

## **CITY OF APOPKA MINUTES**

Minutes of the City Council Meeting held on April 4, 2023 at 1:30 PM, in the City of Apopka Council Chambers.

Present:

- Mayor Bryan Nelson
- Commissioner Kyle Becker
- Commissioner Nick Nesta
- Commissioner Alexander Smith
- Commissioner Diane Velazquez
- City Administrator, Edward Bass (Absent)
- City Attorney, Michael Rodriguez

### **INVOCATION & PLEDGE OF ALLEGIANCE: Commissioner Smith provided the**

**Invocation and led in the Pledge of Allegiance. Fact of the Day:** On April 3, 1860, the first Pony Express mail, traveling by horse and rider relay teams, simultaneously left St. Joseph, Missouri, and Sacramento, California. Ten days later, on April 13, the westbound rider and mail packet completed the approximately 1,800-mile journey and arrived in Sacramento, beating the eastbound packet's arrival in St. Joseph by two days and setting a new standard for speedy mail delivery. Prior to this, mail was delivered by ship or stage coach, which could take anywhere from a month to several months. Although ultimately short-lived and unprofitable, the Pony Express served the mail-service needs of the American West in the days before the telegraph or an efficient transcontinental railroad and eventually lead the way for a more economical postal system.

### **EMPLOYEE RECOGNITION**

1. Service Pin Awards – City Employees

**Wanda Acuna** and **Zandra Balkcom**, of Human Resources, recognized City employees and presented them with certificates for the service to and time of employee with the City of Apopka.

### **PROCLAMATION**

1. Art and Foliage Festival Weekend Proclamation presented to the Apopka Woman's Club  
Presented by: Mayor Nelson

### **PRESENTATION**

1. Fire Safety Training Update  
Presented by: Chief Sean Wylam

**Chief Sean Wylam** started off with an update on some of their NFPA standards; first is 1583, which is the Health and Related Fitness Program. Engineer Cody Bennett has completed the required training to become the Fire Department's Health and Fitness Coordinator. They will also be sending two department members to the ISSA Personal Training Course to become Peer Fitness Trainers. Once they are certified they will assist Engineer Bennett with managing their health and related fitness programs. Also, they recently offered an Ariel Operations Class, in which twenty-four firefighters from the City of Apopka and Winter Garden participated in. This was a forty-hour, hands-on training. This training was completed by a FDIC instructor. A Pediatric Trauma Training and Air Care Training also took place, recently. For facilities, a mold and air quality tests were done on Stations 1,2,3 and 4; results are still pending. He and staff broke down all 300+ key recommendations from the Gannon Report and how to accomplish each recommendation, who will need to be involved, time length to meet the goal, etc.

**Commissioner Nesta** asked that when the mold and air quality tests results are revealed that we act on it immediately.

**Commissioner Velazquez** thanked Chief Wylam for the update.

2. Welcome Miss Apopka 2023  
Presented by: Kristie Funke and Mayor Nelson

**Kristie Funke** introduced Miss Apopka 2023 Sarah Sarver.

**Sarah Sarver** thanked the City staff, departments, council, and community for the support and her involvement in different community events. She also gave an overview of her social impact initiative: Dreams Come True Through You.

3. Transportation Impact Fee Update Demonstrated Need  
Presented by: Pam Richmond and Mike Woodward, Kimley Horn Associates

**Pam Richmond, Transportation Coordinator**, stated that the City is updating the Transportation Impact Fees. **Mike Woodward, Transportation Engineer of Kimley Horn Associates**, stated that impact fees is a one-time fee that is collected from new developments, that is only used for capitol costs. They get assessed the different developments based on the number of units or the square footage; location does not matter. It will change depending what type of development it is. The City can provide credits if a developer builds a new road. Impacts Fees are a necessary funding source if you want to have roadway capacity. The current rates are based on data that was taken in 2005. The rates are currently higher than what they used to be, sometimes 50% higher and because of that, the City must follow the statutory process. First is a notice of the ordinance, which has already occurred, then there are two workshops solely dedicated to that demonstrated needs study, then there are two readings of the impact fee study which

can occur at the regular council meeting. The soonest it could be effective is Just 1<sup>st</sup>. All of this is outlined in Florida Statute 163.31801.

For example, for single-family construction the current rate is approximately \$3,000 per unit and with the proposed rate, a smaller home would be around \$8,000 and a larger home would be around \$10,000. There are three categories under the proposed rates. Similarly, a multi-family development would be increasing, as well. The Industrial Park was previously at \$2,630 per 1,000 square feet, but under the proposed rates it is at \$2,300. More information with more in-depth details will be provided in the public workshops.

*A copy of this presentation is available, in the city Clerk's Office, upon request.*

**Commissioner Nesta** asked what is the recommendation for assessing fees, moving forward and **Pam Richmond** stated that they've talked about indexing a certain increase every year or we can plan to update every five years and **Mike Woodward** stated that five years is typical, at least to look at. It is not a necessity, but you can make it a point to check every five years, to see if you need to go through this process.

**Commissioner Becker** asked if the cost structure is anchored to what we want the community to look like. **Mike Woodward** stated that, this is purely based on roadway capacity; it is all data driven.

**Mayor Nelson** stated that we are monitoring the legislation to make sure that we meet the deadline, if it ends up passing.

## APPROVAL OF MINUTES

1. Regular Council Meeting Minutes of March 15, 2023.
  - a. **Mayor Nelson** asked if there were any changes, additions or subtractions.
  - b. Hearing none, he asked for a motion to approve the two sets of minutes.
  - c. **Motion** by **Commissioner Smith** and seconded by **Commissioner Becker** to approve the Council Meeting Minutes of March 1, 2023.
  - d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

## AGENDA REVIEW

**Michael Rodriguez, City Attorney**, stated that for the Closed-Door Executive Session, in the agenda we need to strike that there will be a court reporter present and we also need to strike the final sentence; this is an erroneous reference to Section 286.011, this is a meeting pursuant to 447.6051, which is the only statute that 100% exempts from sunshine. There is no transcript and the discussions that are part of the collective bargaining are exempt from public records inspections under Chapter 119.

