

# CITY OF APOPKA

---

**Minutes of the regular City Council meeting held on March 18, 2015, at 7:00 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  
City Attorney Clifford B. Shepard  
City Administrator Glenn Irby

**PRESS PRESENT:** Roger Ballas - The Apopka Chief

**INVOCATION** – Commissioner Arrowsmith introduced Pastor Vicki Mock of Victory Church who gave the invocation.

**PLEDGE OF ALLEGIANCE** – Mayor Kilsheimer said on March 21, 1965, in the name of African American voting rights, 3,200 Civil Rights demonstrators, led by Martin Luther King, Jr., began a historic march from Selma, Alabama to the State capital at Montgomery. Federalized Alabama National Guardsmen and FBI Agents were on hand to provide safe passage for the march, which twice had been turned back by Alabama State Police at Selma’s Edmund Pettus Bridge. Only 300 marchers were permitted passage, but thousands more joined the march as it came into Montgomery on March 25, 1965. Five months later President Johnson signed the Voting Rights Act, which guaranteed African Americans the right to vote. He asked everyone to reflect upon the spirit and courage of those who, like the Civil Rights marchers, challenged social injustice and create freedoms and opportunities for generations as he led in the Pledge of Allegiance.

Mayor Kilsheimer recognized Mayor-elect Dale McDonald, City of Maitland, who was in attendance.

## **PRESENTATIONS**

1. Proclamation - Vincent Esposito on achieving the rank of Eagle Scout – Vincent was not present and the proclamation will be presented to him at another time.
2. Proclamation – Mayor Kilsheimer read a proclamation in recognition of Boys & Girls Club Week and presented it to Mack Reid, Chief Operating Officer of Boys & Girls Clubs of Central Florida,
3. Proclamation – Mayor Kilsheimer read the proclamation and a video was played displaying some of the impact Mr. Michael Cooper, Sr. has had on the City of Apopka and recognizing Mr. Cooper for his many contributions promoting economic development within the City of Apopka. He then presented the proclamation to Mr. Cooper. Commissioner Dean said that Mr. Cooper saw the need to improve the south side of this City and his vision has benefitted that area of the City of Apopka.

4. Florida Farm Workers – Tirso Moreno was present representing the Florida Farm Workers and said they would like to make a request for land and water for a community garden so that they may grow fresh, organic food. He advised they have community gardens in three other cities and this would be their fourth garden. He stated this provides motivation for the people participating in the community garden to become farmers.

Mayor Kilsheimer stated Billie Dean's Community Garden is full and asked that they work with Mr. Irby and staff who will need to investigate if the city has land that may be appropriate for a community garden.

5. Parks and Recreation Master Plan - Jean Jreij, Public Services Director, gave a Power Point presentation on the procedures and process of developing a Master Plan for Parks and Recreation in the City of Apopka. This presentation is included in the agenda packet.

Mayor Kilsheimer said he had met with staff early on and had asked staff to put together a master plan for parks and recreation. He stated as we go forward, he would like the decisions we make about parks and recreation to be made within the context of having a master plan. He asked Council to help in forming a Parks and Recreation Advisory Board by each Commissioner appointing two members to serve on the Parks and Recreation Advisory Board and he will appoint three members, including the chair. He requested the Council have these names by the April 1, 2015 meeting. He stated this process will run at the same time the visioning process is running with the outcome of a master plan for parks and recreation looking at all the parks within our inventory and how we can maximize their use and economic development potential, as well as plan for the future.

In response to Commissioner Dean inquiring how quick they could start with improvements to Alonzo Williams Park, Mayor Kilsheimer said he agreed this park needed improvements, but he would like to have a plan on how to maximize its use.

## **CONSENT AGENDA**

1. Authorize the purchase of property, in the amount of \$10,000.00, located between M.A. Board Street and West 7th Street, subject to the appraisal and Phase I Environmental Assessment Study.
- 2 Award the annual fuel contract, for purchase and delivery of gasoline and diesel fuel to Petroleum Traders Corporation and authorize the City Administrator to execute the contract.

**MOTION by Commissioner Ruth and seconded by Commissioner Arrowsmith to approve the two items on the Consent Agenda. Motion carried unanimously with Mayor Kilsheimer and Commissioners Arrowsmith, Dean, Velazquez, and Ruth voting aye.**

**SPECIAL REPORTS AND PUBLIC HEARINGS – No Special Reports or Public Hearings.**

## ORDINANCES AND RESOLUTIONS

1. **ORDINANCE NO. 2372 - SECOND READING & ADOPTION - COMPREHENSIVE PLAN AMENDMENT - LARGE SCALE – FUTURE LAND USE AMENDMENT –** Apopka Clear Lake Investments, LLC, from Residential Low (0-5 du/ac) and Agriculture (1 du/5 ac) to Residential Medium (10 du/ac). (Parcel ID Nos.: 07-21-28- 0000-00-002 & 07-21-28-0000-00-023) [Ordinance No. 2372 meets the requirements for adoption having been advertised in The Apopka Chief on February 27, 2015.] The City Clerk read the title as follows:

### **ORDINANCE NO. 2372**

**AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE APOPKA COMPREHENSIVE PLAN OF THE CITY OF APOPKA; CHANGING THE FUTURE LAND USE DESIGNATION FROM RESIDENTIAL LOW (0-5 DU/AC) AND AGRICULTURE (1 DU/5 AC) TO RESIDENTIAL MEDIUM (10 DU/AC) FOR CERTAIN REAL PROPERTY GENERALLY LOCATED EAST OF S.R. 429, SOUTH OF PETERSON ROAD, AND NORTH OF LUST ROAD, COMPRISING 94.76 ACRES, MORE OR LESS AND OWNED BY APOPKA CLEAR LAKE INVESTMENTS LLC, C/O KEN STOLTENBERG; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

