, the committee attorney, and City staff who served the committee.

3. Comprehensive Annual Financial Report - Cecil Shumacker, Shumacker, Johnston & Ross, P.A. - Public Accountant and Auditor Cecil Shumacker gave an overview of the CAFR and applauded the practices and accounting of the Finance Department specifically, and all City departments in general.

CONSENT AGENDA

1. Accept the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2013.
2. Approve the minutes from the regular City Council meeting held on July 16, 2014, at 8:00 p.m.
3. Approve the minutes of Administrative Bid Opening No. 2014-08 for RWS Extension-Keene Rd., Clarcona Rd. (C.R. 435), Old Apopka Rd. & Snowden Rd., held on July 9, 2014, at 2:15 p.m.
4. Authorize the City Administrator to execute the amendment to the Interlocal Agreement for creation of the Metropolitan Planning Organization.
5. Approve a one year extension, at the current rate, of the annual contract with Shelley's Environmental Systems for the wastewater residuals transport and disposal.
6. Authorize the purchase of property, in the amount of \$19,000.00, for property located at 156 E. 6th Street, plus the additional closing costs, appraisal and environmental assessment study.
7. Award the contract, in the amount of \$4,226,105.00, to Garney Companies, Inc., for reclaimed water service extension on Keene Road, Clarcona Road, Old Apopka Road and Snowden Road, subject to providing the city with the required bonds and insurance.
8. Approve the Disbursement Report for the month of July, 2014.

At the request of Commissioners, items 5, 6 were pulled from the Consent Agenda to be voted separately.

MOTION was made by Commissioner Arrowsmith, and seconded by Commissioner Ruth, to approve items 1, 2, 3, 4, 7 and 8 of the Consent Agenda. Motion carried unanimously, with Mayor Kilsheimer, and Commissioners Arrowsmith, Dean, Velazquez, and Ruth voting aye.

Item #5 - Commissioner Arrowsmith stated he would abstain from voting as the company is a client of the bank he serves as Executive Vice President.

MOTION was made by Commissioner Dean, and seconded by Commissioner Ruth, to approve item 5 of the Consent Agenda. Motion carried 4-0, with Mayor Kilsheimer, and Commissioners Dean, Velazquez, and Ruth voting aye, and Commissioner Arrowsmith abstaining and filing a Form 8B.

Item #6 - There was discussion among the City Council members regarding the sales cost of the property, when the property was purchased by the owner for taxes. City Administrator Anderson explained that an appraisal and environmental assessment would be performed prior to purchasing the property.

MOTION was made by Commissioner Arrowsmith, and seconded by Commissioner Dean, to approve item 6 of the Consent Agenda. Motion carried unanimously, with Mayor Kilsheimer, and Commissioners Arrowsmith, Dean, Velazquez, and Ruth voting aye.

SPECIAL REPORTS AND PUBLIC HEARINGS - There were no special reports or public hearings.

ORDINANCES AND RESOLUTIONS

- 1. ORDINANCE NO. 2372 – FIRST READING - COMPREHENSIVE PLAN AMENDMENT – LARGE SCALE – FUTURE LAND USE – Avian Pointe – Apopka Clear Lake Investments, LLC** – From Residential Low (0-5 du/ac) to Residential Medium (0-10 du/ac), for property located east of S.R. 429, south of Peterson Road, and north of Lust Road. (Parcel ID Nos. 07-21-28-0000-00-002 & 07-21-28-0000-00-023); and authorization for transmittal to the Department of Economic Opportunity.

David Moon, Planning Manager, gave an overview of the project, explaining the adoption process for Large Scale Amendments to the Future Land Use map.

In response to a question by Commissioner Arrowsmith about roadway, Mr. Moon said the developer will be required to execute a Development Agreement regarding roadway prior to approval of the project.

In response to a question from Commissioner Velazquez about schools, Mr. Moon said the residents would attend Apopka Elementary School, Wolf Lake Middle School and Apopka High School.

Mayor Kilsheimer opened the meeting for a public hearing.