## PUBLIC COMMENT

**Sandra Lawson, with the Small Business Administration (SBA) - Office of Disaster and Resiliency**, stated that they are in Florida working Hurricanes Ian and Nicole. She stated that applications are still open for small business that loss business, as a direct result of either Hurricane Ian or Nicole. For Hurricane Ian the applications are open through June 29<sup>th</sup> and for Hurricane Nicole they are open through September 13<sup>th</sup>.

**Albert McKimmie, of 3603 Golden Gem Road**, expressed his concern with the lack of transparency within the Administration and bias shown against Gannon Services, by the City Attorney.

**Dennis New, of 105 W. Magnolia Street**, expressed his disappointment in various issues around the city, including, but not limited to the Closed-Door Executive Session, which is on the agenda for today's meeting, one of the current RFP's, the lack of hiring a new Fire Chief, etc.

**Michael Duran, of 11504 Almo Ct**, expressed his disappointed with the current RFP for the Fire Department. He stated that the RFP is written in such a way that the City seems to be interfering, tampering, and 'stacking the deck.' He also expressed his opinion on needing new leadership at the Fire Department; such as a new Fire Chief and a Change Manager.

**Rod Love, of Landing at Rock Springs**, addressed the vote against the approving of the rezoning of the M.A. Board Street property, for developing affordable housing. He stated that this project is not new and the City Administrator was given approval to move forward with negotiations, several months ago, during a council meeting. He stated that Commissioner Becker and Commissioner Velazquez both sat on the council when this was previously discussed and sat and participated on the task for and this project is also in that report. He asked the council to reconsider and reverse their decision on affordable housing and approve the rezoning.

**Leroy Bell, of 2308 Blue Meadows Ct**, expressed is concerns of needing a parking lot at the Billy Dean Center.

**Pastor Richard King, 1534 Palm Stone Drive**, stated that he sat in a meeting when the council voted for the property on M.A. Board Street to be used for affordable housing, then he heard that the council refused to rezone the property for affordable housing. He questioned the council on if they are saying that parking is more important that affordable housing. He stated that we are in a crisis and people need homes.

**Dr. O** brought in her tax bill for Apopka City Limits and another for South Apopka and asked for clarification on the effect of the added millage. She asked where the millage will be added, exactly. She also stated her disappointment with the lack of communication with city officials and staff.

**Marilyn Lawrence Barnes** asked the council to not waive affordable housing, for a parking lot, in regards to the property on M.A. Board Street.

**Pastor Hezekiah Bradford, of 573 Smokemont Ct**, invited everyone to the Mayor's Prayer Breakfast on the last Thursday in May. He went on to state that the most important thing that

needed in South Apopka is affordable homes; he stated that it makes the community more valuable. He asked the council to revisit that decision.

**Rod Olsen, of 3156 Rolling Hills Lane**, gave his opinion on mental health assessments/trainings for first responders, he also voiced is disappointed in the field conditions at the Northwest Complex. He also stated that Apopka Teams (home teams) should have priority of using the fields. Lastly, he spoke on the rapid development in Apopka and the need for it to be 'paused.'

**Sylvester Hall, of 3091 Rolling Hills Lane**, expressed his concern with too many good people standing by and not doing or saying anything when bad things happen. He went on to discuss South Apopka and affordable housing; he stated that there is plenty of area in South Apopka for affordable housing.

**Naret Teran, of 915 Dartmouth Street**, stated that he is a former general employee for the City of Apopka, where he worked 8.5 years and was also the Vice Chair of the General Pension Board. He stated that he was terminated and the reasons for this termination are untrue; therefore, they do not constitute cause. He expressed that the Public Service Department has become a hostile work environment. He stated that the employees should be protected from untrue statements and for the record, for his reputation, he was terminated because of one man's recklessness. He stated that his supervisor openly objected to his termination and now he believes, because of that, he is at great risk.

**David Hoffaman, of 3619 Tayside Ct**, spoke on public schools in America.

**Nadia Anderson, of 34 S Park Ave**, spoke on affordable housing and workforce housing. She is the broker owner of Prestige Realty Consultants and the Program Director over a HUD Counseling Agency, in Apopka.

**Commissioner Becker** stated that at the March 1<sup>st</sup> meeting, when we did the first reading of this piece of business was for land use change on a piece of City owned property. The packet did mention the Ministerial Alliance and the potential use for that property, but the business at hand was to change the land use and density. There is no commitment; that is the point of having a first and second reading, so that you can have time to look at it a little further. At the last meeting when we voted against this land use change, we did not vote down housing, we voted down land use change. During those proceedings our Parks & rec staff and our Mayor talked about the need for parking for that facility, so we must assume that staff who makes these decisions know what they are talking about. We only own one piece of property: the park itself and the property in question. There were also representations made that if we were to go that route, putting housing on that piece of property, that staff was exploring parking options of potentially acquiring land from Quest, Inc. to the north. By the time that we had that he stated that he thought in good faith that those conversations would have happened, but those conversations did not happen. The feedback that we got from staff and the best use that we saw fit was a parking lot, for the park and the Billy Dean Center. He stated that to say that the council does not have a passion for affordable housing is a misrepresentation of their feelings.

