

**MINUTES  
CITY COUNCIL  
CITY OF ARCADIA  
TUESDAY, MAY 1, 2012  
6:00 PM**

**CALL TO ORDER, INVOCATION PLEDGE OF ALLEGIANCE & ROLL CALL**

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

Mr. Ryan Burns gave the invocation followed by the Pledge of Allegiance.

**Arcadia City Council**

Mayor Keith Keene  
Councilman Robert Heine  
Councilman Robert R. Allen

Deputy Mayor Alice Frierson  
Councilman Joseph E. Fink

**Arcadia City Staff**

Asst. City Administrator Judi Jankosky  
City Attorney William Galvano  
City Attorney Leslie Gladfelter

City Recorder Virginia S. Haas  
Marshal Charles Lee

**PRESENTATIONS**

- April Employee of the Month – Gordon Cogswell

Mrs. Jankosky reported that Mr. Gordon Cogswell was awarded the April Employee of the month however he was unable to attend the meeting.

- Presentation of certificates of appreciation to those who assisted in the water main break.

Mayor Keene presented certificates of appreciation to: AJ Berndt, Larry Bullion, Judi Jankosky, Carol Jones, Fred Lewis, John Ristau, John Salo, Lee Snyder and Brian Stewart.

Mayor Keene read and presented a Proclamation for Youth Week to Brian Burns, Elk's Lodge.

**CONSENT AGENDA**

1. Minutes of April 17, 2012 Regular Meeting.
2. Check warrants from 04/16/12, 04/20/12 and 04/23/12.
3. Air-Cadia flowage and hanger report for March 2012.
4. Request for Special Event Permit and street closure - Independence Day Parade on July 4, 2012 – Applicant Arcadia Elks Lodge 1524 and Five Star Youth of America.

**A motion was made by Councilman Fink and seconded by Councilman Heine to approve consent agenda items 1 through 4. The motion carried 5-0.**

### **DISCUSSION ITEMS**

#### **5. City Attorney Selection. (City Council)**

Councilman Allen stated that the City Attorney selection is a big step and he hopes that the Council selects a firm that represents the City's rural community.

**A motion was made by Councilman Allen and seconded by Councilman Fink to begin contract negotiations with the firm Swaine and Harris.**

Councilman Heine stated that all seven firms were well qualified and the City would be happy with any selection. He noted Swain and Harris' Airport experience and he thanked Attorney Galvano for serving as the City's Attorney. Councilman Fink thanked all the Attorney applicants and noted his choice was a hard decision. He stated that Paul Bennett Seusy and the Blalock and Walters firms offered much in terms of experience. Deputy Mayor Frierson agreed and stated that all candidates were great and she had a tough decision also. Mayor Keene concurred with all and that the quality of applicants was outstanding.

**The vote on the main motion carried 5-0. Attorney Galvano stated he would contact Swaine and Harris and begin contract negotiations as soon as possible.**

#### **6. City Administrator Update. (Councilman Fink)**

Councilman Fink stated that if Mrs. Jankosky is currently filling in as City Administrator he would hope that the Council might consider out of title pay. Councilman Heine asked if the Council needed to officially appoint her Acting City Administrator. Mrs. Jankosky updated the Council on Dr. Miller's status in that he would return in two to three weeks part time.

**A motion was made by Councilman Fink and seconded by Councilman Heine officially naming Mrs. Judi Jankosky as Acting City Administrator with full authorization to act on the City Administrator's behalf. Councilman Fink asked staff to review out of title pay for Mrs. Jankosky and asked that item be placed on the next Council Agenda.**

#### **7. Appointment of a Board of Adjustment. (City Recorder)**

**A motion was made by Councilman Fink and seconded by Councilman Heine to appoint the Planning and Zoning Board as the Board of Adjustment. The motion carried 5-0.**

#### **8. Historic Preservation Ordinance. (Asst. City Administrator)**

Mrs. Jankosky explained that the Historic Preservation Ordinance may require reviewing as it appears many temporary structures not affecting the actual historic structures are being reviewed by the Historic Commission and recommended to the City Council for issuance of a Certificate of Appropriateness. Mayor Keene inputted that if the Ordinance is changed the City Council will no longer be notified that someone may be installing an eye soar. Mr. Jankosky responded that she is working with the Planning Council on the Land Development Regulations

that may address some needs. Attorney Galvano agreed that the requests could be placed under consent agenda for approval and the Ordinance was most likely created for a reason and should remain.

