

CITY OF APOPKA

Minutes of the regular City Council meeting held on October 17, 2018, at 7:00 p.m., in the City of Apopka Council Chambers.

PRESENT: Mayor Bryan Nelson
Commissioner Doug Bankson
Commissioner Kyle Becker
Commissioner Alice Nolan
Commissioner Alexander Smith
City Attorney Cliff Shepard
City Administrator Edward Bass

PRESS PRESENT: Teresa Sargeant - The Apopka Chief

INVOCATION: - Mayor Nelson called on Pastor Waldemar Sarrano, of Bethany World Ministries, who gave the invocation.

PLEDGE OF ALLEGIANCE: Mayor Nelson introduced Heather Thompson, an 8th grader at Wolf Lake Middle who led in the Pledge of Allegiance. She said on this day in 1931, one of our country's most notorious gangsters was sentenced to eleven years in prison. His criminal acts included gambling, alcohol smuggling, and prostitution. However, he was only convicted for tax evasion. So, who am talking about? That is right! Scarface himself, Al Capone.

Mr. Capone was born on January 17, 1899 in Brooklyn, New York. He was expelled from school at age 14 and became involved in gangs. He continued joining bigger criminal organizations until he was in the Five Points Gang. While still in New York, Al married Mae Coughlin and had one child. When the 1920's rolled around, he moved to Chicago, by invitation from Johnny Torrio, the leader of a huge illegal enterprise. Torrio retired, which left Capone in charge in 1925. Mr. Capone became Chicago's "crime king" by taking out his competitors through gangland battles and slayings. One of which being the St. Valentine's Day Massacre in 1929. Soon enough, by the 1930's, Al was at the top of the F.B.I.'s "Most Wanted" list. At this point in his life, his notoriety was at a national level. At first, he avoided jail time by intimidating witnesses, bribing government officials, and having various hideouts. His time came when a group of officers, nicknamed "the Untouchables", routinely broke up his illegal businesses. Finally, they caught him on tax evasion. This landed Al Capone into prison on an eleven-year sentence. Scar-faced served a part of his time in the federal prison in Atlanta, but accusations of special treatment landed him in Alcatraz. He wasn't there too long though, because of his good behavior he was released in 1939, 3 years before he was scheduled. After being released from prison, Al Capone had health problems, and ended up dying from pneumonia in 1947 in Palm Beach, Florida. At his time of death, his net worth estimated to be about one hundred thousand dollars, which would be over \$1.1 billion today. Overall, on this day, October 17, 1931, one of our country's biggest criminals went to jail, all because he didn't pay his taxes.

Commissioner Becker recognized Boy Scout Troop 880. He said they were here to observe our City Council meeting as a requirement of one of the ranks they are working toward.

APPROVAL OF MINUTES:

1. City Council regular and budget hearing meeting October 3, 2018.

MOTION by Commissioner Bankson, and seconded by Commissioner Becker, to approve the minutes of October 3, 2018 as presented. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith and Nolan voting aye.

AGENDA REVIEW – There were no changes.

**PUBLIC COMMENT; STAFF RECOGNITION AND ACKNOWLEDGEMENT
PROCLAMATION:**

Mayor Nelson read a proclamation into the record stating Rotary International, founded February 23 1905, in Chicago, IL, is the world's first and one of the largest nonprofit service organizations. The Rotary motto "Service Above Self" inspires members to provide humanitarian service, encourage high ethical standards, and promote good will and peace in the world. He recognized October 24, 2018 as Rotary Polio Plus Day in Apopka.

PRESENTATIONS:

1. Presentation of check donations from the Elks Lodge 2422 for the Police and Fire Departments.
Gene Knight, representing Elks Lodge 2422, presented a check for \$1,000 to the Police Department for Community Outreach. He presented a check for \$1,000 to the Fire Department for smoke detectors.
2. Appraisal and conditions for the property at 5th Street and Park Ave.
Jim Hitt, Community Development Director, provided an update regarding the property at 5th Street and Park Avenue. He stated this was a multi-tenant building over 20,000 square feet, and built in 1963. He advised the appraisal came in at \$825,000, and the advertised price is \$850,000. He said that Ray Marsh, Building Official and Assistant Fire Chief inspected the building and advised that the block construction is not concrete blocks as utilized in today's construction. They recommended a structural evaluation to make sure the building is safe. Several issues pointed out such as roof leaks, stating the roof would more than likely need replacing and there was mold and mildew present. The recommendation is that the entire building be brought into commercial grade compliance. The overhang was in distress and should be inspected by a constructional engineer. The building and bathrooms would need to be brought into ADA compliance. It is estimated to bring the building up to code would cost \$750,000 to \$1 million.