Tom Sullivan of Gray Robinson, representing the developer, gave a presentation demonstrating how the development will look.

Ken Stoltenberg, the Applicant, stated they are looking at “flex use” with a hotel and hospitality feature, mid-sized restaurants, and establish a hub for eco-tourism.

When Commissioner Dean inquired about the schools designated and bypassing Phyllis Wheatley Elementary School, he was referred to Christine Moore, Apopka’s Orange County School Board representative.

MOTION was made by Commissioner Velazquez, and seconded by Commissioner Ruth, to accept the First Reading of Ordinance No. 2372, authorizing transmittal to the Florida Department of Economic Opportunity (f/k/a Department of Community Affairs). Motion carried unanimously.

- 2. ORDINANCE NO. 2373 – FIRST READING – CODE OF ORDINANCES, PART III - LAND DEVELOPMENT CODE AMENDMENT** – Amending the City of Apopka Code

of Ordinances, Part III, Land Development Code, Article III – Overlay Zones, to create a Small Lot Overlay Zoning District.

Planning Manager David Moon gave a lead in to the Council, explaining details concerning the new zoning district and its permitted uses. He displayed a map depicting four possible locations for use of the zoning district within the City of Apopka.

Commissioners Arrowsmith and Velazquez requested more time to review the proposed zoning district.

The City Clerk read the title, as follows:

ORDINANCE NO. 2373

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE APOPKA CODE OF ORDINANCES, PART III, LAND DEVELOPMENT CODE, ARTICLE III TO ESTABLISH A SMALL LOT OVERLAY ZONING DISTRICT; PROVIDING FOR APPLICABILITY; DIRECTIONS TO THE CITY CLERK; SEVERABILITY; CONFLICTS; AND AN EFFECTIVE DATE.

MOTION was made by Commissioner Arrowsmith, and seconded by Commissioner Velazquez, to table the First Reading of Ordinance No. 2373 to the regular City Council meeting of August 20, 2014. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Arrowsmith, Dean, Velazquez and Ruth voting aye.

3. ORDINANCE NO. 2374 – FIRST READING – VACATE - Apopka Woods, LLC - Vacating a portion of a Utility Easement - 1472 W. McCormick Road.

The City Clerk read the title, as follows:

ORDINANCE NO. 2374

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO VACATE A PORTION OF A UTILITY EASEMENT LOCATED AT 1472 WEST McCORMICK ROAD; PROVIDING DIRECTIONS TO THE CITY CLERK, FOR SEVERABILITY, FOR CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION was made by Commissioner Velazquez, and seconded by Commissioner Arrowsmith, to accept the First Reading of Ordinance No. 2368, and hold it over for a Second Reading. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Arrowsmith, Dean, Velazquez and Ruth voting aye.

4. ORDINANCE NO. 2375 – FIRST READING – VACATE - Susan Van Alstine -
Vacating a Portion of a Drainage and Utility Easement - 1738 Lucky Pennie Way.

The City Clerk read the title, as follows:

ORDINANCE NO. 2375

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO VACATE A PORTION OF THE DRAINAGE AND UTILITY EASEMENT LOCATED AT 1738 LUCKY PENNIE WAY; PROVIDING DIRECTIONS TO THE CITY CLERK, FOR SEVERABILITY, FOR CONFLICTS, AND AN EFFECTIVE DATE.

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

MOTION was made by Commissioner Ruth, and seconded by Commissioner Dean, to accept the First Reading of Ordinance No. 2375, and hold it over for a Second Reading. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Arrowsmith, Dean, Velazquez and Ruth voting aye.

5. ORDINANCE NO. 2376 - FIRST READING - Rescinding Chapter 6 "Alcoholic Beverages" of the Code of Ordinances and adopting a new Chapter 6 "Alcoholic Beverages" to allow for extended hours of sale of alcoholic beverages; for possession on roadways, alleys and public right-of-ways; for possession within City parks for certain events.