**CONSENT (Action Item)**

1. Execute release of Code Enforcement Lien - 580 Swallow Court, Apopka, Florida
2. Authorize the Mayor to sign an interlocal agreement between City of Apopka and City of Winter Park for the use of Apopka's Firearms range.
3. Approve the City's submittal of an Application for Utility Permit from Central Florida Expressway Authority.
4. Authorize the Police Department to expend funds from Law Enforcement Trust fund to purchase a narcotics canine.
5. Authorize a donation to AHS Consortium of Scholars from State Law Enforcement Trust Fund.
6. Authorize a donation to Wekiva High School Academy of Culinary Arts from the State Law Enforcement Trust Fund.
7. Award contract for ITB 2023-A-06: Vick Rd. Wastewater System Force Main Upgrade.
8. Award contract for ITB 2023-A-26: Alonzo Williams Park Expansion Construction of Fitness Trails & New Parking
9. Approve the Kelly Park Multi-Family Phase I - Plat.
10. Approve the Winding Meadows North - Plat.
11. Authorize the execution of piggyback contracts for fiscal year 2023. Vendor: Florida PPE Services LLC

- a. **Mayor Nelson** asked if anyone had any questions about any of the items on Consent.
- b. Hearing no additional questions or comments, he asked for a motion to approve the eleven (11) items on Consent.
- c. **Motion by Commissioner Nesta** and seconded by **Commissioner Smith** to approve the eleven (11) items on Consent.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

#### **BUSINESS (Action Item)**

1. Authorize the City Administrator to sign Resilient Florida Vulnerability Assessment Grant #22PLN16.  
Presented by: Richard Earp

**Richard Earp, City Engineer**, stated that the Resilient Florida Grant Program is a program throughout the entire State of Florida, looking at sea level rise, for those along the coast and changes in long-term rainfall patterns, throughout the entire state. The grant does not have a cost share match, it will be funded entirely by the Florida Department of Environmental Protection. The grant amount is \$100,000 and the recommended motion is to authorize the City Administrator to sign the Resilient Florida Vulnerability Assessment Grant.

**Commissioner Velazquez** asked how will be implement this and who will oversee it. **Richard Earp** stated that he will oversee it with Dr. Jackson. DEP will oversee it and we will have quarterly reports; this is the first step to get through.

*A copy of the presentation is available, in the City Clerk's Office, upon request.*

- a. **Mayor Nelson** asked if there are any questions or comments from the public or council.

**Dennis New, of 105 W Magnolia Street**, stated that this grant is a good thing, but he questioned if it will be accepted or contested.

- b. Hearing no additional questions or comments, he asked for a motion to authorize the City Administration to sign Resilient Florida Vulnerability Assessment Grant #22PLN16.
  - c. **Motion by Commissioner Nesta** and seconded by **Commissioner Velazquez** authorize the City Administration to sign Resilient Florida Vulnerability Assessment Grant #22PLN16.
  - d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.
2. Assignment and Assumptions of License Agreement  
Presented by: Pam Richmond

**Pam Richmond, Transportation Coordinator**, stated that we must have this agreement before we can touch their right-of-way. It is \$18,750 and it is our responsibility to pay it.

- a. **Mayor Nelson** asked if there are any questions or comments from the public or council.
  - b. Hearing no additional questions or comments, he asked for a motion to approve the Assignment and Assumptions of License Agreement.
  - c. **Motion by Commissioner Smith** and seconded by **Commissioner Nesta** approve the Assignment and Assumptions of License Agreement.
  - d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.
3. Major Development Plan - 3716 Hogshead Road  
Owner(s): Laurel Bodega, LLC c/o Shawn Casey  
Applicant(s): Dave Schmitt Engineering, Inc. c/o Dave Schmitt, P.E.  
Location: 3716 Hogshead Road  
Project: 2.99 acres; 30,080 square feet of light industrial use(s)  
Project Manager: Jim Hitt

**Jean Sanchez, Planning Manager**, stated that the applicant has submitted a Major Development Plan for an industrial warehouse building, located north of Hogshead Road and west of Hermit Smith Road, approximately 2.99 acres in size. The building totals 30,080 square feet in area and with a proposed maximum height of 28.5 feet. While 61 parking spaces are required, the applicant is proposed 75 parking spaces with four accessible spaces. The applicant proposes 31% of open space, that includes a jogging path around the stormwater pond with Bald Cypress trees on the southern area of the project.

The rest of the project area is embellished with Live Oak, American Elm and Crepe Myrtle trees and meets the landscaping requirements of the Land Development Code. The DRC recommends approval and the Planning Commission, at its meeting on March 14, 2023, unanimously recommended approval of the Major Development Plan.

**Commissioner Velazquez** commended the applicant on the 31% open space.

- a. **Mayor Nelson** asked if there are any questions or comments from the public or council.
  - b. Hearing no additional questions or comments, he asked for a motion to approve Major Development Plan – 3716 Hogshead Road.
  - c. **Motion by Commissioner Velazquez** and seconded by **Commissioner Nesta** to approve Major Development Plan – 3716 Hogshead Road.
  - d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.
4. Major Development Plan - Apopka Acorn Mixed-Use  
Owner(s): Ace Property, LLC  
Applicant(s): Lam Civil Engineering. c/o Quang Lam, P.E.  
Location: 447 Alabama Avenue  
Project: 2.99 acres; 19 multi-family units and 28,020 square feet of commercial use(s)  
Project Manager: Jim Hitt

**Jean Sanchez, Planning Manager**, stated that the property is located at 447 Alabama Ave. The Apopka Acorn Mixed Use– Major Development Plan (MDP) proposes the development of commercial and multi-family uses. The applicant details live-work dwellings with 28,020 square feet for commercial uses such as professional office, retail shops and personal establishments on the ground floor and 19 multi-family units on upper floors. The proposed building height 40 feet while the maximum permitted height is 75 feet. The MDP also illustrates 0.293 acre of passive open space while, 0.09 acre is 40 required. In addition to an opaque wall, Southern Live Oaks and Crape Myrtles line the southern boundary of the project as a buffer to the existing single-family residential use on the south. The DRC recommends approval and the Planning Commission, at its meeting on March 14, 2023, unanimously recommended approval of the Major Development Plan.

**Commissioner Nesta** asked if each unit has a balcony, in the residential portion of this project and asked if it is a requirement. **Jean Sanchez** stated that it is encouraged, but not required. **Commissioner Nesta** asked if they must have any type of amenities for the residential use and **Jean Sanchez stated** yes, but they don't meet the threshold for the number of units.

- a. **Mayor Nelson** asked if there are any questions or comments from the public or council.



**Dennis New, of 105 W Magnolia Street**, stated that he believes the entire building is 28,000 square feet and asked what is the commercial portion and the response was 8,850. He also stated that to the south of here is where they are going to put in the subsidized housing apartments. He stated that the road on Alabama Ave is barely wide enough for two vehicles. He asked where the kids will go to school, because the surrounding schools are all at capacity and have portable buildings.

