

CITY OF APOPKA

Minutes of the City Council regular meeting held on December 15, 2021 at 7:00 p.m., in the City of Apopka Council Chambers.

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

PRESS PRESENT: John Peery, The Apopka Chief

INVOCATION – Commissioner Bankson provided the invocation and led in the Pledge of Allegiance. He then provided the fact of the day, as follows: In September 1789, the first Congress of the United States approved 12 amendments to the U.S. Constitution and sent them to the states for ratification. The amendments were designed to protect the basic rights of U.S. citizens. On December 15, 1791, Virginia became the 10th of 14 states to approve 10 of the 12 amendments, thus giving the Bill of Rights the majority of state ratification necessary to make it legal.

APPROVAL OF MINUTES

1. Regular Council Meeting Minutes of December 1, 2021.

Mayor Nelson asked if anyone had any additions or subtractions to the minutes. Hearing none, he asked for a Motion to approve the Meeting Minutes of December 1, 2021.

MOTION by Commissioner Bankson and seconded by Commissioner Smith, to approve the Meeting Minutes as presented. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith and Velazquez voting aye.

PROCLAMATION

1. Mayor's Proclamation - City General Election 2022

Mayor Nelson read the Proclamation announcing the City General Election on March 8, 2022.

PRESENTATION

1. Foliage Sertoma Club Parade Awards
Presented by: Lorena Potter, President of Foliage Sertoma Club

Mayor Nelson said we have a presentation by the Foliage Sertoma Club and introduced Lorena Potter, its President, to present the awards from the Christmas Parade.

Lorena Potter, President of the Foliage Sertoma Club said she would like to thank the City of Apopka for their co-sponsorship of the Christmas Parade and said we wouldn't have been able to do it without our Elected Officials; our Streets and Grounds Divisions; our Recreation Department; and our Police and Fire Departments. She said this was definitely a group effort and said we appreciate all of the help. She said this year we had a normal parade and was such a relief after the Covid last year and said they had 83 entries in an hour and a half long parade. She said it was wonderful and hoped that everyone enjoyed it. She then called out the categories that received awards and had each category come up and accept their awards.

2. City Pavement Improvement Program
Presented by: Dan White and Deodat Budhu

Deodat Budhu, Public Services Director, provided a brief summary of the Pavement Improvement Program and said as you are aware, we contracted with Improved Infrastructure Management Service (IMS) to perform an assessment of the City Roadway Pavement Conditions. He said David Branton, the project manager from IMS, will be providing us a synopsis of their assessment and findings and said they will be joining us via Zoom. He said at the end of David's presentation, he will return to the podium to present our proposed pavement improvement schedule for this fiscal year as well as next fiscal year.

David Branton, project manager, with IMS said they recently completed a management program with the City. He said he'll run through the basics of what they did and will provide an overview of the project as a whole so that you can see what went on and what our outcomes were. He briefly went over what the pavement conditions are and said he'll be going over what the pavement management process is and why we do it. He said we'll also run through what we did for the actual survey and what our findings were as far as conditions. He said finally, we'll discuss how the budget analysis came together and what we're seeing as far as future projections. He then reviewed his

presentation and announced the highlights. He said you'll note that the acronym PCI will be referenced throughout this presentation and said that stands for Pavement Condition Index. He said Pavement Conditions are a conglomerate of destruct type, destruct quantity and destruct layers. He said for instance, destruct types include potholes, cracking, and things you see on the surface of the pavement. He said we then quantify those by area measure; linear foot measure and severity and said we assign it a condition between 0-100 with 100 being the best condition you can get. He said how this looks for the City's roadways overall pavement condition of 77 and said very few agencies they've assessed, get over a PCI of 80 and said this is in essence at the top of the range as it relates to agency networks are concerned.

3. Construction Site Plan for the Apopka City Center South
Presented by: Phil Martinez

Phil Martinez, Planner II, said the applicant has Construction Site Plan for a Commercial Development, comprising of 28,040 square feet. He said the development area consists of approximately 3.83 acres and is located south of East Main Street and east of S. McGee Avenue and added that the Hilton Garden Inn and Highland Manor are located to the South. He said the development plan proposes 3 buildings and said building 1 is a proposed restaurant brew pub or a microbrew; building 2 is proposed retail space and building 3 is a proposed restaurant with a drive-through lane. He said the site will be accessed off of S. McGee Avenue on the west side and also off the Highland Manor entry road on the east side. He said the applicant has provided parameter, foundation and parking area landscaping including Florida Flame Red Maples; Southern Live Oaks and Sable Palms. He said the applicant also provided architectural elevations as seen in your agenda packet. He said the applicant was provided comments at DRC that will need to be completed prior to final approval.

