

**MINUTES
CITY COUNCIL
CITY OF ARCADIA
TUESDAY, MAY 15, 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

City Administrator Lawrence Miller
City Attorney Leslie Gladfelter
City Attorney Thomas J. Wohl

City Recorder Virginia S. Haas
Marshal Charles Lee
Finance Director Jorge Santana

PRESENTATIONS

- Aviation Day 2012 Certificates of Appreciation

Mayor Keene presented certificates of appreciation to: George Chase, Gary Frierson, Greg Smith, Al Pandl, Bob Fink and Claude Rathgaber for volunteering at Aviation Day 2012.

- Civility Proclamation for the month of May

Mayor Keene read the Civility Proclamation for the month of May and encouraged all citizens to exercise civility toward one another.

- McSwain Park

Mary Kay Burns, Coordinator Leadership DeSoto, presented the concept plan and phases for improvements to McSwain Park. She noted that there is a coordinated effort between Hand of Angels, Leadership DeSoto and DeSoto Chamber of Commerce to raise funds for improvements at the park. She asked that Council consider a groundbreaking date in June. She indicated that phase one may be completed by November 2012. Mayor Keene thanked all groups involved in the project and noted this was a tremendous demonstration of collaborating efforts.

CONSENT AGENDA

1. Minutes of April 24, 2012 Special Meeting.
2. Minutes of May 1, 2012 Workshop Meeting.
3. Minutes of May 1, 2012 Regular Meeting.
4. Check warrants from 04/25/12, 04/27/12, 05/01/12 and 05/02/12.

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

DISCUSSION ITEMS

5. Swaine & Harris, P.A. Agreement for Representation and Fees. (Attorney Gladfelter)

Attorney Gladfelter reported that the Swaine & Harris agreement presented was essentially the same as the contract with Attorney Galvano. She noted the term was left blank however she thought Council may want to insert a term of one year annual contract and the start date would be today May 15, 2012.

A motion was made by Councilman Heine and seconded by Deputy Mayor Frierson to approve the agreement with Swaine and Harris as presented with contract term beginning May 15, 2012 and renewal on an annual basis. The motion carried 5-0.

6. Acting City Administrator out of title pay. (Councilman Fink)

Councilman Fink stated that the personnel manual does not currently address out of title pay and any person performing out of title duties should be entitled. Councilman Heine and Councilman Allen agreed.

A motion was made by Councilman Fink and seconded by Deputy Mayor Frierson to direct staff to write a policy which would be incorporated in the current personnel policy and inclusive of retroactive pay. The motion carried 5-0.

7. Special Approval for DeSoto Plaza, 1307 E. Oak Street, Internet Café, applicant Mr. Dwayne Waltrip. (Acting City Administrator Judi Jankosky)

Dr. Miller reported that this was a special approval request for an Internet Café. The Planning and Zoning Board forwarded this request to the City Council for approval with a 3-1 passing vote, Mrs. Shirley Brown dissenting. Deputy Mayor Frierson reported that she visited the Internet Café on Monroe which this request was modeled after. Marshal Lee responded to Deputy Mayor that a similar business was shut down in the past however these type businesses are able to operate in a grey area. He reported that the issue would be addressed at the legislative level again however it is currently up to the Cities to pass local ordinances. Councilman Fink asked if the Council could direct the City Attorney to draft an Ordinance that could limit the number of these type establishments. Attorney Wohl replied that the City could enact an ordinance to limit number of establishments or only allow those types of establishments in industrial zoning. Councilman Allen stated that the City should not restrict the number of establishments if they are operating legally under the code. Councilman Heine noted that he was against another Internet Café in the City. Mayor Keene stated that he has not visited the current Internet Café however he concurred with Councilman Allen that limiting the number may cause issues later.

A motion was made by Councilman Heine to table request to June 5, 2012 meeting. Councilman Heine's motion failed for a lack of a second.

Councilman Allen stated that the Council should approve this request now.

A motion was made by Councilman Allen and seconded by Councilman Fink to grant special approval for DeSoto Plaza, 1307 E. Oak Street, Internet Café, applicant Mr. Dwayne Waltrip. The motion carried 4-1 with Councilman Heine dissenting.

Councilman Fink requested and Council concurred to direct Attorney Wohl to review the City's code and draft proposals/options to legislate future request for Internet Café type businesses. Deputy Mayor Frierson also requested a list of problems or impacts on communities who currently have Internet Cafés.

8. Special Approval for DeSoto Plaza, Automotive Preventative Maintenance Facility, applicant Mr. William Harvey. (Acting City Administrator Judi Jankosky)

Mayor Keene responded to Councilman Heine that this business is similar to the franchise "Grease Monkey" or "Quick Lube".