9. Air-Cadia Response and Recommendations (Asst. City Administrator)

Mrs. Jankosky reported responses she received from Air-Cadia may indicate possible changes may have to be made to the Agreement. Mayor Keene noted there are improvements being made at the Airport. Councilman Fink noted that Air-Cadia is lacking in insurance coverage and the City is at risk contractually. He asked if under the current agreement would the Council issue a notice and cure period. Mrs. Becky Minnear responded that at the time that is all the insurance company wanted to write for the policy. Attorney Galvano responded to Councilman Fink that Air-Cadia would be noticed along with the time period to comply.

**A motion was made by Councilman Fink and seconded by Councilman Heine to direct the City Attorney to issue a notice and cure period for Air-Cadia to increase their liability insurance to contractual standards. The motion carried 5-0.**

10. Florida League of Cities Telecommunications Audit Agreement. (Asst. City Administrator)

**Attorney Galvano stated he reviewed the Agreement and all is in order. A motion was made by Councilman Fink and seconded by Councilman Heine to approve the agreement with the FLC and continue the telecommunications audit. The motion carried 5-0.**

11. Procedure for fulfilling public records requests. (Asst. City Administrator)

Mrs. Jankosky pointed out there have been several questions to the City Attorney in the last month regarding records requests. Attorney Galvano agreed and stated that it may be beneficial to the City to schedule a training regarding public records requests. Councilman Fink noted that the City may want to ask Mrs. Barbara Peterson, First Amendment Foundation, to come speak with Council and staff. **The Council gave consensus for staff to contact Barbara Peterson to find out the program and cost.**

**RESOLUTIONS**

**12. RESOLUTION NO. 2012-02; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, ADOPTING A FEE SCHEDULE, AND PROVIDING AN EFFECTIVE DATE.**  
(Asst. City Administrator)

**A motion was made by Councilman Fink and seconded by Deputy Mayor Frierson to adopt Resolution No. 2012-02 as presented. The motion carried 5-0.**

**ORDINANCES - SECOND READING**

**13. ORDINANCE NO. 973; SECOND READING OF AN ORDINANCE TO AMEND THE CITY OF ARCADIA COMPREHENSIVE PLAN BASED ON THE CITY'S**

**EVALUATION AND APPRAISAL REPORT (EAR); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Jennifer Codo-Salisbury, CFRPC)**

Mrs. Codo-Salisbury provided an update on the Comprehensive Plan based on the 2009 Evaluation and Appraisal Report. She noted that each objection from the State was addressed in the Ordinance. The City Recorder read Ordinance No. 973 by Title. At this time the Mayor opened the public hearing for comment.

**A motion was made by Councilman Fink and seconded by Deputy Mayor Frierson to open the public hearing. The motion carried 5-0. There was no public comment. A motion was made by Councilman Fink and seconded by Councilman Heine to close the public hearing. The motion carried 5-0.**

**A motion was made by Councilman Fink and seconded by Deputy Mayor Frierson to adopt Ordinance No. 973 at second and final reading as presented. The motion carried 5-0.**

**14. ORDINANCE NO. 974; SECOND READING OF AN ORDINANCE ESTABLISHING CITY ZONING FOR TWO PARCELS OF LAND KNOWN AS THE TREMRON GROUP, INC. PARCELS IDENTIFIED AS 30-37-25-0176-00E0-0010 (10.51 ACRES) AND 19-37-25-0000-0280-0000 (3.55 ACRES) TOTALING 14.06 ACRES FROM THE DESOTO COUNTY ZONING DISTRICTS OF COMMERCIAL GENERAL (CG) AND INDUSTRIAL LIGHT (IL) TO CITY ZONING OF PLANNED UNIT DEVELOPMENT – INDUSTRIAL (PUD-I) LOCATED AT 3144 N.E. HIGHWAY 17, ARCADIA, FLORIDA; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE. (Jennifer Codo-Salisbury, CFRPC)**

**A motion was made by Councilman Fink and seconded by Deputy Mayor Frierson to read Ordinance No. 974 by title. The motion carried 5-0. The City Recorder read Ordinance No. 974 by title.**

Councilman Fink disclosed the Marshal Lee spoke to him regarding this Ordinance. Mayor Keene disclosed that he spoke with Mr. and Mrs. Pepper regarding this ordinance.