David Moon, Planning Manager gave a brief overview of this ordinance stating the Council heard the first reading on this application to change the land-use designation from Residential Low Density to Residential Medium Density on August 16, 2014. He explained the review process followed procedures set forth within the Florida Statutes Chapter 163 and based on that statute, after the first reading and review by state agencies the City has 180 days to hold the second and final hearing. He advised this is the last opportunity for Council to hold a hearing on this case or it will be required to go back through the entire cycle. He explained staff supported this increase in density on the condition that the applicant would agree to construct a road from the northern boundary up to West Orange Avenue. The applicant agreed to construct the road subject to negotiations with staff and to make the road feasible, property had to be acquired to the north. During this time the applicant has been coordinating with the property owners to enter into an agreement to purchase land. They have also been coordinating with Orange County Public Schools to work out their school capacity enhancement agreement. He affirmed staff feels this project still has merit and does not warrant a delay of another nine months. The applicant could not have the zoning master plan and development agreement before Council this evening due to the negotiations not being complete upon entering the contract to purchase the road right of way to the north. He advised the second alternative staff came up with in working with the City Attorney's office and the applicant's attorney was a deed restriction which is presented to Council this

evening, having been recorded yesterday. This deed restriction states this roadway has to be built before more than a density of 5 DU/AC can be constructed. He affirmed medium density, if approved tonight, will be assigned to the property, but this developer or a future developer cannot construct more than 5 units per acre until the northern road occurs. He declared in the meantime the applicant is working with staff to obtain their zoning approval and master plan approval to appear before both the Planning Commission and City Council.

In response to Commissioner Velazquez expressing concerns regarding crowding of schools and school capacity as addressed in a letter received by the Orange County School Board, Mr. Moon explained the owner of the property would be required to go through a two-step process for their impact on public schools. First they would go through School Capacity Enhancement which is addressed at the land use amendment and they are currently in the process of having that agreement finalized with Orange County Public Schools and they will not be able to proceed to zoning approval until this agreement is executed. The second step occurs at the time of the final development plan, which is the concurrency management.

Tom Sullivan, with GrayRobinson Law Firm, representing the applicant, said he appreciates staff's report and their recommendation for approval. He stated they have been working closely with staff and are close to being able to come back to Council with respect to the PUD rezoning items and the associated transportation development agreement. In terms of the schools, he said that Mr. Moon did a good job explaining this issue. He stated the School Board lays out very specifically the procedures and steps to be followed in order to address school capacity issues when increasing residential density. He declared they have an agreement that has been negotiated with the Orange County School Board that addresses how they will be dealing with the mitigation and stated the school impact fees are required to be paid at the platting stage which is a benefit to the School Board allowing them to improve facilities. He said they appreciate these concerns and they are in keeping with all of those steps set forth by the City and the School Board. He said they appreciate Council's support.

Christine Moore, District 7 Orange County School Board Member, said this applicant has a signed Capacity Enhancement Agreement ready to go. She stated the middle school is a challenge and advised the School Board does have two middle school sites, one on Ingram Road and one in Clarcona. She further stated they are in the process at this time of rezoning the entire area to make sure there is capacity at the high school level.

Mayor Kilsheimer opened the meeting to a public hearing.

Terry Morrell said this was discussed last August and it appears they are now up against the 180 day window. She stated there was a letter to the FDOT in September of last year. She asked why and how long it takes to respond to a letter.

Mr. Moon said following the process for a comprehensive plan amendment, the comments from the State agencies are addressed typically through the adoption hearing process. If City Council approves this tonight, those comments will be submitted to the Department of Transportation. He affirmed the FDOT concern was related to existing congestion on US 441. Over the past two years, FDOT has conducted an analysis study on US 441 covering from Orlando to Eustis that was just completed.

Suzanne Kidd said as Commissioner Velazquez mentioned, there were a number of letters in the packet and she referred to the one on page 39 which is a response from the Florida Department of State as it relates to whether the property has been surveyed for any cultural resources to locate and evaluate any archeological or historical resources that may be in that property. She inquired if that assessment was done being that this property is close to Lake Apopka.

Mr. Sullivan advised they did do a detailed survey of the property. He stated when doing a large scale comprehensive plan amendment like this, it is sent to all of these different state agencies and in this case, there were very few comments.

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

**MOTION by Commissioner Arrowsmith and seconded by Commissioner Dean to adopt Ordinance No. 2372 as presented. Motion carried 4-1 with Mayor Kilsheimer and Commissioners Arrowsmith, Dean, and Ruth voting aye and Commissioner Velazquez voting nay.**

2. **ORDINANCE NO. 2386 – SECOND READING & ADOPTION - CHANGE OF ZONING – FLORIDA LAND TRUST #111 – ZDA at Sandpiper, LLC - From “County” PD to “City” Planned Unit Development (PUD/R-1A) for property located south of Sandpiper Street, west of North Thompson Road, east of Ustler Road. (Parcel ID Nos.: 02-21-28-0000-00-106, 02-21-28-0000-00-131, 03-21-28-0000-00-015, 03-21-28-0000-00-022, 03-21-28-0000-00-023, 03-21-28-0000-00-046, 03-21-28-0000-00-047, 03-21-28-0000-00-072, 03-21-28-0000-00-073, and 03-21-28-0000-00-119) [Ordinance No. 2386 meets the requirements for adoption having been advertised in The Apopka Chief on March 6, 2015.]**  
The City Clerk read the title as follows:

**ORDINANCE NO. 2386**

**AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, CHANGING THE ZONING FROM “COUNTY” PD TO “CITY” PLANNED UNIT DEVELOPMENT (PUD/R-1A) FOR CERTAIN REAL PROPERTY GENERALLY LOCATED SOUTH OF SANDPIPER STREET, WEST OF NORTH THOMPSON ROAD, EAST OF USTLER ROAD, COMPRISING**

**58.23 ACRES, MORE OR LESS AND OWNED BY FLORIDA LAND TRUST #111 - ZDA AT SANDPIPER, LLC; PROVIDING FOR DIRECTIONS TO THE COMMUNITY DEVELOPMENT DIRECTOR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

David Moon gave a brief overview of this project summarizing the additional conditions requested at the first hearing (copy on file as Exhibit B). He explained there has been additional language added to the paragraph regarding a conservation easement at Ustler Road that allows the City to encroach that easement for public improvements.

Miranda Fitzgerald, Lowndes, Drosdick, Doster, Kantor & Reed Law Firm, representing the applicant, said they were here to request approval of the project Mr. Moon just reviewed. She affirmed they are in agreement with the additional conditions and would appreciate Council's support.

Mayor Kilsheimer opened the meeting to a public hearing.

Ken Mealey said he owns the property across the street from where the inlet and outlet of the proposed property will be. He stated his biggest concern is with regards to flooding, pointing out that the ground to the left on the exhibit is all in a special flood plain and has been submerged in the past. He also pointed out the size of other homes in the area and said this would not be comparable to what is there. He advised his property is zoned AG-2 and defended his rights to keep this zoning and keep his livestock. He expressed additional concerns regarding stormwater runoff.

Jill Cooper said her property abuts the Sandpiper development and said if the choices for this development are between the original plan and the new plan as reviewed this evening, she felt the original plan had more benefits. The plan reviewed this evening has more trees removed and one more house on the shore line, and there is a new drainage pond by Ustler Road. She stated they were hoping for less total lots and if this is not feasible, then she feels a smaller footprint is the next best choice.

Jenny and David McGee spoke stating they live on Oakpoint Circle and their property line borders lots 24, 25, and 26 of this development. Their house is closer to the view of the new development being 17 feet from the property line. They reviewed some photos of the area. Ms. McGee said all they would request is that lots 24 through 26 be deed restricted to be one-story homes.

Jack Cooper requested this proposal and the next one for R-1AAA be rejected. He stated neither were comparable or compatible to the surrounding area. He discussed the drainage that flows north to the Wekiva Basin and stated this latest plan has more risks to it. He pointed out a stormwater area and proposed lots on the exhibit that abut up to wetlands. He

said this plan cuts down more trees and he again requested both plans be rejected. He inquired who would maintain the drainage they would come up with.

Jay Davoll, Community Development Director and City Engineer, said the current 40 foot drainage easement is currently recorded and maintained by Orange County. He advised this would have to be renegotiated with the new Final Development Plan. He stated there are no platted lots at this time, the general plan would be to re-route it from the proposed lots in pipes. He advised it all outfalls eventually to the Wekiva River and there are stages that it goes through to keep in place.

Lou Haubner said in review, the average size lots that adjoin this development are an average of 1.4 acres and the average size home adjoining the property is approximately 2,500 square feet. He declared he was real happy with the developer's new plan in Exhibit C, then he walked the property and researched the area where it adjoins Ustler Road and said there was a tremendous amount of soft property in that area, muck and wetlands. He stated the best thing would be to turn down Exhibits A and C and go to a rezone of RCE-1. He said this would be the fair thing to do for the neighborhood and the right thing to do for the City Council.

Ellen O'Connor said after having time to look at the plan from the last meeting, they feel strongly that the City Council has the option to vote down both of these plans. She stated if you go back to the original plan and they would reduce the number of lots by four, they could have less impact on the property, protect the wetlands and have less impact on the surrounding community. She declared neither she nor her neighbors support this plan and reiterated if choosing between these two plans, to go back to Exhibit A and require them to go down to 1/2 acre lots.

Mary Smothers said at the last meeting she sounded very positive toward this plan and stated the average of 1/2 acre lots sounded good. She stated the next day they got a copy of this plan and saw the dimensions. She stated the largest lot has a gas easement across it. She said this was not comparable or compatible with the area.

Mike Johnston said he moved from Maitland to get away from high density populated areas and bought their dream home on this wooded lot close to downtown City of Apopka with all its history, and they are concerned this high density development will be an eyesore for them, but will also bring their property values down. He would like this development to be done in a comparable feel and in a way that allows the people to continue living in the same manner. He expressed concern regarding drainage and said he had to convert his back acre to swamp land because of the flooding.

Scott Smothers said Council has heard a lot of concerns and he pointed out they are hearing

from people today that have been living in this area for a long time. His father bought the property across from this development over 35 years ago. He reiterated there are water problems in this area and it flows north. He asked Council to consider their role and make the decision that is right for the long term good of the City. He affirmed they are looking for development with larger acreage and larger lots. He said they are asking for 1/2 acre lots and suggested it be zoned as RCE.

