



**AGENDA
ARCADIA CITY COUNCIL
CITY COUNCIL CHAMBERS
23 NORTH POLK AVENUE, ARCADIA FL**

**TUESDAY, JULY 1, 2014
6:00 PM**

CALL TO ORDER, INVOCATION, PLEDGE AND ROLL CALL

PRESENTATION

1. Antique Association Letter (Tom Slaughter – City Administrator)

CONSENT AGENDA

2. City Council Minutes for June 17, 2014 (Penny Delaney – City Clerk)
3. Air-Cadia Flowage and Hanger Rent Report for May 2014 (Penny Delaney – City Clerk)

ACTION ITEMS

4. Ordinance 999 - Police Officers' and Firefighters' Retirement System – First Reading (Penny Delaney – City Clerk)
5. Ordinance 1000 – Fire Rescue – First Reading (T.J. Wohl – City Attorney)
6. Ordinance 1001 – Stormwater – First Reading (T.J. Wohl – City Attorney)

COMMENTS FROM DEPARTMENTS

7. City Marshall
8. Attorney
9. City Administrator

PUBLIC (Please limit presentation to five minutes)

MAYOR AND COUNCIL REPORTS

ADJOURN

NOTE: Any party desiring a verbatim record of the proceedings of this hearing for the purpose of appeal is advised to make private arrangements therefore.

PLEASE TURN OFF OR SILENCE ALL CELL PHONES

PRESENTATION No. 1

May 25, 2014

City Administrator, City Marshal,
City Council and City Attorney
City of Arcadia Florida
23 N. Polk St.
Arcadia, FL 34266

Gentlemen and Lady:

I write this letter as President of the Antique Association of Arcadia Florida (AAA), a registered 501c(3). There is no affiliation between the AAA and my ex-husband Joseph E. Fink, Deputy Mayor, or with our personal business Miss Pearl's Place. I and my business are not employees of the AAA, receive no salary, and according to the Florida Commission on Ethics receive no monetary benefit from my association with the AAA.

The AAA has managed the 4th Saturday Antique Fair informally since 2006. In that time the Fair has become one of several premier antique fairs in the south east US, bringing quality vendor into a city known as an antique Mecca and literally thousands of people during the event (estimated over 5,000 in season) through using the proceeds of the Fair on advertisements on Antiques Roadshow in three major television markets and trade journals (nearly \$30,000 spend annually).

Formal action noting the AAA as the permitting entity of the 4th Saturday Fair was established 11/01/11 by action of the council where it, by motion "...to name the Antiques Association of Arcadia as the organization of record and permitted sponsor..." (copy included).

The collateral economic impact to our city is massive – restaurants, lodging, gas, etc. – all depend on the monthly fair.

We pay the city \$300 annually for the right to manage/promote the Fair, provide liability insurance incase of injury.

The AAA came before you on 03/05/13, 03/19/13 and 09/03/13 because of problems with several shop owners that were using the Fair to personally benefit their own businesses. This was never resolved and has gotten worse.

At the last Fair (05/24/14):

A shop DBA Feenix Rising 132 W Oak offered/rented their sidewalk to Frank Peterson 920 W Oak who last time I asked did not rent space within that shop or any shop in the city. Peterson has no contract with the AAA, paid no vendor's fee to the AAA.

A shop DBA Biggar and Biggar 133 W Oak regularly sets dealers outside their shop (unknown if free/rented or if the dealers are in the shop).

A vendor named Charlie from North Port wanted to rent a spot the day of the Fair from the AAA; he was denied because we require prior notice, reference checks, etc. Biggar and Biggar introduced him to the owner of a shop DBA Oak Leaf 200 W Oak and she allowed him to set up. Unknown if she offered the space or rented it.

Arcadia Police were called to be made aware of the situation and to shut down what was being done illegally. Nothing was done as the owner of Biggar and Biggar told the officer he personally insured the sidewalk around his shop so the city was not liable.

My questions are as follows:

Why does the city grant us a permit at monetary cost to hold a Fair on the 4th Saturday and to provide insurance coverage so the city isn't impacted by suit, yet allows "poachers" to profit off the event without any investment, not even a temporary vendor's permit? And why did the police not ask to see the claimed insurance contract prior to dismissing the complaint?

If an accident occurs on a portion of the sidewalk we are not occupying, what is the liability? The AAA will not be responsible for "profiteers" of an event we sponsor. Will city tax payers be required to pay possibly once again?

Considering the statement of City Attorney TJ Wohl, quoted in the Arcadian (copy included) from the 03/19/13 meeting (copy included) – "If there is a vendor without a permit, then code enforcement should tell them to pack up... the city could be liable if that person is not covered under the AAA insurance policy" I wonder why this isn't being done?

Also to note; the city in March 2013 issued a permit to both Bigger and Biggar and Feenix Rising for a "vendor's permit" (copies included) which allowed them to have merchandize displayed/for sale for a 3 day period during one of the Fairs. The city charged both applicants a \$35 fee for the permit. This is the only time a permit was required, or issued by the city. This is per city code 34-91 thru 34-95 (copy included).