**Jean Sanchez** stated that the entire square footage that includes the multi-family is 28,020.

**Quang Lam, of 1320 W Pine Street Orlando, FL (the applicant)**, stated that the total square footage is 28,000 square feet. The Commercial, first floor is roughly about 8,850sq ft and the second and third floors are residential. He stated that the balconies are designed for the larger units, 2bd/2ba and the 3bd/2ba units. There are no balconies for the 1bd/1ba units. There are seven 1bd/1ba units, ten 2bd/2ba units, and two 3bd/2bd. **Commissioner Nesta** asked if these are subsidized or affordable, in any way and **Quan Lam** stated no, they are market rate.

**Commissioner Becker** clarified that if this were to go fully residential, then it would come back before the city Council and the applicant agreed.

**Commissioner Becker** went on to ask for clarification on how the applicant is working with staff on how to address the roadways and infrastructure. **Quang Lam** stated they did a traffic study and presented it to City staff and the study was acceptable with the current traffic flow and traffic patterns. **Mayor Nelson** stated that he believes it is a substandard road, as far as the width, and asked Pam Richmond if that will be addresses. **Pam Richmond** stated that it is not a substandard road; it operates fine and there is sufficient capacity. She stayed that it looks fine, because there is no shoulder or curb and gutter; we have n control over that, it is a county road.

- b. Hearing no additional questions or comments, he asked for a motion to approve Major Development Plan – Apopka Acorn Mixed-Use.
- c. **Motion by Commissioner Nesta** and seconded by **Commissioner Smith** to approve Major Development Plan – Apopka Acorn Mixed-Use.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

5. Major Development Plan - Natura Vista

Owner(s): Natura Vista, LLC

Applicant(s): Cycorp Engineering, Inc. c/o Kim Fischer, P.E.

Location: 4185 West Orange Blossom Trail and 4160 Wilkins Street

Project: 3.09 +/- acres; 46 Multi-family units

Density: 14.89 dwelling units per acre

Project Manager: Jim Hitt

**Michael Rodriguez, City Attorney**, stated that this is an item that was tabled at the first meeting in march, so he asked for a vote to remove it from the table to be considered.

- a. **Motion by Commissioner Velazquez** and seconded by **Commissioner Nesta** to remove this item from the table to be considered.
- b. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

**Jean Sanchez, Planning Manager**, stated that this property is located at the corner of West Orange Blossom Trail and Wilkins Street, approximately 3.09 acres. The Natura Vista - Major Development Plan (MDP) details the construction of 46 multi-family units within the MU-ES-GT (Mixed-Use – East Shore – Gateway) Subdistrict. The project consists of two apartment buildings and two garage buildings with a proposed building height of almost 40 feet. A total 42 of 69 parking spaces are required and the applicant is proposing 98 spaces including four accessible spaces. The MDP shows a side along the project frontage on SR 441, connecting to an internal walkway and a continuation of the sidewalk to the Wilkins Street frontage. The applicant is required to preserve 0.3 acre, 10% of the project area, for active and passive recreation and amenity. The applicant is proposing approximately one acre for a dog park and green space. The SR 441 and frontages are decorated with a mix of Southern Magnolias and Crepe Myrtles. Winged Elms adorn the landscaped parking islands. This project will have two full access connections to Wilkins Street, which is more than adequate to serve a development of this size. The applicant is required to rebuild Wilkins Street and widen slightly so it meets minimum City standards. A right turn lane will be striped on Wilkins Street so the through movement and right turn movement on westbound Wilkins Street are separate lanes. A modified right turn lane will be constructed on US 441 to allow driver wishing to make a right turn on to Wilkins Street to move right out of the lane of traffic while making the turn. A noise study, provided by the applicant, and first provided during the rezoning of these properties were done in 2021 concludes that noises from US 441 and other sources exceed the sounds from the airport. Based on the FAA noise criteria, residential land use is compatible. The DRC recommends approval and the Planning Commission, at its meeting on March 14, 2023, unanimously recommended approval of the Major Development Plan. At its meeting on March 1, 2023, City Council unanimously voted to table the Natura Vista– Major Development Plan to a date certain of April 5, 2023. The recommended motion, today, is to approve the Natura Vista – Major Development Plan.

**Commissioner Becker** asked what is the status interpretation of the noise study. **Jean Sanchez** stated that based on the conclusion of the noise study, residential land use, at least 250ft away from the property line is compatible with the existing use.

- a. **Mayor Nelson** asked if there are any questions or comments from the public or council.

**Gregory Kelsoe, of 1321 Apopka Airport Rd Hngr 19**, expressed is opposition of this development, based on the noise study conducted.

**Michael Rodriguez** stated that the problem with the way the ordinance is drafted is that these are regulations that are limited to the Orlando Apopka Airport Zoning District. Usually in other municipalities and areas, the way they are handled is through means of an overlay, so that there are additional use restrictions for properties that surround the area. It is the responsibility of the owner of the airport to perform the noise study and if they do not then you default down to the buffer area that is half the distance of the length of the runway. The way that this code is drafted, that buffer requirement is solely limited to the airport zoning district, so there is an issue on whether we begin to infringe on the property rights of the neighboring parcels, imposing a restriction that is in the airport zoning category upon external zoning categories. So, the property owner here has developed their own noise study to show that noise is not an issue and will not raise an issue.

**Commissioner Smith** asked if the airport is willing to do the noise study and **Gregory Kelsoe** stated no.

**Dave Croson, of 1321 Apopka Airport Rd Hngr 50**, addressed the question, from the previous meeting, on where this airport is a public use airport. He stated that it is. He also pointed out that runway length is 1,993ft and without the noise study that excludes residential development. This property is 500ft or less from the runway. He recommended that the council apply the City Code and the Florida Statute and hold out for a 'real' noise study to be done.