Mr. Jeff Schmucker, CFRPC, presented a PowerPoint and described the details of the Ordinance and exhibits. Specifically the following conditions were outlined: All previous conditions as approved by the County plus 1) a wall of pavers, minimum 8 feet and a maximum of 20 feet in height, shall be installed along the portion of the property line fronting US 17 within six (6) months of the effective date of the rezoning. The paver wall shall not contain any pallets or plastic wrapping. 2) Tremron shall work to reduce debris along US 17, including but not limited to paver debris originating from the Tremron property. 3) Tremron shall communicate with its truck drivers to not park along US 17 at anytime, prior to entering or exiting the property. 4) All bay doors on the north face of the main manufacturing building shall be closed between the hours of 6 p.m. and 8 a.m. daily. 5) An insulated connection shall be constructed between the two manufacturing buildings. The construction of this connection will require a development

permit approved by the City of Arcadia and DeSoto County Building Department. The connection shall be completed prior to May 31, 2012. 6) A detailed Master Development Plan in conformance with the City of Arcadia Code of Ordinances shall be submitted and reviewed by the Planning and Zoning Board and approved by the City Council prior to any additional site development or modifications to the current approvals. 7) The tumbler machine, located inside the maintenance shed on the southeast corner of the property, shall be limited to operating between the hours of 8 a.m. and 6 p.m. daily, provided it does not produce any unnecessary noise or vibrations, or other undesirable effects that may be detrimental to the surrounding properties as a result of its operation. 8) All manufacturing, processing, and fabricating activity, with the exception of the use of the tumbler machine, shall be conducted within an enclosed building. 9) An additional insulated enclosure shall be added onto the existing "cage" enclosure which covers the main paver-block manufacturing machine within six (6) months of the effective date of rezoning. 10) Sound dampening panels shall be hung throughout the main manufacturing building to assist in the reduction of manufacturing noise and vibration within six (6) months of the effective date of rezoning and 11) Baffle enclosures shall be installed to cover opening at the rear (east side) of the main manufacturing building within six (6) months of the effective date of rezoning.

Councilman Fink questioned what occurs if the requirements are not met within six (6) months? Mrs. Codo-Salisbury stated that once under City zoning the Code Enforcement Officer steps in and cites them as per the code and adopted PUD-I zoning regulations. Councilman Fink stated he does not want the City to loose jobs however he was told that Marshal Lee was running into problems at Tremron. Attorney Galvano stated that the City now has control over all specific stipulations plus enhanced conditions and if Tremron does not meet these conditions they are in violation of the City's laws. Mayor Keene stated that he was satisfied with the conditions however he wants to ensure that the conditions are enforceable by Code Enforcement.

Mrs. Ann Pepper, N. Arcadia, questioned 1) completely enclosed building and outdoor storage yards as well as the requirement for the 8' opaque fence. She referenced the previous pictures given to Council and the requirements for a type D buffer. She questioned the 4<sup>th</sup> whereas clause in the Ordinance "the proposed zoning assignment will not adversely affect the public interest so long as conditions set forth hereafter are complied with." Attorney Galvano noted that citizens may file their own civil lawsuit as well. Mrs. Pepper continued that exhibit B, site plan, on the East and South side there is no buffer and indicated on the South side is the City's old Livestock Market and on the East side the area is platted for a subdivision and further there is no type D buffer on the West side fronting US 17. She continued that item G referred to disposal of debris that should occur biweekly and this requirement should be added to site plan to detail that once the debris is removed that it not return per Tremron statements at the last meeting. She asked if the bay doors on the north side are open 8 a.m. to 6 p.m. daily and asked if that was in compliance. She asked who determines the unnecessary noise from the tumbler machine and that the word "completely" has been left out when addressing bay doors being "completely" enclosed. She explained that the noise does not emanate from the mixing machine but rather from the compressor that makes the pavers and that machine is not enclosed.

Mr. Elmer Butts, Contractor, stated that Tremron paid him \$30,000 to install an insulated room around the machine and an additional double dry wall later to mitigate the noise and vibration. He explained that several times he went to various locations to check the noise decibel levels

and nothing registered. In addition, he stated that all conditions were met and approved by the County.