Ms. Fitzgerald said it was interesting to hear people who have been on agricultural land for many years complain about drainage when they have no drainage and have not complied with the water management district rules that this development will have to comply with. She stated this property is now in the Wekiva Basin and will be much more stringently controlled than any of the properties around it. She affirmed nothing will be placed on that site without obtaining permits from SJWMD. She said this was developable land and the project they are proposing is a high end gated community, and they have compromised tremendously. She stated this is consistent with the area that already exists. She declared anything the City does cannot be arbitrary and capricious. She said they have reached out and thought they had agreements with the residents. She reiterated this will be a quality development and will not adversely impact the neighbors. She reiterated they are comfortable with the earlier plan or the plan before them. She affirmed with regards to the home that is 17 feet from the property line that they have agreed to have a 50 foot setback adjacent to that property line and 30 feet of that is a natural buffer. She declared that they feel it to be unreasonable to restrict those three lots to single story homes. As offered previously, if a two story home is built on one of those lots, they will stipulate two additional oak trees to be planted in the back yards. In closing, she stated this was not high density development as indicated by the last person speaking. She reiterated they have tried to work with the neighbors, and with staff to come up with a plan for quality development, consistent with development in the area, and that meets the City's standards. She said they are looking forward to moving forward and developing, getting rid of the run down houses that are on this property and stated they need Council's help to do that. She stated they very much appreciate Council support in picking one of the two PUDs so they do not have to discuss the R-1AAA plan.

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

Council recessed at 8:59 p.m. and reconvened at 9:05 p.m.

Commissioner Velazquez said at the last City Council meeting they had Exhibit A that gave them more green space and more trees, then Exhibit C which is the one they are talking about tonight as Exhibit A. This was the plan preferred by those present at the last meeting which provides 24 lots that are over 1/2 an acre. She said the applicant is entitled to zoning in order to move forward. She stated she understands their concerns, but all agree the property is blighted and needs to be developed.



Commissioner Arrowsmith said he voted against this project two weeks ago and the developer has obviously made some concessions during that time with staff. However, the concessions he asked for were not considered so he is right where he was.

Mayor Kilsheimer said they have to deal with the zoning classification that is before them and they have two options inquiring if they could go back to Exhibit A.

Mr. Moon advised based on the last Council meeting, it was staff's interpretation that Exhibit C was the preference and this Ordinance has been structured for former Exhibit C, which is now Exhibit A, including the development standards.

City Attorney Shepard confirmed Council went through a first reading and at that reading a motion was made based on this plan. He advised the subsequent comments and additions made are not substantial enough to cause another first reading, as long as they stay with that plan. If there is a consensus that now they want to go back to the other plan, that is not before them and they would need to go back again for a first reading to get that plan past the first reading.

Mayor Kilsheimer said he feels the applicant has met the tasks of being compatible with the long term development plan. The applicant has negotiated in good faith with the neighbors. He stated this was going to be an upscale gated community and the developer has agreed to many restrictions and conditions.

**MOTION by Commissioner Velazquez to adopt Ordinance 2386. Motion failed due to lack of a second.**

City Attorney Shepard advised Council has another application which is for R-1AAA following this one. He said with regards to this Ordinance, it is here because Council decided to bring it back for reconsideration as opposed to the R-1AAA zoning. If not approving this, it is recommended someone will need to make a motion to deny the PUD application before them.

**MOTION by Commissioner Arrowsmith and seconded by Commissioner Dean to deny Ordinance No. 2386 as presented. Motion carried by a 3-2 vote with Commissioners Arrowsmith, Dean, and Ruth voting aye, and Mayor Kilsheimer and Commissioner Velazquez voting nay.**

- 3. ORDINANCE NO. 2405 – FIRST READING – CHANGE OF ZONING - FLORIDA LAND TRUST #111 – ZDA AT SANDPIPER, LLC – for property located south of Sandpiper Street, west of North Thompson Road, and east of Ustler Road, from “County”**

PD (ZIP) (Residential) to “City” R-1AAA. (Parcel ID #s: 02-21-28-0000-00- 106, 02-21-28-0000-00-131, 03-21-28-0000-00-015, 03-21-28-0000-00-022, 03-21-28- 0000-00-023, 03-21-28-0000-00-046, 03-21-28-0000-00-047, 03-21-28-0000-00-072, 03-21-28-0000-00-073, AND 03-21-28-0000-00-119) [This item was continued at the March 4, 2015 City Council meeting until the March 18, 2015 meeting.] The City Clerk read the title as follows:

### **ORDINANCE NO. 2405**

**AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, CHANGING THE ZONING FROM “COUNTY” PD (ZIP) (RESIDENTIAL) TO “CITY” R-1AAA (0-2 DU/AC); FOR CERTAIN REAL PROPERTY GENERALLY LOCATED SOUTH OF SANDPIPER STREET, WEST OF NORTH THOMPSON ROAD, AND EAST OF USTLER ROAD, COMPRISING 58.23 ACRES MORE OR LESS, AND OWNED BY FLORIDA LAND TRUST #111, C/O ZDA AT SANDPIPER, LLC, TRUSTEE; PROVIDING FOR DIRECTIONS TO THE COMMUNITY DEVELOPMENT DIRECTOR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

Miranda Fitzgerald, representing the applicant, said Council has a staff report in favor of the R-1AAA zoning that this application deals with. She affirmed they agree with that staff report and would appreciate approval.

Mayor Kilsheimer opened the meeting to a public hearing.