Commissioner Becker said this is odd for us to see this in a presentation where we're not officially taking a vote. He said the stance of staff is that the Development Agreement allows staff to make these decisions at the staff and DRC levels and said he didn't want to confuse people by thinking that a decision is being made as a Council as that's not correct. He further stated that this is just an informal overview of what's going on and said it's a little frustrating. He asked for confirmation as to whether the parcel with the retail building for the Pub/Restaurant is still owned by the City.

Jim Hitt, Community Development Director, stated that that was correct and said that the Taurus Development Group applied for a permission slip to apply for those on the City's behalf in order to get those through the review process, prior to any formal approval by DRC and staff but said before they pull any building permits, they do have to purchase the property.

Commissioner Smith asked when you say a restaurant with a drive-through lane, what do you mean to which Jim Hitt stated that this will be a Starbucks. He then asked if there will be enough room for stacking with regards to the drive-through to which Jim confirmed that they exceed our Code with this at 10.

Commissioner Bankson said he wanted to make sure that we have Code Enforcement to encourage the tenant across the street to increase the ambiance.

Jim Hitt said please make sure you all have the current Development Agreement with the Master Plan that was adopted as this will help be a refresher.

Craig Govan was present at the meeting and welcomed any questions.

AGENDA REVIEW

Edward Bass said there are no changes to the Agenda.

PUBLIC COMMENT PERIOD

Sheryl Marche, 170 S. Washington Avenue, Apopka, FL 32703 said she was waiting an item to see if the Apopka Resource Center item was going to be approved to which Mayor Nelson explained that it was a part of the Workshop discussion but is not going to be approved tonight. He stated this is in the budget and will have to be brought back in the future for City Council approval.

Ed Poirier, 21 Riverneck Road, Chelmsford, MA 01824 said he used to live on Park Glen Circle in Apopka and now lives in Boston. He said last time he was here, he spoke about back flow preventer's and cross-connection programs. He said since then, you guys had a presentation about this. He said he filed a complaint with the DEP and the DEP came out and did inspections and said you all reported that you had a settlement agreement with the DEP. He said there are a few things that were inaccurate about that. He said the City Attorney said there was no fine at all for the cross-connection violations. He said when you look at the document, it shows 4 violations and said on each violation, there was a minimum of \$2,000 fine. He said the people of Apopka need to know how that \$34,000 adds up and asked what exactly was the City fined for. He said also, the DEP only addressed 3 years including 2017, 2018 & 2019. He said for the record, the City of Apopka has not been doing what they're supposed to do concerning the cross-connections since 2004. He said it's the City's job to make sure the homeowners get the inspections done and asked why the City was not complying with the DEP's mandate.

Commissioner Becker said during the piece of business regarding the Cross-Connection devices, he will address some of these issues that you're asking for.

Michael Rodriguez said the matter of the fine was discussed with this Council and said the Consent Order was presented in the packet in front of you. He said this is all straight forward and said it's available for the public to view as well and is all Public Record and he will not sit here and be accused of lying to this Council.

Stele Bailey, Cocoa, FL, said she's the executive director of Fight for Zero, a non-profit organization that works in environmental health. She said she is also a nationally recognized advocate and said she's worked with Erin Brockovich. She said she works with a national coalition on water contamination issues. She said she's a cancer survivor and in her medical records, it is documented that her cancer was caused by contaminants in the drinking water which is how she got into this line of work. She said she wanted to talk about the people who died in a community in our City and how it was discovered that the City wasn't doing yearly inspections of their back flow preventers in that area. She said the cancers these neighbors were diagnosed with were of the endocrine system and said nurseries surround their neighborhood. She said pesticides and herbicides are endocrine destructors and said there are numerous studies done in Lake Apopka regarding deformities in wildlife. She said she works on collecting scientific data on water quality and is working with the University of Florida on a 3 year study. She said environmentally induced cancer can take 15-20 years to develop, which is why it's extremely difficult to connect environmentally caused cancers and said that's why the DOH never says there's a cancer cluster as it's very difficult. She said we have to recognize that but we also have to recognize that there could be a hidden danger there, especially if the back-flow preventers weren't working. She said her suggestion tonight is that you consider your moral ground on this issue and consider the lives put in jeopardy after ingesting potentially contaminated drinking water for years. She stated that there's \$10 billion dollars in infrastructure funds available that can be used to prevent against contamination. She said we have experts that can provide the resources that they need to take on these challenges without relying on agencies or local governments.