A motion was made by Councilman Allen and seconded by Councilman Fink to grant Special Approval for DeSoto Plaza, Automotive Preventative Maintenance Facility, applicant Mr. William Harvey. The motion carried 5-0.

9. City Recorder Position. (City Recorder)

Ms. Haas explained that she spoke with the Wage and Hour Division as to whether the City Recorder position was considered exempt or non-exempt. Following several pointed questions the Wage and Hour division slated the City Recorder position as non-exempt. Mrs. Haas stated that she is asking for some relief either in compensatory time, flex time or for the position to be deemed non-exempt. Ms. Haas responded to Deputy Mayor Frierson that she currently is recorder for the following meetings: City Council regular meetings, workshop meetings, special meetings, budget meetings, Planning and Zoning Board, Board of Adjustment and Historic Preservation Commission meetings. Dr. Miller reminded Council that the request, if approved, would have a fiscal impact on the budget and also other Department Heads may come forward seeking the same and this would be setting a precedent. Councilman Fink stated that there has to be some sort of compensation and concurred with Dr. Miller that it would affect the budget. Ms. Haas stated that she was the only Department Head that does not supervisor anyone and the City Recorder position does not meet any of the criteria for an exempt position. Dr. Miller reiterated that in the past the City paid overtime and comp time when employees left so there are ramifications to this request.

A motion was made by Councilman Heine and seconded by Councilman Allen to deem the City Recorder Position non-exempt. The motion carried 5-0.

There was some discussion regarding the City Recorder position being appointed by the City Council.

10. Code Enforcement at 143 South Orange Avenue and other areas. (Councilman Fink)

Councilman Fink reported there was a complaint regarding 143 S. Orange in the past and the Marshal said that the Council at that time was told not to respond. Marshal Lee presented several pending violations and noted the property in question is 342 S. Orange. He stated that several violations and warnings were issued however the owner argued historic value and the building still stands however dilapidated.

A motion was made by Councilman Fink and seconded by Councilman Heine to direct Marshal Lee to enforce codes in relation to 342 S. Orange. The motion carried 5-0.

RESOLUTION

11. **RESOLUTION NO. 2012-03; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, GRANTING A VARIANCE TO REDUCE THE FRONT YARD BUILDING SETBACK FROM 25 FEET TO 20 FEET AND THE REAR YARD BUILDING SETBACK FROM 20 FEET TO 6 FEET TO FACILITATE THE CONSTRUCTION OF A SINGLE FAMILY DWELLING ON PROPERTY LOCATED AT 514 BOND STREET, ARCADIA, FLORIDA. (Jeff Schmucker, CFRPC)**

Mayor Keene explained that variances were typically handled through resolution in the past and he thought this might be the CDBG property Council recently donated land for a single family home. Mr. Earl Hill confirmed and said initially this was a 5,000 square foot lot that was split into two parcels. Attorney Wohl recommended changes as to form including the reduction in lot size from 5,000 to 2,500.

A motion was made by Councilman Heine and seconded by Councilman Fink to approve Resolution No. 2012-03 with noted changes by the City Attorney. The motion carried 5-0.

COMMENTS FROM DEPARTMENTS

12. City Marshal – No report
13. Attorney – No Report
14. Administrator
 - a. Update on request for Barbara Petersen to speak

Dr. Miller summarized the costs for Barbara Petersen, First Amendment Foundation, to speak to the Council and staff regarding Sunshine Law and Public Records. It was noted that the new City Attorney would be available to advise Council regarding Sunshine Law and Public Records.

A motion was made by Councilman Heine and seconded by Councilman Allen not to request Mrs. Peterson to speak to staff and Council. The motion carried 5-0.

b. Upcoming Budget Workshops

Dr. Miller reported that the upcoming budget workshops were included in the Council's packets and noted that the first workshop would include review of the general government budget items.

c. Safety Inspections Update

Dr. Miller reported that recently safety site inspections were conducted by Pam Stone at some of the departments. He introduced Mr. Lew Ambler, DeSoto Insurance, to give an update. Mr. Ambler reported that he and Mrs. Stone were conversing following the inspections and he explained that most of the issues were housekeeping and the departments are diligently working to correct the noted safety issues. Dr. Miller stated that he sent a memorandum to all department heads noting the safety issues as outline by Mrs. Stone. He stated safety issues are priority issues and will be re-inspected in June. Mr. Ambler thanked Dr. Miller, Council and Ms. Haas for making the workplace safe for employees and citizens.

PUBLIC (PLEASE LIMIT PRESENTATIONS TO FIVE MINUTES)

Mrs. Penny Kurtz updated the Council on the status of the new Health Department and stated she would send her contact information to Attorney Wohl.