Commissioner Becker said the property was more attractive to him without the building on it. He stated knowing we have the Station Street property that will be going out to RFP, was there any opportunity to enter into a letter of intent with the current owner for negotiated ideas in parlaying that with the RFP process. He said this would be nonbinding on the City, but would provide comfort to the current owner regarding our interest on the property since it is strategic to the downtown plans.

Discussion ensued regarding the possibility of demolition and looking for a developer interested in developing this area to tie into the City plans of the area. Parking was also discussed and the possibility of utilizing the public parking lot.

Commissioner Nolan reiterated that she did not want to move forward with spending money on this property after having raised taxes and had staff cut their budgets.

Commissioner Bankson said if this was going to be used for City purposes such as office space or expansion, it would be advantageous. He said the price was marketable for private development and he would lean toward leaving this to the private sector.

Mr. Hitt said with the private sector there was CRA money that could be utilized toward that.

In response to Commissioner Becker, City Attorney Shepard he has seen letter of intents structured in the way he was describing. Mr. Shepard said it is a viable option, but the question is how long would the City be able to tie up this property in a letter of intent and at what price given the market conditions. He said they may need to come up with other types of CRA grants as incentives.

Following discussion, it was the consensus to have Mr. Hitt come back with more information and ideas with regard to a letter of intent, utilizing CRA incentives, and research what other municipalities have done in situations like this.

Public Comment: There were no public speakers.

CONSENT

1. Approve a contract with the Department of Corrections for an inmate work squad.

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

BUSINESS

1. Master Plan/Preliminary Development Plan – Silver Oak – Minor Amendment
Project: Development Solutions SH, LLC
Location: North of East Keene Road and west of Sheeler Avenue

David Moon, Planning Manager, said this is a request by the developer and owner to amend development condition number six for the recreation and open space conditions within the master plan and preliminary development plan. He said a representative for Development Solutions, Debra Ushkowitz, is present and can address any questions. He reviewed the location of the development and the existing approved development that contains 116 lots in Phase 1, and Phase 2 is 66 lots for a total of 182 residential lots. The Final Development Plan was approved by Council in May 2016 and Phase 1, Plat 1 & 2 was approved November 2, 2016. He advised the first phase has been platted and based upon records from the Building Department there are approximately 19-25 certificate of occupancies. According to the developer, they have a number of contracts for future homes. The current condition states the recreation amenities are to be completed by the 50th certificate of occupancy. The request is to extend that number to 75 certificate of occupancies. DRC has not objection of extending this and requiring a performance bond to cover the cost of those recreation facilities. DRC has no objection to the amendment.

Debra Ushkowitz said there has been a small slowdown in sales, as well as trying to get the building design and contractors ready to go they are seeing significant delays. She stated they have designed the building, submitted that to the City and ready to start with building permits. She said they have 34 homes that are occupied and they have closer to 40 homes that are permitted. This is getting close to the CO limitation that would stop construction. She said they are moving forward with the amenities, but would like to avoid stopping sales and construction. She stated the bond will be established with City staff at the preconstruction meeting. She advised they are ready to start construction once the building permit is issued and they are finalizing an updated site plan and application for approval. She reiterated the purpose of this amendment is to avoid stopping sales and construction, stating they did not think that was good for the community or the project. She affirmed the funds are there and in place for the amenities, it is just going through the process of obtaining the building permits. She stated there is an annual HOA meeting that will be noticed shortly and they plan to have on the agenda the plans for the amenities and their plan for moving forward. She advised they have not received any complaints.

In response to Mayor Nelson inquiring as to the timeframe for the permitting process to start construction of amenities, Mr. Moon advised that late this afternoon the site plan for the clubhouse and pool were received. This will likely only require review by DRC and may take up to four weeks, they will hold the preconstruction meeting and move forward with construction.

Christian Swann, Surrey Homes, said there are 32 homes occupied, 3 models, and approximately 10 homes under construction, 1 permitted, 1 permit under review, and 3 permit applications to be submitted.

Discussion ensued as to whether the amendment was by the 75th CO or building permit. It was determined that the amendment is by the 75th building permit.

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

MOTION by Commissioner Bankson, and seconded by Commissioner Smith to approve the Silver Oak Minor Amendment, as recommended by staff. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

PUBLIC HEARINGS/ORDINANCES/RESOLUTION

1. Ordinance No. 2673 – Second Reading – Land Development Code Amendment
Article V. Section 5.05.00 - Floodplains. The City Clerk read the title as follows:

ORDINANCE NO. 2673

AN ORDINANCE BY THE APOPKA CITY COUNCIL, AMENDING THE APOPKA CODE OF ORDINANCES TO REPEAL LAND DEVELOPMENT CODE SECTION 5.05.00 FLOODPLAINS; TO ADOPT A NEW SECTION 5.05.00; TO AMEND LAND DEVELOPMENT CODE SECTION 1.08.13 DEFINITIONS; TO ADOPT FLOOD HAZARD MAPS, TO DESIGNATE A

FLOODPLAIN ADMINISTRATOR, TO ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO ADOPT TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDING FOR APPLICABILITY; SEVERABILITY AND AN EFFECTIVE DATE.