Mayor Nelson asked Ms. Bailey if she understood how a backflow preventer works.

Ms. Bailey confirmed and provided an explanation of the mechanics of how a backflow preventer works and stated that back-flow can occur because of reduced pressure in the distribution system.

Mayor Nelson said great answer and said our water department ran a survey of that neighborhood and said for the last 10 years, we've never had a pressure drop below 20 pounds. Ms. Bailey stated "so you've never had a main break or had infrastructure

issues in Apopka, at all?”. Mayor Nelson said we’re talking about backflow preventers to which Ms. Bailey said right but if you have infrastructure issues, that could still be getting into the drinking water and asked how that is tested. Mayor Nelson said we have data and know whenever there’s a pipe break, everyone gets a boil water notice.

Ms. Bailey said so you’ve never had a pipe break to which Mayor Nelson said “No, I didn’t say that”, I said we haven’t had one in that neighborhood. Ms. Bailey said she’d like to receive that data to which Mayor Nelson said sure, we’ll be happy to provide it.

CONSENT (Action Item)

1. Execute Release of Code Enforcement Lien for Home SFR Borrower, LLC - 572 Lake Doe Boulevard, Apopka, Florida.
2. Authorize the Fire Department to submit the Assistance to Firefighters Grant application for funding of communications equipment.
3. Authorize the Finance Department to disburse funds from the Federal Law Enforcement Trust Fund for the Public Safety Mobile Command Post enhancements.
4. Authorize the Police Department to purchase a 2021 Ford van from Mullinax Ford for the Forensic Unit.
5. Authorize the issuance of evaluated and sole source memos.
6. Accept the disbursement report for November 2021.

Mayor Nelson asked if anyone needed to pull any of the items or had any questions. Hearing none, he asked for a motion to approve the six (6) items on consent.

MOTION by Commissioner by Smith and seconded by Commissioner Bankson to approve the six (6) items on consent. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

BUSINESS (Action Item)

1. Approve a Right-of-Way Transfer and Continuing Maintenance Agreement between Central Florida Expressway Authority and the City of Apopka to acquire additional right-of-way needed to construct Harmon Road.
Presented by: Pam Richmond

Pam Richmond, Transportation Coordinator, said we needed the property along Emerson Park in order to construct Harmon Road and we went to CFX fully expecting them to provide the full market value however they surprised us and said we’ll give you that property. She said this agreement is to Approve a Right-of-Way Transfer and Continuing Maintenance Agreement between Central Florida Expressway Authority and

the City of Apopka to acquire additional right-of-way needed to construct Harmon Road.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve the Transportation Impact Fee Credit Agreement between the City of Apopka, Arrowrock III GE-Apopka, LLC, and PMDW Ventures, LLC

MOTION by Commissioner Velazquez and seconded by Commissioner Smith to approve the Transportation Impact Fee Credit Agreement. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

2. Approve request to Central Florida Expressway for a new half interchange on SR 429 and Binion Road near Boy Scout Road
Presented by: Pam Richmond

Pam Richmond said her next request is to approve a request Central Florida Expressway for a new half interchange on SR 429 and Binion Road near Boy Scout Road. She said after meeting with CFX, they found that this meets their bonding requirements and it's cost feasible. She said it's a \$20-\$25 million dollar project and we're looking at 2 concepts however no decisions have been made. She said they indicated that they'll put this in their future plan to be approved in their meeting in April. She said it's fully supported by staff and said they've placed a consultant under contract to do a PD & E light. She said worse case scenario, we'll have ramps within 4 years however if we can get some of the other ROW issues which our partner in The Ridge are helping with, we can escalate this to as close as 2 years. She said the next step is for the Mayor to send a letter of request to CFX for formalities.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve request to Central Florida Expressway for a new half interchange on SR 429 and Binion Road.

MOTION by Commissioner Smith and seconded by Commissioner Velazquez to approve the request to Central Florida Expressway for a new half interchange on SR 429. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

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PUBLIC HEARINGS/ORDINANCES/RESOLUTION (Action Item)

1. Ordinance No. 2877 - Second Reading - Apopka Code of Ordinances – Part III – Land Development Code – Glitch Amendments 4
Presented by: James Hitt

Mayor Nelson asked if there have been any changes since the first reading to which Jim Hitt advised that there are 2 minor changes, which were sent to Council and Staff. He said that one of our local experts, Dr. Olmstead on fauna, recommended that 2 of the items be removed from Appendix B (groundcover) including Juniper & Periwinkle and we've removed them from Appendix B.