Why did the city issue a vendor's permit of the 2 constant offenders if one wasn't needed to sell merchandise in front of ones own shop – and charge them for the permit; why was a permit never required/issued again?

We allow and encourage the management of the 1st Saturday Market Place Fair, the Monthly Car Shows and any other downtown even to operate within any parameters they like without any interference by us. We encourage their success as it helps all when one succeeds.

We do not appreciate, nor will we allow being singularly targeted by city staff as was done in past for ADA compliance; while other events blocked sidewalks, displayed merchandise in loading zones without ever a mention. Equal protection is guaranteed all under law.

We want this resolved as much as you are tired of hearing about it. However, ignoring it will not make it go away.

The Fair is far too important to the economy of the City of Arcadia to be allowed to be destroyed by profiteers.

We request staff follow the advice of legal counsel concerning its own adopted codes.

Sincerely,

A handwritten signature in cursive script that reads "Sheri Fink". The signature is fluid and elegant, with a long, sweeping underline that extends to the right.

Sheri Fink, President
Antique Association of Arcadia Florida

COMMENTS FROM DEPARTMENT

7. City Marshal

Captain Anderson responded to Mayor Keene that there were no Halloween mischief reports.

8. Attorney – No Report

9. Administrator

a. Antique Association request regarding official sponsorship 4th Sat. event

Dr. Miller explained that he received a request from Flo Rife, President of the Antiques Association of Arcadia to formally reconfirm and name their organization as the permitted sponsor of the monthly 4th Saturday event. Councilman Fink stated that he had issued each Councilmember the Attorney's legal opinion noting no voting conflict on this issue. He disclosed that he has a business in the area and is a member of the Antiques Association. Attorney Henbest replied that the minutes are sufficient in approving this matter. It was noted that the Association does carry \$2,000,000 in liability insurance, however Attorney Henbest reminded that the City would be liable at least to some extent.

A motion was made by Councilman Fink and seconded by Deputy Mayor Frierson to name the Antiques Association of Arcadia as the organization of record and permitted sponsor of the 4th Saturday Antique Fair. The motion carried 4-0.

b. Update Interlocal Agreement Fire & Emergency Services, Amendment 1

Dr. Miller explained that Amendment 1 to the Interlocal Fire Services Agreement would allow the volunteer firefighters to use the 10th and Cypress facility while keeping 2 firefighters and volunteers at the City Hall facility thereby reducing costs. He continued that the City Attorney reviewed and fine tuned the document and Councilman Fink provided comments regarding section 7.4. Dr. Miller responded to Deputy Mayor Frierson that the City provides utilities and maintenance as needed at both facilities. Mayor Keene indicated his favor in moving forward with Amendment 1.

Mayor Keene introduced and welcomed Ms. Judy Schaefer, County Commissioner.

There was some discussion regarding a possible Museum at City Hall and transfer of the antique fire truck to the City Hall station. Councilman Fink inputted that it would be an honor for the City Hall upstairs to be utilized for its intended use.

c. Peace River Campgrounds Issue resolved

Dr. Miller reported that A.J. Berndt has been working closely with the owner at Peace River Campgrounds and the issue was resolved regarding increased water flow. In addition the clumping of waste was brought to the owner's attention.

City tackles street sales, election

By AL HEMINGWAY

ARCADIAN CORRESPONDENT

ARCADIA -- Obstructions of city sidewalks ignited a heated discussion at the City Council meeting on Tuesday as council members listened to passionate pleas from antique store owners concerning code violations during their Antique Fair held the fourth Saturday of every month and sponsored by the Antique Association of Arcadia.

City Attorney T.J. Wohl researched the city's ordinances regulating vendors setting up tables to sell items during city events. Wohl noted several concerns. Street fair participants must comply with the 1990 Americans with Disabilities Act. Some businesses say vendors are improperly placing tables in front of their stores. AAA also said some non-AAA vendors are trying to take advantage of AAA's permit.

Wohl said the "majority of these issues occur during the Antique Fair sponsored by the Antiques Association of Arcadia but do not occur during other events/fairs."

He suggested two temporary solutions to alleviate the problem. One, vending tables would have to be at least 5 feet away from the front of any building, leaving about 6 feet for tables and wares. No vendor's items would be allowed to block a storefront without the owner's permission. Second, the AAA and or others with special vendor permits can ask the council to close off the streets to traffic.

Cindy Long, owner of Isabelle's Fine Antiques and former AAA president, objected, to closing off the streets, saying that stores at the end of the street will get most of the business. She also objected to setting the tables away from the buildings.

"The tables need to be near the buildings," she said. "If they are near the streets people opening car doors can hit the tables, knocking off glass, pottery, and other merchandise."

Councilman Joe Fink, who owns an antique store in town with his ex-wife, asked Wohl if they should worry about liability issues with people who do not fall under the AAA insurance.

"If there is any vendor without a permit, then code enforcement should tell them to pack up," he said. "The city could be liable if that person is not covered under the AAA insurance policy."