Mr. Earp said there have been no changes since the first reading.

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

MOTION by Commissioner Nolan, and seconded by Commissioner Smith to adopt Ordinance No. 2673. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

2. Ordinance No. 2678 – Second Reading – Change of Zoning/PUD Master Plan/Preliminary Development Plan. Project: Mid-Florida Freezer Warehouses LTD; Florida Express Trucking, Inc.; Eagles Landing at Ocoee, LLC.
Location: West side of SR 429, south of General Electric Road, and east of Hermit Smith Road. The City Clerk read the title as follows:

ORDINANCE NO. 2678

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, CHANGING THE ZONING FROM “COUNTY” A-1 (ZIP), “CITY” RESIDENTIAL SINGLE-FAMILY DISTRICT (R-1AA), “CITY” MIXED-EC (MIXED-USE), “CITY” AG (AGRICULTURE), AND “CITY” I-1 (RESTRICTED INDUSTRIAL DISTRICT) TO “CITY” PLANNED UNIT DEVELOPMENT (PUD), FOR CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE WEST SIDE OF SR 429, SOUTH OF GENERAL ELECTRIC ROAD, AND EAST OF HERMIT SMITH ROAD, COMPRISING 186.03 ACRES MORE OR LESS, AND OWNED BY MID FLORIDA FREEZER WAREHOUSES LTD; AND EAGLES LANDING AT OCOEE, LLC; PROVIDING FOR DIRECTIONS TO THE COMMUNITY DEVELOPMENT DIRECTOR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Mr. Moon said this was before City Council on October 3, 2018, for a First Reading of the PUD zoning ordinance. He advised a Development Agreement is part of the review this evening. The recommendation is to take three actions; 1) Adopt Ordinance 2678; 2) Approve the Master Plan/Preliminary Development Plan/Preliminary Site Plan; and 3) Approve the Development Agreement. He advised the intent of the development agreement is to address the transportation improvements, zoning and development standards the applicant, developer, and future users are subject in what they are obligated to commit in terms of road improvements. It also addressing the timing of the dedication of right-of-way for the

realignment of Petersen Road and vacate of Petersen Road, dedication of the spine road right-of-way. He advised Exhibit C map would be placed prior to the Mayor signing the agreement.

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

MOTION by Commissioner Bankson, and seconded by Commissioner Nolan to adopt Ordinance No. 2678. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

MOTION by Commissioner Nolan, and seconded by Commissioner Smith to approve the Master Plan/Predevelopment Plan/Final Development Plan. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

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

3. Ordinance No. 2681 – Second Reading – 2018 Annexation Cycle 5
Project: Construesse USA, Inc. Location: 2600 Rock Springs Road. The City Clerk read the title as follows:

ORDINANCE NO. 2681

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, TO EXTEND ITS TERRITORIAL AND MUNICIPAL LIMITS TO ANNEX PURSUANT TO FLORIDA STATUTE 171.044 THE HEREINAFTER DESCRIBED LANDS SITUATED AND BEING IN ORANGE COUNTY, FLORIDA, OWNED BY CONSTRUESSE USA, INC. AND LOCATED AT 2600 ROCK SPRINGS ROAD, PROVIDING FOR DIRECTIONS TO THE CITY CLERK, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Jean Sanchez, Planner, said there have been no changes since the First Reading.

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

MOTION by Commissioner Bankson, and seconded by Commissioner Becker to adopt Ordinance No. 2681. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

4. Ordinance No. 2657 – First Reading – Right-of-Way Vacate
Project: Mid-Florida Freezer Warehouse Ltd., c/o Pat Lee
Location: South of U.S. Highway 441, East of Hermit Smith Road and West of US 441.
The City Clerk read the title as follows:

ORDINANCE NO. 2657

AN ORDINANCE OF THE CITY OF APOPKA, TO VACATE A RIGHT OF WAY, KNOWN AS FRONDS ROAD LOCATED SOUTH OF U.S. HIGHWAY 441, EAST OF S.R. 429; IN SECTION 1, TOWNSHIP 21, RANGE 27, OF ORANGE COUNTY, FLORIDA; PROVIDING DIRECTIONS TO THE CITY CLERK, FOR SEVERABILITY, FOR CONFLICTS AND AN EFFECTIVE DATE.