Scott Smothers said now before Council is R-1AAA and stated if Council turns them down, essentially Ms. Fitzgerald will argue it is arbitrary and capricious. He stated at this point and after hearing so much other comment, considering all of the facts, he does not see how it would appear arbitrary and capricious to the court. Now they have R-1AAA that will potentially be higher density than what Council just turned down and the residents are requesting a different zoning. He said, as Commissioner Velazquez pointed out, they do need a zoning, but they don’t have to get this. He stated Council could have a closed door meeting with their City Attorney and talk about the legal implications of this.

City Attorney Shepard advised there could not be a closed door meeting for this purpose.

Mr. Smothers said a formal written opinion could be requested from the City Attorney to express what they can do under the circumstances. He stated Council could give the applicant a different zoning than what they are asking for. He declared Council needs to make a decision that is right for the City and not based on some sort of false narrative being sold to them by a developer that will probably sell the property anyway. He asked Council vote this down and let the applicant obtain a zoning classification that is appropriate.

Jack Cooper said this is not a PUD and is much worse than anything they have ever presented. He stated at a community meeting in March of 2013 something very similar was presented and they were going to put in up to 80 homes, so they came back with this to try and pressure or influence Council into giving them something. He asked Council not be intimidated by this and to vote on the side of their constituents.

Lou Haubner asked how many units they can build with R-1AAA.

Mr. Moon said based on the land use designation they could build up to 2 units per acre and that comes out to approximately 80 to 90 units. He advised in terms of what the yield could be would have to be determined through the preliminary subdivision plan which hasn't been submitted.

Mr. Haubner pointed out if this was approved Council would be going against the vote they just made prior to this. He said there was no question of what needed to be done. He stated there were some other options, RCE-1 or maybe the developer could reconsider and do a different development with the PUD reducing the number of lots.

Jill Cooper said the PUD encourages communication between the homeowners and the developer and they would like to stick with the PUD and not start all over with rezoning. She affirmed she was not at the last meeting knowing there would be two readings. She said she did not know there was another plan being proposed at the last meeting. She stated people were not flip flopping; they just have had time to look at the other plan and would like to go back to the PUD with the green space and drainage protected.

Ms. Fitzgerald said they would like to bring this to closure tonight. She stated if any one of the Commissioners who voted for the motion to deny the PUD moved tonight to reconsider the developer would be willing to put back on for discussion the compromise on the two story houses. She said they are ready to get this done and stated the R-1AAA does not make sense for anybody. It was done to get discussions going on alternatives. She said of all the concerns she has heard that Council addressed, the one thing they specifically disagreed with was to deed restrict 3 lots from two story houses. She stated if it was going to take that kind of commitment to get three votes from Council and get this done, her client is willing to do that. She said that would mean Council would reconsider the motion and they would offer that as another concession to deed restrict lots 24, 25 and 26 so they would only be one story homes with the PUD that was on the screen before as Exhibit A with all of the commitments made to date. She reiterated this project will be developed more stringently from a drainage perspective than any of the surrounding owners.

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

Mayor Kilsheimer inquired if the offer made by the applicant changed anyone's position.

Commissioner Arrowsmith inquired if they had to reconsider it tonight, or could they reconsider it at the next meeting.

City Attorney Shepard said they could reconsider it at the next meeting. The reconsideration just needs to be made by someone who voted against the development in the last vote. He is also hearing the applicant say they want to get this over with, so whether the offer is a tonight only kind of offer is not clear.

Commissioner Arrowsmith said he felt the drainage issue was a concern. He stated he would be willing to reconsider this at the next meeting. He said he was looking at both sides and the developer has complied with the majority of what has been asked, but on the other hand, it is not up to the developer to dictate what they have to do. He stated he would vote against the R-1AAA.

Ms. Fitzgerald said her client is open to reconsideration at the next meeting. She stated for clarification she would like more discussion on the drainage. She said if the position is that this area is adversely affected by flood waters and not developable land that is not their view. They are going to have to comply with the rules and become more stringent in this area. She declared she did not want to come back with the expectation they are going to be looking at this plan again and all of a sudden it is not the plan, but this overriding drainage issue. She said they should be obligated and entitled to develop in accordance with the rules.

Mayor Kilsheimer said the issue before them is the R-1AAA zoning and he stated he agreed with Commissioner Arrowsmith, this is not good for the City.

City Attorney Shepard said this was a quasi-judicial hearing and they have to have competent substantial evidence to support the decision they make. The evidence from staff supports the rezoning, so a tabling would be in order.

**MOTION by Commissioner Arrowsmith and seconded by Commissioner Dean to table this item until the next meeting. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Arrowsmith, Dean, Velazquez, and Ruth voting aye.**

4. **ORDINANCE NO. 2411 – FIRST READING - COMPREHENSIVE PLAN – SMALL SCALE – FUTURE LAND USE AMENDMENT** – McCarthy McCollough, from “County” Rural (0-1 du/10 ac) to “City” Rural Settlement (0-1 du/5 ac), for property located at 1505 West Kelly Park Road. (Parcel ID #: 08-20-28-0000-00-003) The City Clerk read the title as follows:

**ORDINANCE NO. 2411**

**AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT OF THE APOPKA COMPREHENSIVE PLAN OF THE CITY OF APOPKA; CHANGING THE FUTURE LAND USE DESIGNATION FROM “COUNTY” RURAL (0-1 DU/10 AC) TO “CITY” RURAL SETTLEMENT (0-1 DU/5 AC), FOR CERTAIN REAL PROPERTY GENERALLY LOCATED NORTH OF WEST KELLY PARK ROAD, EAST OF FOLIAGE WAY, COMPRISING 8.44 ACRES MORE OR LESS, AND OWNED BY MCCARTHY MCCOLLOUGH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mr. Moon said the request was to amend the future land use designation from County Rural to City Rural Settlement and change the zoning from County A-1 agriculture to City agriculture. The applicant would like to split the parcel into two parcels, the southern parcel having 2 acres and the northern parcel would have 6.44 acres. The property owner has indicated an interest for financial reasons to sell that lot for the development of a home. The new lot will be required to connect to City water and sewer. Both the Development Review Committee and the Planning Commission reviewed both applications and recommends approval.