Mayor Nelson asked if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to adopt Ordinance No. 2877.

MOTION by Commissioner Bankson and seconded by Commissioner Smith to adopt Ordinance No. 2877. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

2. Ordinance No. 2882 - Second Reading - Amending Land Development Code to permit Mobile Food Vendors as a permitted use.
Presented by: Michael Rodriguez

Mayor Nelson asked if there have been any changes since the first reading to which Michael Rodriguez advised that there were 2 minor changes, based on discussion from the first reading. He said the first item is regarding the standards for Food Trucks to operate on private property. The second change is in place when a resident or a business, wishes to hire a mobile food vendor for catering purposes, they can bring the food truck in for private catering, meaning on residential or at place of business that is not within the \permitted zones and would be subject to a special event permit or temporary use permit that would fall along the current standards and guidelines in the LDC. He said there are no other changes and the rest of the Ordinance remains the same.

Mayor Nelson then asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to adopt Ordinance No. 2882.

MOTION by Commissioner Velazquez and seconded by Commissioner Smith to adopt Ordinance No. 2882. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

3. Ordinance No. 2884 – Second Reading - Amending Land Development Code to regulate Small Box Discount Stores.

Presented by: Michael Rodriguez

Mayor Nelson asked if there have been any changes since the first reading to which Michael Rodriguez advised there were none. He then asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to adopt Ordinance No. 2884.

MOTION by Commissioner Becker and seconded by Commissioner Bankson to adopt Ordinance No. 2884. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

4. Ordinance No. 2886 – Second Reading - Rezoning – Natura Vista
From: T (Transitional District)
To: MU-ES-GT (Mixed-Use-East-Shore – Gateway Subdistrict)
Owner/Applicant: Natura Vista, LLC
Location: South of Wilkins Street and East of West Orange Blossom Trail
Project: 3.05 +/- acres
Project Manager: Phil Martinez

Mayor Nelson asked if there have been any changes since the first reading to which Phil Martinez advised there were none.

He then asked if anyone had any questions or if anyone from the public wished to speak on this item.

Mindy McCormack, 4348 McDonald Gley Road, Apopka, FL said her grandparents and great-grandparents helped establish Apopka. She said they were some of the founders of this City and is glad they're not here to see what's happened to it as it's heartbreaking. She said these apartments that they're wanting to put in by us will take our only road. She said they're zoned agricultural and she's been there 20 years and there are several others that have been there way longer. She said she would rather see a business that operates during the day rather than apartments. She said they'd like to see Wilkens Road left to them and have them find another exit. She said it's important for them to be respected and have their safety concerns addressed and thanked the Council for listening.

Jerry Weatherman, 4125 Wilkens Street, Apopka, FL said his property is adjacent to this proposed project on the east side. He said as Ms. McCormack stated, their primary concern here is the ingress and egress that was proposed with this project. He said in conjunction with that, this project doesn't seem to be conducive with the community as a whole being a residential project that pushes to the border of Orange Blossom Trail. He said it also does not seem to be consistent with the things in that area. He further stated that the development that's going in to the South, which is Winward Hills and said they will have 101 homes going in that location and the property to the West, bordering US 441 is currently commercial. He said those are their concerns and hopefully the people who live on Wilkens Street will be taken into consideration.

Bobby Howell, Planning Manager said that this request is to rezone the property and said that is all that's being considered today. He said the rezoning will be for Mixed-Use, East-Shore Gateway and said the property currently has a future land use designation of mixed-use and per our Land Development Code, the future land use has to be consistent with the zoning, which, the only zoning that's consistent with the underlying future land use is the Mixed-Use, East-Shore Gateway. He said they've advised that they'd like to develop apartments on the property however, being that the property is being rezoned, it could be a number of uses, including commercial, or residential.

Mayor Nelson asked if anyone else from the Public would like to speak. Hearing none, he asked for a motion to adopt Ordinance No. 2886.

MOTION by Commissioner Becker and seconded by Commissioner Velazquez to adopt Ordinance No. 2886. Motion carried 4-1 with Mayor Nelson, and Commissioners Becker, Smith & Velazquez voting aye and Commissioner Bankson voting nay.