**Commissioner Nesta** asked if the council were to request that they apply a deed restriction, waiving the rights to complain at any capacity, would the airport be agreeable to that and **Dave Croson** stated no, there should be no residential development next to the airport.

**Mary Solik, of 121 S Orange Ave Ste 1500 Orlando, FL (council for Natura Vista)**, stated that she would like to make sure that the Major Development Plan, Noise Study, Staff Report, and the Zoning & Future Land Use Maps are in the record. The subject property has a future land use designation of mixed use, which permits residential development, standalone multi-family residential development. It had a mixed-use future land use designation prior to the adoption of the airport zoning district that is in the code. The Major Development Plan just implements the permitted use and the permitted use of multi-family, on this property was established when the council approved the rezoning in December of 2021. The State Code Section 33303 was adopted in 2016, long after this property had a mixed-used future land use designation and it was a requirement for local governments to adopt airport zoning regulations. The statute that the opponents keep referring to does not regulate land use, this statute tells local governments that they must adopt regulations and the language that they refer to about runway distances and noise studies is listed in there as minimum requirements for the local regulations that must be adopted to keep local governments in compliance

with the state statute. It is not an additional level of land use regulations on property within your jurisdiction.

**Commissioner Becker** stated that section three is our zoning district within our land development code, and the one sited previously is Orlando Apopka Airport District which this is not that zoning district.

**Commissioner Nesta** asked the City Attorney if he agrees with everything that was stated by Mary Solik and **Michael Rodriguez, City Attorney**, stated yes.

**Commissioner Nesta** asked the applicant would they be willing to have a deed restriction, waiving their rights to complain about the noise and **Mary Solik** responded some type of covenant recorded on the document, yes. **Michael Rodriguez** stated that it would be a condition of approval that the applicant prepare a restrictive covenant to be recorded. Commissioner Nesta stated that he would like both, a restrictive covenant and in the lease agreement. **Michael Rodriguez** stated that the restrictive covenant be made and in the lease agreement it should state that this property is subject to a restrictive covenant.

- b. Hearing no additional questions or comments, he asked for a motion to approve the Major Development Plan – Natura Vista with the added condition of approval that the owner would be required to record a restrictive covenant, that waives noise claims generated by the neighboring airport and would require a notice requirement in all lease agreements. is to record a restrictive covenant on the property that waives noise claims and requires a notice requirement in the lease.
  - c. **Motion by Commissioner Nesta** and seconded by **Commissioner Smith** to approve the Major Development Plan – Natura Vista with the added condition of approval that the owner would be required to record a restrictive covenant, that waives noise claims generated by the neighboring airport and would require a notice requirement in all lease agreements. is to record a restrictive covenant on the property that waives noise claims and requires a notice requirement in the lease.
  - d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.
6. Major Development Plan - Northstar Logistics Center II  
Owner(s): CLPF Cadence Northstar Phase II, LLC c/o Todd Watson, Manager  
Applicant(s): Florida Engineering Group c/o Sam J. Sebaali, P.E.  
Location: 735 and 815 Johns Road  
Project: 26.49 +/- acres; 240,517 square feet in area  
Project Manager: Jim Hitt

**Michael Rodriguez, City Attorney**, stated that this is an item that was tabled at the first meeting in march, so he asked for a vote to remove it from the table to be considered.

- c. **Motion by Commissioner Nesta** and seconded by **Commissioner Velazquez** to remove this item from the table to be considered.
  - d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.
7. **Jean Sanchez, Planning Manager**, that this property is located on the northwest corner of Johns Rd and SR 451, approximately 26.4 acres in size. The buildings total 240,517 square feet in area and are proposed to be single story with a maximum height of 45 feet. While 79 parking spaces are required for both buildings, 271 parking spaces are proposed by the applicant. 44 In addition to the building setback of 131 feet, there is an existing opaque fence, as well as, proposal of Southern Magnolia, Winged Elm, Shumard Oak, and High-Rise Live Oak trees adjacent to Lakeside Residential Subdivision. The applicant meets the open space requirement with the proposal of a mulch trail along the top of Pond 1, the easternmost portion of the project area, which connects to the pedestrian walkway at the front of the site. The site is designed in accordance with the requirements and intent of the Land Development Code. Two entrances are proposed with right turn lanes to serve the project from Johns Road on the south side of the project site. The applicant conducted a community meeting on March 20, 2023, with the surrounding property owners, within 300ft of the property boundaries. The DRC recommends approval and the Planning Commission, at its meeting on March 14, 2023, unanimously recommended approval of the Major Development Plan. At its meeting on March 1, 2023, City Council unanimously voted to table the to a date certain of April 5, 2023, pending a community meeting. The recommended motion, today, is to approve the Major Development Plan - Northstar Logistics Center II.
- a. **Mayor Nelson** asked if there are any questions or comments from the public or council.

**Stephanie Richardson, of 925 Sabal Breeze Lane**, stated that she is a new resident of Apopka. When she moved she did know that there was an abandoned warehouse on this development site; however, there was not much activity when she built her home. She stated that she was not informed of this development, yes it was published on the website, but she received no individual letters from the developer or the City indicating that this would take place. She continued to express her opposition for this development, due to but not limited to traffic flow and the type of tenants for this development. She asked the council to deny this development and suggested for this space to be a preserve.

**Tim Ford, of 1413 Waterview Ridge Circle**, stated that the developer did not hold a community meeting; the community held their HOA meeting and invited the developer in. The charge for the VFW came out of the HOA's budget, at \$100/hr. for four hours. After the developer was invited to the meeting, they [the developer] sent out a letter stating that they will be holding a meeting. He stated that he is not opposed to the property being developed, but he does not believe that the developer wants to meet them. He went on to state that there are still major questions that have not been answered. He expressed his concerns with the

road infrastructure, the intersection, congestion, emergency evacuation routes, the bridge, etc.

**Pam Richmond, Transportation Coordinator**, stated that she believes the bridge was already looked at, but she would have to confirm that. As for the road, there is capacity on that road. She stated that the City tried to make intense improvements made to the intersection and the County restricted what they could do. The intersection is getting a little congested, but it is not failing. This project is a very low trip generator.

