

**MINUTES
CITY COUNCIL
CITY OF ARCADIA
TUESDAY, APRIL 2, 2013
6:00 PM**

The following minutes reflect action items of the City Council of the City of Arcadia. For a verbatim copy of the minutes you may contact City Administration to obtain a copy of the recorded meeting.

CALL TO ORDER, INVOCATION PLEDGE OF ALLEGIANCE & ROLL CALL

The meeting was called to order at approximately 6:00 p.m.

Councilman Fink gave the invocation which was followed by the Pledge of Allegiance.

Arcadia City Council

Mayor Keith Keene
Deputy Mayor Robert Heine
Councilman Robert R. Allen

Councilwoman Alice Frierson
Councilman Joseph E. Fink

Arcadia City Staff

City Administrator Judi Jankosky
City Attorney Thomas J. Wohl

City Recorder Gia S. Lancaster
Captain Matt Anderson

PROCLAMATION

General Aviation Appreciation Month

The City Recorder read the Proclamation for General Aviation Appreciation Month.

CONSENT AGENDA

1. March 5, 2013 City Council Minutes
2. March 19, 2013 City Council Minutes
3. Check Warrant Reports from 03-18-13, 03-19-13, 03-22-13
4. Air-Cadia Flowage and Hanger Report February 2013
5. Special Event Permit and Street Closure -Team Arcadia Car Show

A motion was made by Councilman Fink and seconded by Councilman Allen to approve consent agenda items 2 through 5. The motion carried 5-0.

A motion was made by Councilman Fink and seconded by Deputy Mayor Heine to reconsider the March 5, 2013 minutes due to an error in voting which was corrected and re-submitted to Council for approval. The motion carried 5-0.

A motion was made by Councilman Fink and seconded by Deputy Mayor Heine to approve March 5, 2013 Minutes as corrected. The motion carried 5-0.

DISCUSSION ITEMS

6. Use of Cypress Fire Station for DeSoto County High School, Prom and Homecoming Float Building (City Administrator)

A motion was made by Deputy Mayor Heine and seconded by Councilman Fink to approve the use of the Cypress Fire Station for the DeSoto County High School Prom and Homecoming float building. The motion carried 5-0.

7. County Flush Water Interlocal Agreement (City Administrator)

A motion was made by Deputy Mayor Heine and seconded by Councilwoman Frierson to approve the County Flush Water Intelocal Agreement as presented. The motion carried 5-0.

8. Florida K9 Law Enforcement Memorial (City Administrator)

Council requested that the City Administrator research the legitimacy of the Florida K9 Law Enforcement Memorial.

9. Drinking Water State Revolving Fund Amendment 3 to Loan Agreement DW 140100 City of Arcadia (City Administrator)

A motion was made by Deputy Mayor Heine and seconded by Councilman Allen to approve the Drinking Water State Revolving Fund Amendment 3 to the Loan Agreement DW 140100 as presented. The motion carried 5-0.

10. Amendment 4 to Specific Authorization No. 11 (Hazen and Sawyer)

A motion was made by Deputy Mayor Heine and seconded by Councilwoman Frierson to approve Amendment 4 to Specific Authorization No. 11 as presented. The motion carried 5-0.

RESOLUTION

- 11. RESOLUTION NO. 2013-08; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, REGARDING THE AIRPORT; AMENDING AND RESTATING IN ITS ENTIRETY RESOLUTION NO. 2009-08 AND AMENDING AND RESTATING IN ITS ENTIRETY RESOLUTION NO. 2009-20; ESTABLISHING THE AIRPORT ADVISORY COMMITTEE AND THE PROCEDURES AND RULES GOVERNING SAME; AND PROVIDING AN EFFECTIVE DATE.**

Mrs. Jankosky reviewed the changes reflected in Resolution No. 2013-08. Councilman Fink stated that when he read section 1 (1) it said that the Airport Committee was established to advise the City Administrator. He called different agencies specifically the Florida League of Cities and they had never heard of this type of Resolution and he questioned what would be the purpose of the Committee. Councilman Fink continued that the Airport Committee was designed to advise the Council as to the feel of the citizenry in the area. Mrs. Jankosky replied

that the Resolution was drafted in order to define the duties of the Committee which entails working together on plans for the Airport and ultimately presenting to the Council for review and potential approval. Councilman Fink replied that an advisory committee would not be needed and in addition there would be no constraints of the Sunshine Law. Councilman Fink stated that on February 19, 2013 one of the members of the Airport Committee resigned due to the consternation of the committee and that its useful purpose had passed. He continued that since the City is not willing to change anything at the Airport he felt that the Committee should be placed to rest.