5. Ordinance No. 2887 – Second Reading - Rezoning – Acuera Estates
From: T (Transitional District) and PD (Planned Development)
To: RSF-1B (Residential Single-Family District – Large Lot)
Owner: Ever Meadow, LLC, Village of Fame, LLC
Applicant: Cory N. Sitler, P.E., Kimley-Horn & Associates, Inc
Location: East side of Tigris Drive and west of Jason Dwelley Parkway
Project: 38.62 +/- acres
Project Manager: Bobby Howell

Mayor Nelson asked if there have been any changes since the first reading to which Bobby Howell advised there were none. He then asked if anyone had any questions for Bobby.

Commissioner Smith said this is the piece of business from the last meeting where he asked about the report that there was capacity at the high school level and said all of the other reports stated there wasn't capacity so he wanted to clear up this discrepancy.

Bobby said he went back after the meeting and took a look at the reports that were sent to OCPS and said the property was deemed to be vested prior to this.

Mayor Nelson asked if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to adopt Ordinance No. 2887.

MOTION by Commissioner Smith and seconded by Commissioner Bankson to adopt Ordinance No. 2887. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

6. Ordinance No. 2888 – Second Reading - Change of Zoning – Magnolia Terrace
From: T (Transitional District) and RSF-1A (Residential Single-Family-Estate District)
To: PD (Planned Development)
Owners: Marion Wade Hopper Life Estate, Mary Kathleen Hopper Life Estate, Harold Wayne Thomas, Melody Lynn Thomas, Mary Kathleen Hopper, Douglas Matthews Trust, Anita Matthews Trust, George A. Thomas, Sandra K. Thomas, Vernus Stapler, Gail Marie Stapler, Kenneth W. Davidson, and Natalie W. Davidson
Applicant: Appian Engineering, LLC
Location: East of South Binion Road and south of Willet Avenue
Project: 95.09 +/- acres
Project Manager: Bobby Howell

Mayor Nelson asked if there have been any changes since the first reading to which Bobby Howell advised there were none. He then asked if anyone had any questions or if anyone from the public wished to speak on this item.

Patricia Boulware, 829 S. Binion Street, Apopka, FL 32703 said she wanted Council to think about our Lake Apopka Wildlife Drive and asked them to tell her where the wildlife is going to live. She said we have all of these subdivisions going in and there's no place for the bears, there's no place for the possums, or any of them. She said it's one subdivision after another from Plymouth to the 429 on Binion Road. She stated that when they clear the land, they take every tree and come back and plant Crepe Myrtles and a couple of hedges. She said please give this more thought as there will be no place for the bears or even the birds as there are no trees on the Wildlife Drive to speak of.

Mayor Nelson then asked if anyone else had any questions and hearing none, he asked for a motion to adopt Ordinance No. 2888.

MOTION by Commissioner Bankson and seconded by Commissioner Becker to adopt Ordinance No. 2888. Motion carried 4-1 with Mayor Nelson, and Commissioners Becker & Smith, voting aye, and Commissioner Velazquez voting nay.

7. Ordinance No. 2890 - Second Reading - Annexation - Clarcona Road Property
Owner: E & H Clarcona, LLC.
Applicant: Andrew Engelmann c/o Dance Schmitt
Location: East of Coral Hills Road and west of Clarcona Road
Project: 1.34 +/- acres
Project Manager: Allyson Williams

Mayor Nelson asked if there have been any changes since the first reading to which Bobby Howell advised there were none. He then asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to adopt Ordinance No. 2890.

MOTION by Commissioner Smith and seconded by Commissioner Becker to adopt Ordinance No. 2890. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

8. Ordinance No. 2891 – Second Reading - Annexation – West of the Orlando Apopka Airport and Lake Penny
Owner: Lisa L. Hill, Trustee
Applicant: Long Hill Land Trust
Location: West of the Orlando Apopka Airport and Lake Penny
Project: 20.617 +/- acres
Project Manager: Bobby Howell

Mayor Nelson asked if there have been any changes since the first reading to which Bobby Howell advised there were none. He then asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to adopt Ordinance No. 2891.

MOTION by Commissioner Bankson and seconded by Commissioner Velazquez to adopt Ordinance No. 2891. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

9. Ordinance No. 2892 – Second Reading - Annexation – Peterson Road

Owner: Lisa L. Hill, Trustee

Applicant: Long Hill Land Trust

Location: Peterson Road

Project: 11.25 +/- acres

Project Manager: Bobby Howell

Mayor Nelson asked if there have been any changes since the first reading to which Bobby Howell advised there were none. He then asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to adopt Ordinance No. 2892.