The City Clerk read the title, as follows:

ORDINANCE NO. 2376

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, RESCINDING CHAPTER 6, "ALCOHOLIC BEVERAGES" OF THE CODE OF ORDINANCES OF THE CITY OF APOPKA, AND ADOPTING A NEW CHAPTER 6, ENTITLED "ALCOHOLIC BEVERAGES" TO ALLOW FOR EXTENDED HOURS OF SALE OF ALCOHOLIC BEVERAGES; FOR POSSESSION ON ROADWAYS, ALLEYS AND PUBLIC RIGHT-OF-WAYS; FOR POSSESSION WITHIN CITY PARKS FOR CERTAIN EVENTS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

City Administrator Anderson said staff has been working on the ordinance since the first meeting of the public and has met with the Ministerial Alliance to discuss items going forward, such as hour changes, particularly on Sunday, and authorized sales in close proximity to schools and churches.

Mayor Kilsheimer said this has been an issue of great discussion, beginning with the Community Forum held on June 24th, where roughly 77 people attended. He added an entire spectrum of public opinion was heard that night. He also noted the questionnaire where over 80% were in favor of some form of sales on Sunday.

Mayor Kilsheimer entertained comments from the public.

Reverend Hezekiah Bradford, Jr., 573 Smokemont Court, speaking as President of the Apopka and South Apopka Christian Ministerial Alliances, said they are not in opposition to sales on Sunday; however, has issue with a buffer within 100 feet of churches, schools, and parks. He noted it will result in increased crime and will jeopardize our children. He asked for a compromise regarding the buffer distance.

Pastor Page, 4416 Rock Hill Loop, asked for clarification that buffers for churches has been removed from the ordinance; only schools remain in the ordinance. He spoke about the restriction on sales near schools for one hour after schools let out and noted a large number of activities for students commences after school closes. He asked if church schools were included in the school buffer, to which CA Anderson responded "yes".

James Griffin, 235 W 10th Street, said he did not see the problem with alcohol sales on Sunday, especially when it means more tax money for the City.

Mayor Kilsheimer explained it has become a fairness issue.

Pastor Page expressed concern for the safety of children and church parishioners.

Reverend James Hicks, 1917 Palm Vista Drive, suggested a compromise to grandfather existing businesses, but when any change in ownership takes place in the business, the buffer zone for the new owner would revert back to 750 feet.

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

There was further discussion among Council members, to which CA Anderson suggested staff look more in depth into the ordinance, since receiving more public input, and consider a compromise prior to second reading.

MOTION was made by Commissioner Velazquez, and seconded by Commissioner Ruth, to accept the First Reading of Ordinance No. 2376, and hold it over for a Second Reading.

Reverend Bradford spoke again concerning a compromise on the buffer zone for churches.

Ray Shackelford, 2082 Carpathian Drive, asked the City Council to reconsider the motion to allow for further review.

Sylvester Hall, 981 Ashworth Drive, implored the City Council to consider the impact of allowing alcohol sales next to churches. He asked that the family be put first.

Motion carried 4-1 with Mayor Kilsheimer, and Commissioners Dean, Velazquez and Ruth voting aye, and Commissioner Arrowsmith voting no.

SITE APPROVALS

- 1. FINAL DEVELOPMENT PLAN – Ladybird Academy of Apopka, owned by Marshall Howard, engineer is Fragomeni Engineering, Inc., c/o Sherri Fragomeni, property located at 1151 Rock Springs Road. (Parcel ID No. 34-20-28-9550-00-080)**

Jay Davoll, Community Development Director, gave an overview of the project, The staff report is made a part of these meeting minutes.

In response to a question by Commissioner Velazquez, Sherri Fragomeni, Applicant/Engineer, said this will be another franchise location such as the one in Winter Garden, and will be built the same.

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

MOTION was made by Commissioner Ruth, and seconded by Commissioner Velazquez, to approve the Final Development Plan for Ladybird Academy of Apopka, as recommended. Motion carried 4-0, with Mayor Kilsheimer, and Commissioners Dean, Velazquez, and Ruth voting aye, and Commissioner Arrowsmith abstaining and filing a Form 8B.