**Eric Lovey, of 907 Lakeside Estates Drive**, stated that his property backs up to Johns Road and will be across the street from the proposed development. He stated that he has questions concerning noise, hours of operations, increased traffic, etc.

**Lenox Russell, of 1130 Harrison Drive**, stated that they were deceived into thinking that another residential community could be their neighbors. He also expressed his concerns with the number of cars that the proposed development brings in. He stated that his biggest concern is the single egress.

**Sam J. Sebaali, of Florida Engineering Group – 5127 S Orange Ave Orlando, FL**, spoke on behalf of the developer. He stated that his client purchased this property with the intent to develop it, in accordance to the current zoning, which is industrial zoning. The property had an industrial use, which pre-dated the existing residential community. They have complied with all the code requirements, when developing near a single-family residential property. They have provided significantly more landscaping than the code requires on both the west and north sides. He went on to state that they did proper noticing, as outlined in City code, for a community meeting, although they were not required to. He addressed the concern of hazardous material and stated that there will be done on the property; this will be a clean light industrial use, consistent to the code. This use is a very low trip generator. They have provided two right turn lanes into the community; therefore, anyone turning into this property will not impede with any traffic going into the residential communities. As for operating hours, it will be like any other business, a typical eight to five. They are not restricting hours and will comply with the City code.

**Commissioner Becker** stated that there is a road impacting twenty-five homes, which directly abuts the property owners there. The egress on the western boundary of the property will face a traffic jam, with any two-car stacking; he stated that the flow just does not make sense to him at all. He also stated that the layout seems like it would be punitive to the existing homeowners to the west. He went on to ask what are the assumptions baked into the traffic study to assume that the numbers that are within the report, will be reflective of reality? **Sam J. Sebaali** stated that, in regards to the driveway on the west side, the options would

be to put the driveway or put the parking. The driveway is 25ft away and there is the fence, landscaping, and a landscape patch, so there is a significant amount of buffering on the westside. The other options would be the parking or the building; however, we feel the driveway is the least intrusive. **Commissioner Becker** said that he feels that having just a parking lot would be the better option. **The Traffic Engineer**, for the development, stated that the traffic study showed 418 daily trips, 41 AM peak hour trips, and 43 PM peak hour trips. The traffic impact study guideline requires that analysis to be done for the peak hour conditions only, which is the worst of the peak hours: the PM peak hour, 4pm – 6pm. That is how the traffic study was preformed and it was viewed and approved by the City.

**Commissioner Smith** asked what would it take to move the ponds to the back and shift the buildings forward? **Sam J. Sebaali** stated that from a drainage standpoint, the ponds are exactly where they need to be.

**Commissioner Nesta** echoed the comments and concerns of the council and the residents. He feels that the development needs more than trees as a buffer.

**Sheryl Gamble, of 1247 Hillcrest View Loop**, stated that the homes in her subdivision range from \$400,000 to almost \$1 million dollars. She voiced her disappointment with an industrial development backing up to her home.

**Mayor Nelson** asked staff to think creatively on how this development can have the least impact on the roads. He also stated that they need to start with a noticed meeting, at the VFW. **Pam Richmond** stated that we [the city] can schedule a meeting. **Michael Rodriguez** suggested to table this item to the first meeting in May. The community asked for it to be at an evening council meeting.

- b. **Motion by Commissioner Nesta** and seconded by **Commissioner Smith** to table this item to the May 17, 2023 Council Meeting, with the expectation that there will be a community meeting prior to that.
- c. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

## **PUBLIC HEARINGS/ORDINANCES/RESOLUTION (Action Item)**

1. Ordinance No. 2998 - First Reading - Comprehensive Plan - Small-Scale Future Land Use Amendment - CFX Property  
Owner(s): Central Florida Expressway Authority  
Applicant(s): Central Florida Expressway Authority  
Location: Southwest corner of Peterson Road and SR 429  
Project: 6.0 acres  
Density/Intensity: 0.60 Floor Area Ratio Maximum  
Project Manager: Jim Hitt

Jean Sanchez, Planning Manager, stated that the proposed Future Land Use designation of Industrial is compatible with the area because adjacent properties to the north, west and south have Future Land Use designations of Industrial. The applicant is also requesting to amend the zoning districts of the subject properties from County A-1 (Citrus Rural) zoning districts to I-L (Light Industrial) zoning district, which is consistent with the proposed Industrial future land use designation. The DRC recommends approval and the Planning Commission, at its meeting on March 14, 2023, unanimously recommended approval. The recommended motion is to accept Ordinance No. 2998 and hold it over for second reading and adoption, on April 19, 2023.

- a. **Mayor Nelson** asked if there are any questions or comments from the public or council.
- b. Hearing no additional questions or comments, he asked for a motion to accept Ordinance No. 2998 and hold it over for second reading and adoption.
- c. **Motion by Commissioner Nesta** and seconded by **Commissioner Becker** to accept Ordinance No. 2998 and hold it over for second reading and adoption.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

- 2. Ordinance No. 2999 - First Reading - Change of Zoning - CFX Property  
Owner(s): Central Florida Expressway Authority  
Applicant(s): Central Florida Expressway Authority  
Location: Southwest corner of Peterson Road and SR 429  
Project: 6.0 acres; Change of Zoning from County A-1 (Citrus Rural) Zoning District to I-L (Light Industrial) Zoning District  
Project Manager: Jim Hitt

**Jean Sanchez, Planning Manager**, stated that this is the companion application for the previous item. The subject properties are approximately a total of 6 acres in size. The subject property is currently vacant but are adjacent to industrial uses. The I-L (Light Industrial) District is compatible with the surrounding area due to I-L zoning districts found on the north, west and south of the subject property. The DRC recommends approval and the Planning Commission, at its meeting on March 14, 2023, unanimously recommended approval. The recommended motion is to accept Ordinance No. 2998 and hold it over for second reading and adoption.