Mr. Rasheed Jahaludin questioned why it took four months after the accident for employees to be drug tested. He responded to Dr. Miller how the accident occurred. Dr. Miller stated that names should be kept confidential and that he had not yet spoken to Mr. Lewis. Mr. Jahaludin stated that in his opinion ten to fifteen gallons of fuel is being stolen per week. Dr. Miller explained that there is a proper procedure and forum for reporting charges such as these and encouraged Mr. Jahaludin to speak with City Administration and the charges would be investigated.

Mr. Robert Allen, 331 Valdosta, reported on drainage problems at his location. He explained that he did speak with Mr. Cordes in February and March however no culverts were cleaned. Dr. Miller assured Mr. Allen that the culverts are being cleaned because he personally has witnessed cleaning of the ditches and culverts. Mr. Jahaludin confirmed cleaning of the culverts when staff is not maintaining city lines.

Mr. Darby Ellis gave a short presentation regarding Save Our Community's Kids (SOCK). He asked for Council support in this endeavor and encouraged City Council to attend the next event at Smith Brown Gym so they could see the program in action. Mr. Ellis stated they are attempting to raise \$5,000 for a Youth Fun Day.

Councilman Heine stated he was glad to see Dr. Miller back at work.

Deputy Mayor Frierson reported that she visited Wauchula Airport and spoke with the Airport Manager. She reported that Wauchula Airport is self supporting at best and there is no money that contributes to

the City. She stated that the terminal is similar to an outdoor utility shed. She asked that blaming the Fixed Based Operators cease and attempt to work with Air-Cadia as a good partner.

Deputy Mayor Frierson stated that Dr. Miller received a bonus recently. Dr. Miller responded that every City employee is entitled to a bonus based on their performance evaluation just as he and the bonuses were included and approved in the budget. He stated that once Council evaluated him he received the bonus as per his contract. Deputy Mayor Frierson stated that she took issue with Dr. Miller signing his own bonus unless she pointed out that Dr. Miller had spoken with the Mayor. Dr. Miller responded that he spoke particularly about this issue with Attorney Galvano who gave direction on this matter. Councilman Allen asked if the bonus was supposed to be issued on an annual basis. Dr. Miller responded that his evaluations are supposed to be conducted yearly and the Council was evaluating him every six months. Dr. Miller noted his exception to Deputy Mayor Frierson's evaluation and stated that he was previously deemed qualified for this position.

Councilman Fink welcomed Attorney Wohl. He asked about the status of the Charter referendums and encouraged the Attorney to work toward getting the referendums on the ballot for the general election if time permits. The City Recorder will send the Charter recommendations to Attorney Wohl for review.

Councilman Fink thanked Deputy Mayor Frierson for speaking at the Habitat for Humanity Grand Opening. He questioned if the new Restore was ADA compliant because he noted there was no visible handicap parking.

Councilman Fink stated that he was told by staff about the Wauchula Airport and its contribution to the City of Wauchula. He continued that he respects the Deputy Mayor's opinion and his opinion is valid as well. Councilman Fink stated that the Airport is an important issue of the City as is the other "diamonds" in the City that need review to address the deficit. Deputy Mayor Frierson responded that the Council should consider facts and history not blame the Minnear's. Councilman Fink replied that he wants to see the Airport profitable and asked about conducting an audit. Dr. Miller concurred and stated that he hopes the Fire and Emergency Services Contract is reviewed also because it affects the budget as well.

Mayor Keene thanked Councilman Fink for attending the meeting with the County. He thanked Deputy Mayor Frierson for attending the grand opening for Habitat for Humanity. Mayor Keene stated that he did not speak with Dr. Miller regarding his bonus. He recalled a similar issue in the past regarding Mrs. Baumann's bonus.

Mayor Keene stated that the Council should not get bogged down with the past regarding the Airport. He noted that there are items being completed like the fence and runway improvements forthcoming. Councilman Heine stated that the Air-Cadia contract expires and reverts back to the City in three years. Dr. Miller stated that if there is an updated Airport Master Plan then the City will receive FAA grant money.

Mayor Keene reported that the Central Florida Regional Planning Council (CFRPC) recently approved a phosphorus mining industry in Hardee County. He explained that he was looking forward to reviewing the Fire Services agreement which may assist in alleviating the budget deficit. Mayor Keene reported he received a list of vendors that need to acquire permits from the City. He will meet with Marshal Lee to review action.

Councilman Heine reported on the new sign on the East side of the City. Mayor Keene stated there are issues with large trucks parking near Habitat for Humanity. Marshal Lee responded that issue was addressed however he will follow up again.

MAYOR AND COUNCIL MATTERS

ADJOURN

A motion was made by Councilman Heine and seconded by Councilman Allen to adjourn the meeting at 8:15 p.m. The motion carried 5-0.

APPROVED THIS 3th DAY OF June, 2012.

By:

Keith Keene
Keith Keene, Mayor

ATTEST:

Virginia S. Haas
Virginia S. Haas, City Recorder