Councilwoman Frierson replied that previously she stated the usefulness of the Airport due to the members by-passing the City Administrator and approaching Council directly. Deputy Mayor Heine stated that he felt that everyone should work as a team and the last meeting he felt was embarrassing and was glad he did not attend. Mayor Keene stated that when the Airport Committee was formed in May of 2009 he was under the impression that the Committee was to advise and he felt that all was getting bogged down in the Sunshine. Mayor Keene continued that many members counseled him on the issues and he felt maybe the duties of the Committee were not spelled out specifically in the previous Resolutions. Attorney Wohl responded to Mayor Keene that the Resolution is permissible and section 5 does not appear to be an addition. Mrs. Jankosky confirmed that section concerning the City Administrator acting as Liaison remains. Attorney Wohl stated that he agrees that the duties were not spelled out in the previous Resolutions. He also said that some Cities do report to the City Administrator or City Manager but it remains up to a final decision by Council.

Councilwomen Frierson stated that the majority of the Committee members are pilots and she believes that knowledge to be valuable. Mrs. Jankosky stated that Council could implement the Resolution with the duties specified and see the progression otherwise the Committee could subsequently be disbanded.

Mr. Michael Moon, Hanson Professionals, stated that he felt Mrs. Jankosky was on the right track with defining the duties of the Airport Committee.

Councilman Fink stated that he did not have a problem with the duties his problem lies with the fact that the Committee would advise the City Administrator rather than the City Council. He continued that the emails that followed the resignations of Committee members were uncalled for and volunteer members should be thanked and not chastised. He added that frankly any abominations should come from the Council. Attorney Wohl replied that the Resolution makes it clear to the Committee their duties and the City Administrator per subsection 5 acts as a liaison to the Committee. Councilman Fink responded that there is a distinct difference between "report to" and "liaison". Councilwoman Frierson asked for a legal opinion regarding voting on this particular Resolution. Attorney Wohl responded that he recommended that she abstain.

A motion was made by Councilman Fink to adopt Resolution No. 2013-08 deleting Section 1(1). The motion died for a lack of a second.

A motion was made by Councilman Allen and seconded by Deputy Mayor Heine to table Resolution No. 2013-08 to the next regular meeting. The motion carried 3-1 with Councilman Fink dissenting and Councilwoman Frierson abstaining.

ORDINANCES

12. ORDINANCE NO. 984; FIRST READING OF AN ORDINANCE AMENDING DIVISION 3 OF ARTICLE IV OF CHAPTER 2 OF

THE CODE OF ORDINANCES OF THE CITY OF ARCADIA BY RENAMING THE TITLE OF CITY RECORDER TO CITY CLERK; DELETING SEC. 2-115 CUSTODY OF CITY FUNDS; DELETING SEC. 2-116 PAYMENT OF CITY FUNDS PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. (City Attorney)

The City Recorder read Ordinance No. 984 by title. A motion was made by Councilman Allen and seconded by Deputy Mayor Heine to approve Ordinance No. 984 at first reading. There was no public comment. The motion carried 5-0.

- 13. ORDINANCE NO. 987; FIRST READING OF AN ORDINANCE AMENDING SECTION 2-95 OF THE CODE OF ORDINANCES OF THE CITY OF ARCADIA BY INCLUDING CUSTODY OF CITY FUNDS AND PAYMENT OF CITY FUNDS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. (City Attorney)**

The City Recorder read Ordinance No. 987 by title. A motion was made by Deputy Mayor Heine and seconded by Councilman Heine to approve Ordinance No. 987 at first reading. There was no public comment. The motion carried 5-0.

- 14. ORDINANCE NO. 988; FIRST READING OF AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA; CREATING SECTION 102-47 OF THE CITY OF ARCADIA CODE OF ORDINANCES; PROVIDING FOR THE IMPOSITION OF LIENS FOR DELINQUENT UTILITY ACCOUNTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. (City Attorney)**

The City Recorder read Ordinance No. 988 by title. A motion was made by Deputy Mayor Heine and seconded by Councilman Allen to approve Ordinance No. 988 at first reading. Mr. Roger Dall stated that with the \$25.00 late fee already in place it would make sense to impose the utility liens under the name of the owner. Mr. Gary Frierson stated that not all utility bills are small amounts and it may take six to eight months to evict a tenant. Councilwoman Frierson stated that she felt enacting the Ordinance would curb commercial growth in the City. Councilman Fink asked if utility bills could be based upon a certain credit rating. Attorney Wohl replied that credit ratings are often subjective. Councilwoman Frierson asked Attorney Wohl if it was proper for her to vote on this subject matter. Attorney Wohl responded that there is no special gain and the Ordinance follows what the statute requires. The vote on the motion carried 5-0.