- a. **Mayor Nelson** asked if there are any questions or comments from the public or council.
- b. Hearing no additional questions or comments, he asked for a motion to accept Ordinance No. 2999 and hold it over for second reading and adoption.
- c. **Motion by Commissioner Nesta** and seconded by **Commissioner Velazquez** to accept Ordinance No. 2999 and hold it over for second reading and adoption.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.



3. Ordinance No. 3000 - First Reading - Comprehensive Plan - Small-Scale Future Land Use Amendment - 924 Lake Drive  
Owner(s): Bhurasingh Keshia Warren  
Applicant(s): Lowndes Law Firm c/o Rebecca Wilson, Esq.  
Location: 924 Lake Drive  
Project: 0.19 acre  
Density/Intensity: 15 dwelling units per acre; 1.0 floor area ratio:  
Project Manager: Jim Hitt

**Jean Sanchez, Planning Manager**, stated that this property is located north of Apopka Blvd, south of Lake Drive, west of Tilden Ave. The existing future land use is residential low permitting up to five dwelling units per acre. The applicant is requesting to change the northern portion of the property to mixed-use, consistent with the parcel on the north and the current zoning district designation of MUD Downtown. This permits up to 15 dwelling units per acre and 1.04 aerial ratio. The DRC recommends approval and the Planning Commission, at its meeting on March 14, 2023, unanimously recommended denial. The recommended motion is to accept Ordinance No. 2998 and hold it over for second reading and adoption.

**Rebecca Wilson**, on behalf of the applicant, stated that this request is associated with the development of the apartments adjacent to this property. She stated that on yesterday they re-submitted their MDP for 192 units, so they no longer need the three additional units, in which this future land use map amendment is associated with. Based on that, she withdrew their request. They also lowered the number of units to move forward expeditiously with staff. The MDP that was submitted yesterday, conforms with the development agreement in all ways.

**Michael Rodriguez, City Attorney** stated that since this item is withdrawn it is removed from the agenda and council shall move forward to the next item.

4. Resolution 2023-08 - Determination the Necessity and Public Purpose, and Authorizing the Acquisition of Property by Eminent Domain or Through Negotiation for Future Apopka Public Safety Building.  
Presented by: Michael A. Rodriguez

**Michael Rodriguez, City Attorney** stated that this is the last property remaining, for the City to complete its public safety building. We have been trying to negotiate with the property owner, we sent a last offer and have not received an answer.

- a. **Mayor Nelson** asked if there are any questions or comments from the public or council.
- b. Hearing no additional questions or comments, he asked for a motion to approve Resolution No. 2023-08.
- c. **Motion by Commissioner Smith** and seconded by **Commissioner Nesta** to approve Resolution No. 2023-08.

- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

- 5. Resolution No. 2023-10 - FY22/23 Budget Amendment #11  
Presented by: Blanche Sherman

**Blanche Sherman, Finance Director**, stated that another \$605,000 needs to be added to the budget for the Vick Road project. Next, we need to incorporate the \$100,000 that was awarded from the Resilient Florida Vulnerability Assessment Grant. Next, we need additional funds that will be coming out of our general fund reserves, that are needed to cover expenses associated with Hurricane Ian, for clean up and debris. Lastly, we will incorporate \$72,000 in the budget. These are fees that we have already collected from developers that we differ until it is time to make those improvements to our lift stations. Total amount of the amendment is \$1,770, 732.

**Commissioner Becker** asked when will the appropriations for the Economic Development Department happen and **Blanche Sherman** stated when the position comes for confirmation, we will incorporate that in the budget. **Commissioner Becker** asked why would we have to wait for that and not park the money, as instructed in January, into a fund. **Blanch Sherman** stated that we've created the department, as requested, but it was decided that it would come when the position comes for confirmation and at that time. That'll give us an idea of what that salary will be and how we can allocate those funds within that budget amendment.

- a. **Mayor Nelson** asked if there are any questions or comments from the public or council.
- b. Hearing no additional questions or comments, he asked for a motion to approve Resolution No. 2023-10.
- c. **Motion by Commissioner Nesta** and seconded by **Commissioner Becker** to approve Resolution No. 2023-10.
- d. **Motion carried unanimously**, with Mayor Nelson, and Commissioners Becker, Nesta, Smith, & Velazquez voting aye.

## **CLOSED-DOOR EXECUTIVE SESSION**

*Closed Collective Bargaining Executive Session. Pursuant to Section 447.605(1), Florida Statutes, the City Council will hold a closed collective bargaining executive session to discuss collective bargaining agreement between the City and the Apopka Firefighters Association, Local 5293 International Association of Firefighters. The discussions in this session shall be confined to discuss the proposed collective bargaining agreement between the City and the Apopka Firefighters Association, Local 5293 International Association of Firefighters. In attendance at this meeting will be Mayor Bryan Nelson, Commissioner Nick Nesta, Commissioner Alexander Smith, Commissioner Kyle Becker, Commissioner Diane Velazquez, City Attorney Michael A.*

*Rodriguez, and Special Counsel Jeffrey E. Mandel. The Closed Collective Bargaining Executive Session will be held in the Mayor's Conference Room.*

The Closed-Door Executive Session was held from 6:38p.m. until 8:03p.m. The council meeting resumed at 8:03pm.

## **CITY COUNCIL REPORTS**

**Commissioner Becker** thanked Blanche Sherman for giving an update on the financials. He asked her if she had any concerns regarding the funds and some of the trends and **Blanche Sherman** stated that some of the items are obligations that have not been paid yet, but a PO has been created. **Commissioner Becker** questioned the fee schedule for business tax receipts and stated that he will follow this issue up with Jim Hitt. He went on to state that the leadership in the Fire Department is very disappointing. He stated that he made a motion about three weeks ago and it was never squashed, so he will make the motion again, tonight. He wants the will of this council to be on record, because this is not sustainable. It is time to hire new leadership in the department and move on. **Commissioner Becker** made a motion of no confidence in the Fire Chief. **Commissioner Nesta** stated that he would like to wait until his report to respond to that motion. **Commissioner Becker** stated that the commissioners are being communicated to by former employees and what strikes him is the little reasons that some of these employees are let go. He went on to state that he had an interaction with the City Attorney that was never finished; two months ago, he inquired whether the charter allowed the council to terminate the position of City Attorney, based off the language of the charter and there was a difference in opinion on where or not they were permitted to do so. He went on to address the City Attorney's unprofessionalism when addressing members of the council (himself included) and the public and he stated that he does not have the trust that he needs to have in the City Attorney. **Commissioner Becker** made a motion to relieve the services of Michael Rodriguez, from the City Attorney position, and if he has the same interpretation of the City Charter, that we would seek outside legal council to interpret it, on our behalf. **Commissioner Nesta** asked who do we go to for a second opinion. **Michael Rodriguez** stated that it will just be a second opinion, but that second opinion will not adjudicate the matter. **Commissioner Becker** stated that he thinks we would be better served to go back to contracted attorney, not an in-house attorney.