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

**MOTION by Commissioner Arrowsmith, and seconded by Commissioner Ruth, to approve Ordinance No. 2411 at First Reading and carry it over for a Second Reading. Motion carried unanimously with Mayor Kilsheimer, and Commissioner Arrowsmith, Dean, Velazquez, and Ruth voting aye.**

5. **ORDINANCE NO. 2412 – FIRST READING - CHANGE OF ZONING –** McCarthy McCollough, from “County” A-1 (Agriculture) to “City” AG (0-1 du/5 ac) (Agriculture) and RCE-1 for property located at 1505 West Kelly Park Road. (Parcel ID #: 08-20-28- 0000-00-003) The City Clerk read the title as follows:

**ORDINANCE NO. 2412**

**AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, CHANGING THE ZONING FROM “COUNTY” A-1 (AGRICULTURE) TO “CITY” AG (AGRICULTURE) (6.44 AC) AND RCE-1 (RESIDENTIAL) (2.0 AC) FOR CERTAIN REAL PROPERTY GENERALLY LOCATED NORTH OF WEST KELLY PARK ROAD, EAST OF FOLIAGE WAY (1505 W KELLY PARK RD.), COMPRISING 8.44 ACRES MORE OR LESS, AND OWNED BY MCCARTHY MCCOLLOUGH; PROVIDING FOR DIRECTIONS TO THE COMMUNITY DEVELOPMENT DIRECTOR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

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

**MOTION by Commissioner Ruth, and seconded by Commissioner Dean, to approve Ordinance No. 2412 at First Reading and carry it over for a Second Reading. Motion carried unanimously with Mayor Kilsheimer, and Commissioner Arrowsmith, Dean, Velazquez, and Ruth voting aye.**

6. **RESOLUTION NO. 2015-07 -** Providing that the concessions at the Art & Foliage Festival will be handled by local community, civic and religious organizations, that no peddler's

licenses will be issued during the Festival, and that no animals, leashed or unleashed, will be allowed in Kit Land Nelson Park during the Festival, except in compliance with the Americans with Disabilities Act (ADA). The City Clerk read the title as follows:

**RESOLUTION NO. 2015-07**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, PROVIDING THAT THE CONCESSIONS AT THE ART & FOLIAGE FESTIVAL WILL BE HANDLED LARGELY BY LOCAL COMMUNITY, CIVIC AND RELIGIOUS ORGANIZATIONS, THAT NO PEDDLER LICENSES WILL BE ISSUED DURING THE FESTIVAL, AND THAT NO ANIMALS, LEASHED OR UNLEASHED, WILL BE ALLOWED IN KIT LAND NELSON PARK DURING THE FESTIVAL, EXCEPT IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA).**

**MOTION by Commissioner Dean, and seconded by Commissioner Arrowsmith, to approve Resolution No. 2015-07. Motion carried unanimously with Mayor Kilsheimer, and Commissioner Arrowsmith, Dean, Velazquez, and Ruth voting aye.**

**SITE APPROVALS**

1. **PRELIMINARY DEVELOPMENT PLAN** – Rock Springs Estates, owned by Rock Springs Estates; applicant is Pulte Group, c/o Doug Hoffman, P.E.; engineering firm is Donald W. McIntosh Associates, Inc., c/o John T. Townsend, P.E., located south of West Lester Road, east of Vick Road. (Parcel ID Nos. 3-20-28-0000-00-015, 33-20-28- 0000-00-118, 33-20-28-0000-00-003)

Jay Davoll, Community Development Director and City Engineer, said the project before Council is a Preliminary Development Plan for Rock Springs Estates. This is located south of West Lester Road and east of Vick Road. The minimum typical lot width is 75 feet and the minimum lot size is 8,000 square feet. The proposed minimum living area is 1,500. He advised there will be one access point to Lester Road and there is a proposed secondary access to be developed in the future if the property to the east develops. He advised the right of way will be reserved with the plat. They will have driveways that go out to the road for trash pickup. There are two retention ponds that meet City guidelines. Development Review Committee recommends approval and the Planning Commission recommended approval at their March 10, 2015 meeting.

Commissioner Velazquez said she would like to table this item to the next meeting in order to provide time for review.

John Townsend with Donald MacIntosh Associates, said he was the civil engineer and they would like to get this through tonight in order to fall in line with contracts that are in place.

Matt Patterson, Pulte Homes, said two weeks would push them outside of their contract and would require them to get an extension. He asked that it be reviewed tonight.