COMMENTS FROM DEPARTMENTS

15. City Marshal – March 2013 Report in packet

16. Attorney
a. Stonegate Utilities

Attorney Wohl updated the Council on the past due utilities for Stonegate Apartments in the amount of \$28,000. He explained that recently the property changed hands to a Donna Kessler. He stated that per the recent Ordinance adopted, Stonegate is required to hook up to

City water. Mrs. Jankosky confirmed Stonegate is using City sewer however not paying the sewer bills. Attorney Wohl stated a possible solution would be to file an injunction against the owner or file a lien on the property through the Ordinance that will potentially be adopted at the next meeting. Attorney Wohl stated a 15 - day notice would be required to the tenants prior to any utility shutoffs. Mayor Keene reminded that Stonegate facility was served by the City previously and they were able to disconnect and connect to their own well system.

A motion was made by Deputy Mayor Heine and seconded by Councilwoman Frierson to immediately file an injunction against the owner requiring hookup to City water and the proper notice to the tenants. The motion carried 5-0.

b. Air-Cadia Insurance Payment

Attorney Wohl summarized that Air-Cadia Insurance payment amount is \$6,660. Air-Cadia claims the Butler Building was un-rentable from February 1, 2009 until February of 2011 which could result in a \$4,800 credit. Through speaking with Air-Cadia's Attorney, he stated his clients were willing to pay the difference in the amount of \$1,860. Attorney Wohl added that he spoke with Janet Trudeau, Warbirds, who said that they were all up to date and paid rent on time. Attorney for Air-Cadia stated that the Warbirds vandalized the building and the City forced Air-Cadia not to rent to the Warbirds. Attorney Wohl stated that the bay door was broken however they did have willing renters for the Butler building. Councilman Fink stated that when he was Interim Administrator there was a car repair shop in the Butler Building some time around February of 2009 and added that there is no flight school, no sales of aircraft, etc. per their contract.

A motion was made by Councilman Fink to empower the City Attorney to collect the owed insurance payments in the amount of \$6,660. Attorney Wohl replied that failure to pay is a breach of the lease however if Air-Cadia contests a lawsuit will be far more expensive. Councilman Fink reformed his motion to allow the City Attorney to demand payment of no less than \$6,000 within 30 days with a suit to follow, if necessary. The motion received a proper second from Deputy Mayor Heine. Councilwoman Frierson noted a conflict of interest due to an ongoing ethics complaint. The motion carried 4-0 with Councilwoman Frierson abstaining.

Attorney Wohl reported he received an Attorney General opinion that changes to Council term limits would be completed through referendum.

Attorney Wohl reported an update as to the proposed modification to the Frierson lease at the Airport.

17. City Administrator

a. Eugene Hickson Sr. Water Plant Dedication

The City Administrator reported that the new Water Plant Dedication in honor of Mr. Eugene Hickson, Sr. was scheduled for April 11, 2013 at 6 p.m.

The City Administrator requested that the next Council Meeting be re-scheduled for April 23, 2013 at 6 p.m. due to renovations to the new Council Chambers. **A motion was made by Deputy Mayor Heine and seconded by Councilman Fink to re-schedule the April 16, 2013 Regular Council Meeting to April 23, 2013. The motion carried 5-0.**

The City Administrator updated Council on the Friendship Center move to the old Police Department or the Speer Center. She asked if they wanted to expend any funds for the changes and upgrades to bathrooms for ADA purposes. The City Administrator stated that the City was only required to give them a 60 – day notice per the contract.

The City Administrator updated Council on Jim Space. Some repairs have been completed. Council asked if Mrs. Jankosky could bring back costs associated with repair and potential rebuild.

The City Administrator reported on the Golf Course potential rate increases however Council would need to approve. Mr. Bob DeMosse stated that the Golf Course has been neglected for the last few years. Mr. Roger Dall stated he would be glad to assist in improving the Golf Course.

PUBLIC (PLEASE LIMIT PRESENTATIONS TO FIVE MINUTES)

Mrs. Anne Pepper spoke to Tremron's ongoing violations against the agreement to include flying debris in the highway and piles of paver dust.

Mr. Steve Stapp asked several questions of Council and requested to be on the April 23, 2013 agenda regarding the utility rate increases. He asked if he could petition for signatures downtown. There was some discussion regarding a solicitor permit.

MAYOR AND COUNCIL MATTERS – no comments

ADJOURN

There being no further business the meeting adjourned at 8:10 p.m.

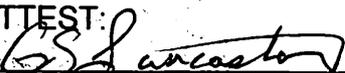
APPROVED THIS 23rd DAY OF APRIL, 2013.

By:



Keith Keene, Mayor

ATTEST:



Gia S. Lancaster, City Recorder

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Alice Frierson, hereby disclose that on April 2, 20 1213:

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Abstained from vote on Resolution No.2013-08 due to husband Gary Frierson serving on the Airport Committee.

4/5/13

Date Filed

Alice Frierson
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Alice Frierson, hereby disclose that on April 2, 20 1213.

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Abstained from vote on issue concerning Air-Cadia Insurance payment due to ethics violation not cleared.

4/5/13
Date Filed

Alice Frierson
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.