**Mayor Nelson** stated that he is happy with Michael Rodriguez's performance and the work he has done.

**Commissioner Velazquez** stated that it is not just with the City Attorney, but on the dais, as well. She stated that she does not feel valued by the Mayor at all. She referenced the public comments and the things that are being said. She stated that the Fire Department is lacking leadership and we are not doing anything to change it.

**Commissioner Nesta** stated that what adds to the stress is the fact that we usually have a City Administrator to go to. **Commissioner Velazquez** stated that with the City Administrator being out the Mayor has not set someone in that place, as a go to for

employees and the Commissioners. **Michael Rodriguez** stated that he has raised that issue with the Mayor and the HR Director Joe Patton.

**Commissioner Velazquez** had nothing further to discuss.

**Commissioner Smith** had nothing further to discuss.

**Commissioner Nesta** stated that April 27<sup>th</sup> is the Student Area Awards Ceremony at 6pm at the VFW. The Free Kids Library dedication will be the last week of April. He thanked and gave kudos to the Code Enforcement Department and Officers. He stated that he is sure that the Forest Street property has been cleared and he spoke to Attorney Rodriguez, to get a head nod, that we can go ahead and lease that property to the New Journey Youth Center and that we are all in agreeance. They will be investing from \$300,000 - \$500,000 into this property.

**Commissioner Velazquez** stated that the museum approached her regarding the same building. **Mayor Nelson** stated that we must be careful. We can give people a 5 to 10-year lease, but we do not want to obligate ourselves to a 99-year lease. **Commissioner Nesta** went on to state that we are making no money on Camp Wewa right now and asked what is the goal for Camp Wewa. **Mayor Nelson** stated that we have training going on out there for archery, rock climbing, and one other. He stated that there are opportunities there, but we just need the people to help fill the place. **Commissioner Nesta** stated that we need a clear vision on the property. He went on to discuss the City's investment accounts and suggested moving money to Synovus with a higher interest-bearing account. **Mayor Nelson** stated that all three will be paying at 4.7% as of April 11<sup>th</sup>. **Commissioner Nesta** continued with stating that we pick a date of when the South Apopka Annexation will go on the ballot and work backwards from there. **Commissioner Velazquez** stated that she feels like more education or information needs to be given to the residents of South Apopka. She feels that with each workshop they seem more divided. **Commissioner Nesta** went on to invite the Fire Union President, Alex Klepper, to give a presentation to the Council.

**Commissioner Velazquez** thanked Alex Klepper for the presentation and stated that the council wants to see the Fire Department progress.

**Commissioner Becker** stated that what concerns him is the mentorship program, that was stated as a benefit statement, when the firefighters were sworn in, and to hear that there are no assigned mentors, is disgusting.

**Commissioner Nesta** stated that the presentation was presented to him a few weeks ago. He stated that all this information was in the Chief's hands when everyone was begging him to give details and he did not give them. He stated that made him lose all confidence in him to lead the department. He went on to second Commissioner Becker's motion to relieve the Fire Chief of his duties.

- a. **Motion by Commissioner Becker** and seconded by **Commissioner Nesta** to relieve the Fire Chief of his duties.

- b. **Motion carried 3-2**, with Commissioners Becker, Nesta, and Velazquez voting aye and Mayor Nelson and Commissioner Smith voting nay.

**Commissioner Smith** asked if the bid for the change manager still open and **Michael Rodriguez** stated that the RFP is still open, so we are in a cone of silence.

**Commissioner Becker** stated that he has a second motion that is still on the table and he wants there to be an official second or lack of second and squashed and stated that the vote was for termination of the City Attorney.

- a. **Motion by Commissioner Becker** and seconded by **Commissioner Nesta** to terminate the City Attorney.
- b. **Motion carried 3-2**, with Commissioners Becker, Nesta, and Velazquez voting aye and Mayor Nelson and Commissioner Smith voting nay.

## **MAYOR'S REPORT**

Saturday, April 8<sup>th</sup> – Easter at Camp Wewa: There will be two sessions, the first being from 9: - 11am and the second is 12-2pm and the cost is \$10 per car.

Update on the appropriations request – In the House budget we have \$1.25 million, in the Senate budget we have \$1 million for the Wekiva Springs Aquifer Recharge and Flood Protection. We also have the Apopka Regional Trails Connect, in the Senate budget we have \$2 million dollars, but it did not make it in the House budget.

The street light is now up and running in front of Apopka High School.

Lastly, we all know what Edward has been facing some medical challenges, so we have been looking at an interim, he initially thought that that Finance Director would be the right person, but being in the middle of an audit, her plate is full. The City Attorney suggested Chuck Vavrek, who is our former Police Chief and he has agreed to step in and help facilitate.

## **ADJOURNMENT**

The meeting adjourned at 9:50 p.m.

***All video recordings of City Council Meetings are always posted on the City of Apopka's YouTube page, for viewing.***

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Bryan Nelson, Mayor

Attest: \_\_\_\_\_

CITY OF APOPKA  
City of Apopka CC Meeting Minutes of April 5, 2023

Susan M. Bone, City Clerk

Transcribed by: \_\_\_\_\_

Victoria Parks, Deputy City Clerk