**MOTION was made by Commissioner Arrowsmith, and seconded by Commissioner Ruth, to approve the Preliminary Development Plan. Motion carried by a 4-1 vote with Mayor Kilsheimer, and Commissioners Arrowsmith, Dean, and Ruth voting aye and Commissioner Velazquez voting nay.**

2. **FINAL DEVELOPMENT PLAN/PLAT** – Ponkan Reserve North, owned by Clyde Marie Brown, c/o Donna L. Helton; engineer is June Engineering Consultants, Inc., c/o Jeffrey A. Sedloff and Jimmy Dunn; and the property is located at 301 Ponkan Road. (Parcel ID Nos. 21-20-28-0000-00-003; 21-20-28-0000-00-004; 28-20-28-0000-00-003; 28-20-28-0000-00-004)

Mr. Davoll gave a brief overview of the Final Development Plan/Plat for Ponkan Reserve North. He advised it is for 51 lots, minimum lot size of 12,500 square feet and a minimum lot width of 95 feet, with the minimum living area of 2,500 square feet. They have one waiver request, along Ponkan Road we typically require a block wall, but we have been allowing columns with decorative fence in front of the retention pond. Development Review Committee does recommend approval of that waiver and of the Final Development Plan. On March 10, 2015, the Planning Commission recommended approval of the Final Development Plan along with the waiver request.

Dale Fenwick inquired what material the fence would be when saying wrought iron style.

Mayor Kilsheimer said it could be aluminum, or similar.

**MOTION by Commissioner Arrowsmith, and seconded by Commissioner Ruth to approve the Final Development Plan for Ponkan Reserve North. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Arrowsmith, Dean, Velazquez, and Ruth voting aye.**

## **DEPARTMENT REPORTS AND BIDS**

1. Administrative Report - Glenn Irby - City Administrator – no report.

**MAYOR'S REPORT** – Mayor Kilsheimer reported he and Commissioners Ruth and Velazquez had a great trip to Tallahassee for Florida League of Cities Legislative Action Days. They advocated on behalf of several issues such as the mortality tables our Pension Plans have to use.

Mayor Kilsheimer announced Roger Ballas with The Apopka Chief is retiring and wished him well in his future endeavors.

## **OLD BUSINESS**

COUNCIL – There was no old business from the Council.

PUBLIC – There was no old business from the Public.

## **NEW BUSINESS**

City Attorney Shepard said to address the reconsideration of the Sandpiper project, so that Council is not in a situation where they were tonight, he has asked Mr. Moon, if this reconsideration gets enough votes, that the ordinance be crafted so Council will have multiple options to choose from based on what they hear from the public. He advised with that clarification it would be appropriate, if they choose to do so, one of the three voting down the PUD to make a motion to reconsider it. It will be advertised and re-crafted so that either site plan can be considered.

**MOTION by Commissioner Arrowsmith and seconded by Commissioner Dean, to reconsider Ordinance 2386 at the April 1, 2015 Council meeting. Motion carried unanimously with Mayor Kilsheimer, and Commissioners Arrowsmith, Dean, Velazquez, and Ruth voting aye.**

## **COUNCIL**

1. RESOLUTION NO. 2015-08 - Supporting "One Apopka for Progress". The title was read by the City Clerk as follows:

### **RESOLUTION NO. 2015-08**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, SUPPORTING “ONE APOPKA FOR PROGRESS”, PROVIDING FOR AN EFFECTIVE DATE.**

**MOTION by Commissioner Dean and seconded by Commissioner Arrowsmith to accept Resolution No. 2015-08.**

Commissioner Ruth said he would like the definition of “Progress”, stating it was being exclusive. He stated he knew what the goal was and he has always been about one Apopka, but it is the word “Progress”.

Mayor Kilsheimer said he does not understand “One Apopka for Progress”, stating he has had discussions with many people across Apopka about this idea. He stated he would like to be associated with deeds and things people have actually done. While it sounds wonderful, there is not an organization behind it or an entity behind it and he was not aware of any meetings that have occurred where something about “One Apopka for Progress” has actually been discussed. In his opinion it is just an amorphous statement that sounds good. He affirmed that he could not support this resolution as he is not sure what the purpose is or what



it is about. He declared a lot of the connotation of South Apopka as a neighborhood that is primarily a minority neighborhood which is economically challenged has come about largely due to a program by Orange County through a grant wherein they placed "Welcome to South Apopka" signs. Many people he has talked with wouldn't mind if those signs were removed as they do divide Apopka.

Commissioner Dean asked what good was a proclamation when all of the money was spent on the north side of Apopka. He stated it offends him when people discuss "South Apopka" and "North Apopka", that Apopka is Apopka.

Mayor Kilsheimer agreed that economic conditions are less on the south side of Apopka than in other parts of Apopka. He declared he has been Mayor for a year and Commissioner Dean has been in office for 21 years and all of this discussion about "One Apopka for Progress" has come about in the last 11 months.

Mayor Kilsheimer opened the meeting for public input.

Ray Shackelford said every time the Council votes on different ordinances or the consent agenda is progress. He stated "One Apopka for Progress" means that not one person or community will be left behind in the economic community process. He declared all sitting on Council won their respective seat from a diverse group of people. He reiterated this was about working together as one community for the betterment of all people in Apopka. He said they want to make sure to increase minorities in administrative positions in the City of Apopka. He asked Council to reach out to the community as a whole.

Rod Love said he was here to speak on behalf of Reverend King who is Vice Chair of the South Apopka Ministerial Alliance, stating one of the things he did because of feeling strongly about Apopka being one Apopka, Reverend Keene commissioned a poet to draft something about Apopka that would be apropos for this "One Apopka" that he read into the record entitled *Our City, Our Town*. He stated if you have reservations with what "One Apopka" is supposed to be, make it your own. He agreed it needs to be about success and about everybody.