MOTION by Commissioner Velazquez and seconded by Commissioner Smith to adopt Ordinance No. 2892. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

10. Ordinance No. 2893 – Second Reading - Annexation – 4601 Hogshead Road

Owner: Lisa L. Hill, Trustee

Applicant: Long Hill Land Trust

Location: 4601 Hogshead Road

Project: 7.34 +/- acres

Project Manager: Bobby Howell

Mayor Nelson asked if there have been any changes since the first reading to which Bobby Howell advised there were none. He then asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to adopt Ordinance No. 2893.

MOTION by Commissioner Bankson and seconded by Commissioner Velazquez to adopt Ordinance No. 2893. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

11. Ordinance No. 2894 - Second Reading - Adopt the City's Cross-Connection Control Program.

Presented by: Michael Rodriguez

Mayor Nelson asked if there have been any changes since the first reading to which Michael Rodriguez, advised there were no substantive changes. Michael said he wanted

to take this opportunity to clarify the issue regarding the Consent Order. He said the Consent Order does not specifically enumerate what violation was fined or for what amount. He said it provided a general amount which he exchanged through this Council and he said he was also present in the wording of the Consent Order itself, which Council had available for review. He said we're not contesting, rather, the Consent Order is basically a settlement between DEP and the City and the City accepted the fine amount. He said the Consent Order provides a Final amount and states that it involves these violations however it does not provide a per violation fine amount. He said also the Consent Order goes into detail as to any additional fine based on gallons of discharge, which leads him to infer that most of the fines are related to the discharge. He said the fine amount is what the fine amount is and said he provided this to Council to review. He said he is not going to be told I'm a liar and said Mr. Poirier has a cottage industry of calling everyone a liar but the fact of the matter is that the total fine amount is clearly enumerated in the Consent Order and is not broken down. He said DEP did provide what a minimum fine is for a violation, however, it doesn't necessarily mean nor did it weigh what the violations are. He stated that the P2 Agreement that we entered into with DEP, deals with different offsets for different pollutions for different discharges, which brings again the matter that a lot of the fines were related to the wastewater discharge, which can be enumerated and said there are additional penalties if the discharges are not taken care of. He said the bottom line is that there was no misinformation or attempt to mislead this Council. He said the fine is what the fine is and was accepted when you accepted the Consent Order. He said he hopes this clarifies the issue before this Council and said we're in the process of complying which is the nexus of this Ordinance.

Commissioner Becker said to your point, the Consent Order only provides the total amount of the penalty and said it does not specifically point this out. He said there are a lot of emotions in this and at the end of the day, the next piece of business, the manual that we have, clearly doesn't understate the importance of these back-flow devices, the cross-connection risks and the importance us monitoring this.

Michael stated the Ordinance in comparison is the Constitution and the Manual are the Statutes. He said the Ordinance provides a broad picture of what the requirements are and said this is not a full re-write of our prior cross-connection ordinance and there was no mandate from DEP as to this. He said this Ordinance is a streamline version and directly references the Florida Administrative Code section, related to cross-connection.

Commissioner Bankson said as stated, there's a lot of emotion involved and it's hard to reason with emotion and said his hope is to get to the bottom of these things and get them resolved and move forward. He said he thinks this helps us move forward in a positive path. He said it's disappointing that those who opposed this, can't stay to hear the full of this as he was hoping there would be more information brought forth. He

said there are facts and then there is prospective and two people can come to different conclusions with this. He said he wants us to move forward as a community and said this is a good thing. He said he understood it as you stated it so he's not sure what the misunderstanding was.

Commissioner Becker said with us passing this ordinance and getting to the actual manual itself, are we addressing all issues within the Consent Order and has the DEP approved the "in-kind" project that we've put forth. He asked whether they have to do a cursory review of the manual which we're about to approve in the next piece of business and inquired if these two items together will be satisfied by the Consent Order.

Michael said the Consent Order did not give DEP a review, prior to adoption however it stated that by December 31, 2021, we were to submit an updated Ordinance and an updated Manual to them.

He then asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to adopt Ordinance No. 2894.

MOTION by Commissioner Bankson and seconded by Commissioner Becker to adopt Ordinance No. 2894. Motion carried 4-0 with Mayor Nelson, and Commissioners Bankson, Becker, & Velazquez voting aye.

12. Resolution No. 2021-65 - Adopt the City's updated Cross-Connection Control Manual. Presented by: Michael Rodriguez and Paula Brown.