Pam Richardson, Transportation Planner, said this item is for the First Reading for request to vacate a portion of Fronds Road right-of-way. She reviewed the location on a map and advised it is bound on the north, east, and south by the future Mid Florida Logistics Park. To the west Fronds Road continues to Hermit Smith Road. The recommendation is to accept the First Reading and carry over for a Second Reading.

Mayor Nelson 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 Smith to approve Ordinance No. 2657 at First Reading and carry it over for a Second Reading. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

5. Ordinance No. 2680 – First Reading – Utility Easement Vacate
Project: Willie and Cynthia McInvale
Location: 1541 Islay Court. The City Clerk read the title as follows:

ORDINANCE NO. 2680

AN ORDINANCE OF THE CITY OF APOPKA, TO VACATE A PORTION OF THE EASEMENT AT THE REAR OF 1541 ISLAY COURT, LOCATED NORTH OF ISLAY COURT, WEST OF TOURNAMENT DRIVE; PROVIDING DIRECTIONS TO THE CITY CLERK, FOR SEVERABILITY, FOR CONFLICTS, AND AN EFFECTIVE DATE.

Phil Martinez, Planner, said the applicant proposes to vacate a portion of the rear yard utility easement at 1541 Islay Court in Errol Estates. In February 2011, City staff mistakenly approved a building permit for the subject property where the pool and screen enclosure encroach upon the previously mentioned utility easement. He advised utility providers, both public and private sector have responded to the vacate request and state no objection to the partial vacate of this utility easement. He clarified Century Link did not support vacating the entire utility easement, however, this is only a partial vacate and Century Link provided terms and conditions to be recognized by the property owner and in turn they will not object. The property owner has agreed to these terms and conditions. The recommendation is to accept the First Reading and carry over for a Second Reading.

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

MOTION by Commissioner Bankson, and seconded by Commissioner Nolan, to approve Ordinance No. 2680 at First Reading and carry it over for a Second Reading. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith, and Nolan voting aye.

CITY ADMINISTRATOR'S REPORT

1. November 21, 2018, City Council Meeting

Mr. Bass advised our mutual aid agreement with the State and the hurricane in the panhandle, the City of Apopka has sent resources and staff from both Police and Fire to help in these areas.

Mr. Bass advised the second meeting in November was the eve of Thanksgiving and inquired if the Council desired to hold or cancel the meeting on November 21, 2018.

It was the consensus of the City Council to cancel the meeting of November 21, 2018.

CITY COUNCIL REPORTS

Commissioner Bankson said they had received a letter from a resident whose cat was attacked by coyotes. He said this is an emotional issue, and affirmed that staff is working on issues and Errol is working on their mowing schedule to help minimize such issues. He declared he wanted to make sure the City was doing what we can to watch out for our citizens.

Mayor Nelson said that would be Animal Control, which is at the County level. He stated the County needs to be aware of these issues. Mr. Bass added that the City has information to share with citizens regarding numbers to call.

Commissioner Nolan thanked the first responders that left their families to go help in the panhandle. She stated this shows how committed we are to our community in Florida.

Commissioner Bankson said that Mark Byrd's church has set up a distribution area for collection and they will deliver these items. He said if people would like to drop off to Victory Ministries, they will make sure items are received by this collection area.

Commissioner Becker said Saturday will be very busy in Apopka with the Gina McReynolds 5K at Northwest Rec, Gospel Fest at Kit Land Nelson Park, and the Debbie Turner Breast Fest is at the Elks Lodge.

MAYOR'S REPORT –

Mayor Nelson called on Rob Hippler, IT Director, to talk about communication or the lack of, stating there were areas in the panhandle that still has cellular towers down.

Mr. Hippler said when Hurricane Michael hit the area of the panhandle, an entire county is still without Verizon service. He said Apopka uses Verizon exclusively for iPads and laptops, as well

as most of the cellular phones. Verizon was chosen after testing three different carriers they had the best coverage and most bandwidth. He suggested the City look into having other options in the event our carrier lose service over a catastrophic event. He will come back to Council with additional information and a recommendation.

Mayor Nelson reported the Lodge is being pressure washed and will be painted within 10 days. He said the KaBoom build at Alonzo Williams Park was on Friday and went very well. The Boy Scouts are working on the monument in Kit Land Nelson Park and he thanked them for their work and having it completed by November 7, 2018.

Mayor Nelson reminded everyone of the Land Development Code joint meeting tomorrow at 2:00 p.m.

ADJOURNMENT: There being no further business the meeting adjourned at 8:24 p.m.

_____/s/_____
Bryan Nelson, Mayor

ATTEST;

_____/s/_____
Linda F. Goff, City Clerk