Dale Fenwick said based upon what his understanding of this is, he supports the concept of "One Apopka", but the way the resolution is drafted, it has some problems, one being what is "One Apopka for Progress". He stated it is a concept, but beyond that, Section 2 lists the outcomes and outcomes are good, but he went on to point out areas where the outcomes are not clear on how they will be measured. He said it needs to be fine-tuned.

Ray Shackelford said during his tenure as an educator, he is a former vice president of an organization that focuses on the assessment of programs and services. He stated there are ways they can measure things if they agree to start the process and "One Apopka for Progress" starts the process.

Linda Laurendeau said she wanted to speak to the definition of south Apopka and when she served on the Orange County Charter Commission she learned Orange County has 5 census designated communities and one of those census designations is the sign you see when

passing out of the city limits of Apopka. She stated we were in southern Apopka right now and declared we are one Apopka from the very northern edge to the very southern edge, but when we see that sign on the road that says South Apopka, it is a census designated non-city place. She said we need to be careful how we define what we are talking about.

Francina Boykin said he has sat back and listened and stated in 1937 this stigma started when the City created an ordinance prohibiting blacks to live north of the tracks and whites to live south of the tracks and that stigma has stayed in this community. She advised this ordinance was repealed in 1968. She lives in unincorporated Apopka and she too is very offended as referred to as living in South Apopka. This is not an official name and has never been adopted by the Orange County Commission. She said, as we toil, a beginning point would be for the City to make an apology for the 1937 ordinance because that affected both black and white citizens of this community.

Isadora Dean said “One Apopka for Progress” was not about South Apopka at all, it is simply saying that no one will be left behind. She declared it was not about race or where you live, just that no one in Apopka will be left behind and everyone will be treated equally.

Michael Heaton said it seems this resolution is being redundant, we are *one nation, under God, indivisible* and that does not need to be further defined.

Mayor Kilsheimer closed the public input.

**Motion carried by a 3-2 vote with Commissioners Arrowsmith, Dean, and Velazquez voting aye and Mayor Kilsheimer and Commissioner Ruth voting nay.**

2. City Council discussion and determination on the hiring of 30 summer positions through the Professional Opportunities Program for Students, Inc.

Barbara Newton with the Professional Opportunities Program for Students (POPS) thanked the Council for the opportunity to speak and apologized that her students that planned on speaking had to leave due to the lateness of the meeting. She gave a Power Point presentation and said POPS was founded in 2001 by Senator Gary Siplin, starting with only 5 students in a summer program. In 2008 POPS became a year round program with over 200 students in the Orange County area, and in 2010 they grew to 8 municipalities and expanding into Osceola County. Today they are proud to say they have over 400 students. She advised the mission of POPS is to build character in teens to believe in succeed, with a vision to motivate high school students to complete high school and pursue advanced education.

Senator Siplin thanked the City for this opportunity and for participating in this program. He said they provide life changing experiences for these students.

Discussion ensued with regards to supporting the POPS program, the cost of this program and where the students participating would come from.

Dale Fenwick spoke with regards to the overhead of the POPS program and said with it being the middle of March, he was sure if all 30 students could not be supported, he would think they would be happy with a smaller number. He inquired if private businesses took students who paid the overhead.

Ms. Newton advised POPS has been supported by a government grant and they ask for support if it can be afforded.

Suzanne Kidd said she was glad to see administration was looking into something that has been talked about at many council meetings for students. Her concern was regarding taxes, wages, dress fund, and administration fee per student.

Mr. Shackelford said he appreciates council reviewing the possibility of POPS and helping the children and parents. He stated if they can find money to purchase land, they should be able to find money to support these programs.

Mayor Kilsheimer said his recommendation would be to take this under advisement and have a plan by the next meeting.

## PUBLIC

Francina Boykin said as a member of the Apopka Historical Society she would like to go on record requesting the City of Apopka to acknowledge or assist in placing a historical marker in the location or vicinity of Mead's Bottom, located south of Highways 441, 436, West 6<sup>th</sup> Street, and McGee Avenue. She advised this location was the epicenter for former Negro slaves coming to the large city, Apopka, seeking to buy land to farm, to start businesses such as saw milling, agriculture, turpentine distilling, railroads and construction. She said Lindsey and Sarah Mead moved to Florida from Georgia at the urging of Mrs. Mead's sister who was a successful business owner in Jacksonville, stating that Apopka would be a great place because of its rich farm land. Sarah Mead would operate a commissary and rental housing for newcomers. Michael Gladden, Sr. came through Mead's Bottom to where his location on 9<sup>th</sup> Street which later became Michael Gladden Blvd. She identified the properties where Mead Bottom was located, near Martin Pond and reiterated she is requesting consideration as the development of a Town Center in this location that there be a designated area for a historic marker honoring and remembering those individuals who came through the Mead's Bottom.

Michael Heaton spoke regarding the intersection of Lester Road and Rock Springs Road with regards to the drainage divot in that area. He also expressed concerns of speeding on Plymouth-Sorrento Road and requested the speed limit be reduced to 45 mph.

**ADJOURNMENT** – There being no further discussion, the meeting adjourned at 11:18 p.m.

\_\_\_\_\_/s/\_\_\_\_\_  
Joseph E. Kilsheimer, Mayor

ATTEST:

\_\_\_\_\_/s/\_\_\_\_\_  
Linda F. Goff, City Clerk