Michael Rodriguez said this Resolution is the mechanism to adopt the updated cross connection control manual that is required, pursuant to the Consent Order and the Florida Administrative Code 62-555.360. He said the manual has been updated and are consistent with emerging technology when it comes to devices. He said the new manual enumerates specific devices, based on the type of connections and types of properties. He said it also specifically references certain commercial connections and what is required thereof. He said it also sets out the inspection requirements and obligations of the property owners. He said it sets out that the responsibility and financial responsibility falls on the property owner to ensure that their device is present and in working order. He said when they obtain the inspections, they are to notify the City that this is complete and provide the results to the City. The City then incorporates this data into the form and provides the results to DEP stating that these inspections are following the Florida Administrative Code. He stated that there's not a single jurisdiction in the State of Florida that still has the responsibility for water quality, past the water meter. He said the City's obligation ends at the water meter and said from the water meter forward, that obligation falls on the property owner as the City has no control over pipes

or any type of water system within the property owner's property. He said he'll defer to staff to provide the technical breakdown and how the manual will be implemented.

Commissioner Bankson said that highlights the question as to if it's his responsibility to check these and have them inspected but he doesn't even know about it, and the City is supposed to let me know, but hasn't, but more importantly, the DEP has not been requiring Cities to do this until 2016 and asked for clarity.

Michael stated that the way the Administrative Code is written as well as the Statutes, it isn't a mandate from the state and local governments, he doesn't see a mandate coming down from the legislature in Tallahassee.

Paula Brown, Cross-Connection Coordinator said she came on in August and said there are some questions you may have that I'm not able to answer at this time. She said she has the manual in front of her and can answer your specific questions.

Commissioner Velazquez asked if you can tell how long a cross-connection device has failed.

Paula said she can tell by testing the device. She said the device has two spring loaded check valves with a double check. She further stated that every one of them have consumable parts and after a while they break down. She said according to DEP, you only have to test every other year and said she worked for Orange County for 30 years and 12 of them were in back flow and she was out doing those cross-connection inspections. She said the devices are installed at the time the house is built. She said commercial accounts have been testing and sending in their results. She said our previous ordinance allowed for the water to be turned off for not complying. She said we've sent out notifications out to the residents to which, some have called to ask for names of reputable & certified testers. She said the property owner will be mailed a reminder to get their device tested and allow them two weeks to do this. If we don't receive their results within another 2 weeks, the ordinance provides the authority to have this tested by a third party and put the cost on the property owners water bill. She said she feels the mechanisms are in place to extend a payment arrangement to the home owner and feels that this is a good solution. She said we should likely have some education for the residents to make the residents aware of these changes.

Rod Olsen said we're doing a lot of work for something that's relatively simple and if it'll only be \$40 or \$60 to have this done, let's do it and put it in the water bill.

Mayor Nelson said in Orange County, they charge \$3 a month for their residents and it goes right on the water bill. He said \$3 a month may not work for us but perhaps \$4 per

month may. He said he'll get with Paula and have her come to some of the events we have and bring the back flow preventers and show people and said we can do a better job of marketing the program. He suggested the Farmers Market and said we will do a better job at educating the public.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to adopt Resolution No. 2021-65.

MOTION by Commissioner Smith and seconded by Commissioner Velazquez to approve Resolution No. 2021-65. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

13. Resolution No. 2021-49 - Authorizing the Execution of a Non-Exclusive Franchise Agreement for Commercial Solid Waste Services with Environmental One, LLC, for Roll-Off Container Collection and Disposal of Waste within the City.
Presented by: Josh Robinson

Edward Bass said this is a resolution authorizing the execution of a non-exclusive franchise agreement with Commercial Waste Services with Environmental One, LLC for Roll-Off Container Collection and Disposal of Waste within the City of Apopka. He said this is a little different from the resolutions you've seen in the past but with the help of Michael, we now have an agreement, not only a resolution, with the franchisee. He said going forward, you'll see more of these as we're going to have a written agreement with each.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Resolution No. 2021-49.

MOTION by Commissioner Bankson and seconded by Commissioner Becker to approve Resolution No. 2021-49. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

14. Resolution No. 2021-51 - Authorizing the Execution of a Non-Exclusive Franchise Agreement for Commercial Solid Waste Services with Republic Services of Florida, LP, for Roll-Off Container Collection and Disposal of Waste within the City.
Presented by: Josh Robinson

Edward said this is another resolution for your approval to authorize the franchise agreement for commercial roll-off container collection with Republic Services of Florida, LP, for Roll-Off Container Collection and Disposal of Waste within the City.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Resolution No. 2021-51.