Marshal Lee reported that he conducted preliminary inspections on April 11, 2012 and requested that FDOT install no parking signs on US 17. He continued that on April 12, 2012 they were given an inside tour of the facility. On April 13, 2012 when Code Enforcement called for additional information they were told Tremron would not be giving out any more information until the Ordinance is executed. Mayor Keene asked if Tremron would have difficulty meeting the conditions. Mr. Ken Barns, Plant Manager, stated that Tremron needs six (6) months to gather the material. Mayor Keene stated he likes the conditions and thanked Tremron for working with the City.

Mr. Vaughn Aiken stated his issue is the noise and there is no certain time the noise is heard. He stated that he installed insulated windows which have helped but it appears on a cold night you may hear it more and during the day the road noise drowns out the Tremron noise and vibrations.

Dr. Lorenzo Dixon concurred with the noise problem and stated that it would be better to pass the Ordinance and have the Code in place for enforcement rather than having nothing.

**A motion was made by Councilman Fink and seconded by Councilman Heine to close the Public Hearing. The motion carried 5-0.**

**A motion was made by Councilman Fink and seconded by Councilman Allen to adopt Ordinance No. 974 at second and final reading as presented. The motion carried 5-0.**

#### **COMMENTS FROM DEPARTMENTS**

##### 15. City Marshal – April Report Included

Marshal Lee reported on the status of 509 W. Effie Street. A lien was placed on the property under the nuisance code and the City is maintaining the property.

Marshal Lee reported on 500 W. Oak Street. A lot of action has been taken on this property and current permits have expired.

Marshal Lee reported on the Youth Academy picking up trash in the City.

##### 16. Attorney

**Attorney Galvano asked for a motion and second to close the Craig Smith case. A motion was made by Councilman Heine and seconded by Councilman Fink to settle and close the Craig Smith case in the amount of \$450,000. The motion carried 5-0.**

**Attorney Galvano stated that settlement was reached in the South case in the amount of \$25,000 to be paid for through insurance and the deductible would be \$2,500. A motion was made by Councilman Allen and seconded by Deputy Mayor Frierson to settle and close the South case in the amount of \$25,000 with the City deductible of \$2,500. The motion carried 5-0.**

Attorney Galvano reported that he would be working with the new firm to reach an agreed upon contract. A motion was made by Councilman Fink and seconded by Councilman Heine for Mayor Keene and Attorney Galvano to work together in contract negotiations with Swaine and Harris.

17. Administrator

- Mrs. Jankosky updated Council on the paving of Baldwin. Councilman Fink asked about working with the County because they are Local Area Planning Agency (LAP) certified in regards to street paving.
- Mrs. Jankosky reported on the RFQ with Kimley Horne and noted the firm would be creating street paving priority lists.
- Mrs. Jankosky reported that there would be a fire inspection at the airport on May 17, 2012.
- Mrs. Jankosky updated Council on the Ricky Hilton request for a business at the Airport. She explained that FDOT had no comment and they are still awaiting a response from the FAA.

**PUBLIC** (PLEASE LIMIT PRESENTATIONS TO FIVE MINUTES)

Former Mayor and Councilman Eugene Hickson, Sr. echoed the article in the newspaper where a citizen stated that the City Council should seek local attorneys.

Mr. Paul Bennett Seusy thanked Council for his interview and time. He asked that the Council keep him in mind for other boards and activities.

Mrs. Ann Pepper thanked Council, Marshal Lee, Jennifer and Jeff of the CFRPC for their help with the Tremron rezoning.

**MAYOR AND COUNCIL MATTERS**

Attorney Galvano stated it was an honor to serve the City as Attorney and he would be running for Senate district which does include DeSoto County.

**A motion was made by Councilman Fink and seconded by Councilman Heine to present Attorney Galvano a Proclamation and Key to the City. The motion carried 5-0.**

Mayor Keene stated that he valued the opinions from Deputy Mayor Frierson and Gary Frierson and valued their friendship. He stated if anyone thinks otherwise then they would be missing the point.

Mayor Keene stated that the Council does need to set another Vision Session however Reverend Land is currently out of town.

Mayor Keene reported that he would not be able to attend the County meeting on May 3, 2012 at 10:00 a.m. Councilman Fink agreed to attend on the Mayor's behalf.

Mayor Keene thanked Attorney Galvano for his service as City Attorney.

**ADJOURN**

There being no further business, the meeting was adjourned at 8:20 p.m.

**APPROVED THIS 15th DAY OF MAY, 2012.**

By:

  
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Keith Keene, Mayor

ATTEST:

  
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Virginia S. Haas, City Recorder