- 2. FINAL DEVELOPMENT PLAN - Verizon Wireless - Apopka, owned by Calmil Investment Group, LP; applicant is Rock RDP 1, LLC; and engineer is Rogers Engineering, LLC c/o Rodney Rogers, P.E., for property located at 1120 West Orange Blossom Trail (Parcel ID No. 05-21-28-0000-00-025)**

Jay Davoll, Community Development Director, gave an overview of the project, outlining the one request for waiver for a five foot maintenance berm rather than the required ten foot berm.

There was considerable discussion regarding traffic on Lake Doe Boulevard and the exit onto Highway 441.

Mayor Kilsheimer opened the meeting for a public hearing.

Pat McGuffin, 289 Lake Doe Blvd, pointed out that adding this project, the City is looking at five subdivisions on one road with a railroad track also. He said the traffic impact needs further consideration.

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

MOTION was made by Commissioner Arrowsmith, and seconded by Commissioner Dean, to table the Final Development Plan for Verizon Wireless - Apopka to the regular City

Council meeting of August 20, 2014. Motion carried unanimously, with Mayor Kilsheimer, and Commissioners Arrowsmith, Dean, Velazquez, and Ruth voting aye.

DEPARTMENT REPORTS AND BIDS City Administrator Anderson reported receiving some concerns with smoothness of the roadway of the new Lester Road. He explained some of the roadway was built over wetlands and the issues are being worked through with the contractor.

CA Anderson said the appraisal of the property in Consent Agenda item # 6 was \$35,000.00, and the Property Appraiser lists its value as \$22,563.00. The individual paid \$4,900.00 for the property, however also paid the City \$12,393.03 for a code enforcement lien.

MAYOR'S REPORT Mayor Kilsheimer reported the following:

City Attorney - Seven applicants submitted responses to the Request for Proposals for Attorney/Legal Services. A Search Committee was given all seven responses to read and a meeting was held on Monday. Every member of the committee selected the same attorney for the number one choice. Everyone came at the decision from a different perspective, and reasoning. He said the number one choice was Cliff Shepard, who is currently City Attorney for the cities of Maitland and Mount Dora.

Mayor Kilsheimer recommended the City Council approve the appointment of Clifford Shepard of Shepard, Smith & Cassady, as the new City Attorney.

MOTION was made by Commissioner Arrowsmith, and seconded by Commissioner Ruth, to appoint Clifford Shepard as City Attorney for the City of Apopka.

Commissioner Arrowsmith asked for clarification regarding the pay schedule of \$190.00 per hour.

CA Anderson said there was good conversation with Attorney Shepard. He added that he does a lot with Community Redevelopment Agencies (CRA), and will bring much to the table.

Motion carried unanimously.

Mayor Kilsheimer spoke to the talk in the press, social media, and among citizens regarding the City and asked everyone to “stand down” on all issues that are affecting Apopka from moving forward. Commissioner Arrowsmith added that the public contributes heavily, and in agreement with Mayor Kilsheimer saying, “everyone should just do the job and move forward”. Mayor Kilsheimer said we have a core group that have lived in Apopka for many years, and we have new citizens who want to be a part of the City. Again, he encouraged everyone to move forward for the betterment of Apopka.

OLD BUSINESS

1. **COUNCIL** - There was no old business from the City Council.
2. **PUBLIC** - There was no old business from the public.

NEW BUSINESS

1. **COUNCIL** - There was no new business from the Council.

2. **PUBLIC**

Tenita Reid spoke in opposition to the addition of two more commissioners to the City Council, citing the additional costs. She also noted that there is a notation on the Supervisor of Elections records that there will be a 2015 Municipal General Election. Mayor Kilsheimer said the next election is scheduled for 2016, and the City will contact the Supervisor of Elections Office to correct the posting.

ADJOURNMENT - There being no further business to discuss, the meeting adjourned at 4:17 p.m., to reconvene for a Budget Workshop at 4:35 p.m.
p.m.

ATTEST:

Joseph E. Kilsheimer, Mayor

Janice G. Goebel, City Clerk