MOTION by Commissioner Smith and seconded by Commissioner Bankson to approve Resolution No. 2021-51. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

15. Resolution No. 2021-66 - FY21/22 Budget Amendment

Presented by: Gladymir Ortega

Gladymir Ortega, Finance Director, said this is a resolution to amend the budget for the fiscal year beginning October 1, 2021 and ending September 30, 2022. She reviewed the budget amendment items totaling \$2,621,248.00

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Resolution No. 2021-66.

MOTION by Commissioner Bankson and seconded by Commissioner Velazquez to approve Resolution No. 2021-66. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

16. Resolution No. 2021-67 - Calling for a special election and a runoff, as needed, for the purpose of electing the City Council Commissioner for Seat 4, providing for the qualifying period, and election dates.

Presented by: Susan Bone

Susan Bone, City Clerk, said that this resolution is to announce a Special Election and a runoff, as needed, to allow this and said the qualification period begins on December 27, 2021 at noon and ends on January 4, 2022 at noon.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Resolution No. 2021-67.

MOTION by Commissioner Becker and seconded by Commissioner Bankson to approve Resolution No. 2021-67. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

17. Mayor's Proclamation - City Special Election 2022

Mayor Nelson read the Proclamation announcing the City Special Election for City Council, Seat 4, to be held on March 8, 2022.

CITY COUNCIL REPORTS

Commissioner Velazquez said she attended Shop with a Cop and thanked the Police Department for all they do and said she got to go a couple of days and it was fun. She said she is loyal to Saturday Sounds and said even though this week is Christmas, we still have Saturday Sounds so come on out and support this event. She said the Orlando Philharmonic Christmas Show and said it was a great success and was very well attended and she's had so many compliments on this show. She said she wanted to give a shout out to the Mayor's wife, Debbie Nelson, and said she had an angel tree card from a student from a local school who had a very expensive and long list and the Mayor's wife stepped up and shared the cost of the bicycle with her. She also gave a shout out to the Police Department and the Fire Department for picking angels and fulfilling the Christmas wishes for those kids. She said the Chamber awards dinner was a success also and said it was a lot of fun. She said the Firefighter of the Year was Lieutenant Matthew Gorgon and said the Police Officer of the Year was Quinton Nedd and said Jerry Maynard received the Byrne E. Roberts award. She said this week, one of our firefighters was promoted to Engineer so congratulations to him. She said the Apopka Christmas Parade was a great parade and well attended.

Commissioner Bankson said "Go Blue Darters!!"

Commissioner Smith said he's going to echo Commissioner Velazquez and Commissioner Bankson and said "Go Blue Darters!!"

Commissioner Becker said since we won't be here again until after the New Year, he wanted to wish everyone a Merry Christmas and Happy Holidays!!

CITY ADMINISTRATORS REPORT

Edward Bass said he did not have anything additional.

CITY ATTORNEY'S REPORT

Michael Rodriguez said he also wished everyone a Merry Christmas and a Happy New Year!! He said another year is winding up and he's completing two years of service.

MAYOR'S REPORT

Mayor Nelson said some of his list has already been said so he won't repeat it and said we still have the Farmer's Market / Holiday Market at Kit Land Nelson Park this Thursday, December 16th so if you have some last minute shopping to do, come on down.

Mayor Nelson said that Wreaths Across America will be this Saturday, December 18th so if you're not going down to Ft. Lauderdale for the game, this event is at Noon at the Edgewood – Greenwood Cemetery. He said we still need volunteers to put the wreaths out on our military graves and he said there are a lot of wreaths and said. He said Tyson Food donates time and money toward delivering the wreaths and said the Tyson truck and crew dropped them off at the Cemetery yesterday.

Mayor Nelson said the Camp Wewa event was a real big success and said there were approximately 300 people there. He said this gave us a good feel for what we can do out there and said we have so many opportunities out there to keep it full on the weekends and hopefully some during the week.

Mayor Nelson said lastly, he just received a phone call confirming that we have a parking lot for the game down in Ft. Lauderdale and said for those out there listening, the parking lot we have for the Apopka Blue Darters will be at 1515 West Commercial Blvd., Ft. Lauderdale. He said come on down and said he'll be cooking burgers and dogs and all of the proceeds will go toward the Darter Nest, which is a food pantry at Apopka High School.

ADJOURNMENT - There being no further business the meeting adjourned at 10:41 p.m.

Bryan Nelson, Mayor

ATTEST: _____
Susan M. Bone, City Clerk