City Administrator Judi Jankosky said the ADA compliance is "four feet clearance for typical handicap uses, five feet clearance for wheelchairs, and six feet clearance for two wheelchairs to pass."

Sheri Fink, owner of Miss Pearl's Place, had diagrams to show AAA is meeting ADA requirements.

"The tables are 2½ feet wide, and the sidewalks are 11 feet wide," she said. "Subtract that and there is still 8½ feet left."

But Wohl noted that there could be people "two or three deep" at a table, some with strollers and shopping bags that could block a wheelchair from passing.

Mayor Keith Keene said council is not "singling out anyone" but they need to be consistent when enforcing the code to make sure there are no violations. Council asked Wohl to review the ordinances on special events and vendor permits for the next meeting.

10. Attorney
a. Antiques Fair Update

Attorney Wohl reported because the Antiques Fair is every month there is no long term solution; However in his memo he outlined two short-term solutions: 1) display merchandise at least 5 feet away from the buildings next to the curbs or 2) Close Oak Street and place vendors within the Street area. Attorney Wohl noted that for long term purposes the code may be addressed to permit booths daily that will not violate the code and ADA regulations, as well as not blocking the storefronts.

Cindy Long, store owner, stated she was the past president of the Antiques Association and those days are typically big for her store. She stated that the tables should be next to the buildings because if tables are near the curb the cars will knock items down. Attorney Wohl noted that the biggest concern is maintaining ADA compliance.

Councilwoman Frierson questioned if the Antiques Association permit give exclusive use of the sidewalks to the Association. Attorney Wohl replied no, that the Antiques Association indicated in their yearly sponsorship permit that they would not obstruct the sidewalks. Councilwoman Frierson asked if the vendors need to acquire a sponsorship permit from the Antiques Association or the City. Attorney Wohl responded that the vendor may be sponsored under the umbrella of the Antiques Association or a temporary vendor can be issued by the City.

Councilman Fink disclosed that he owns an antique shop but does not gain any benefit and the previous Counsel confirmed no conflict of interest. Councilman Fink continued that he reviewed the Code and asked who becomes responsible for the liability because the Antiques Association carries \$2 million in liability. He noted that code 86-5 is very specific and if we need to update the code then let us change it. He stated that it was his understanding that the Antiques Association was granted exclusive rights to place items on the sidewalk and questioned who is liable. Attorney Wohl replied that the exclusivity issue is if they don't fall under the umbrella of the approved sponsorship application; however they could apply for a City temporary vendors permit. He continued, as to the liability, the City could always be liable. Mayor Keene asked that if someone obtains a temporary vendors license where they will set up their table. Attorney Wohl replied that on the application it asks for the location of the temporary vending so that would need to be agreed upon up front. Councilman Fink inquired that according to 34.94 a temporary vendor license is only for four per year. Attorney Wohl confirmed.

Christine Lee, asked as a store owner, why she had to pay a fee for a temporary license when she pays rent. Attorney Wohl replied per 24-91 that if someone wanted to set up a table that is a temporary vending license which is different from blocking the sidewalk (96-5). He noted that one issue is there is no definition for blocking or obstructing the sidewalk and perhaps the code should be addressed.

Councilman Fink stated that he received pictures of the downtown from Mrs. Flo Rife depicting vendors selling out of the handicap loading zone and the back of a truck.

Mrs. Sheri Fink passed out a diagram showing the Antiques Association ADA compliance of 8'6 and noted that on the 1st Saturday the tables are set on both sides of the sidewalk.

Mrs. Sue Brady, Lake Suzy, said she visited the Antiques Fair recently and had no issues in the wheelchair or walker.

Sec. 34-91. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Temporary vendor means a local or itinerant person selling new or used goods or wares, furniture, bedding, musical instruments, tools, dishes, pots, pans, handmade items, hats, belts, T-shirts, boots, clothing, sunglasses, jewelry, balloons, watches, radios, flags, stickers, and other like items from a stand, parked van, truck, station wagon, car or trailer, or by walking along a parade route.

Sec. 34-92. Permit required.

It shall be unlawful for any person to engage on behalf of himself or others in the business of selling or offering for sale merchandise as listed in section 34-91 without having first obtained a temporary vendor's permit from the city recorder.

Sec. 34-93. Application for permit; issuance.

- (a) Application for a temporary vendor's permit shall be made in the recorder's office on a form which shall contain at least the following information:
- (1) Full name, mailing address, and home phone number of the applicant.
 - (2) Name, address and phone number of the owner or employer if not the applicant.
 - (3) Sex, date of birth, and driver's license number or other government-issued identification.
 - (4) Type, make, year, model and license tag of vehicle.
 - (5) Type of business and location applied for.
 - (6) Bill of sale of items bought for resale.
 - (7) Written permission from the owner of the location applied for, including a statement that restroom facilities are available for customers.
 - (8) Written approval of the city marshal for the location applied for.
 - (9) Florida sales tax identification number.
- (b) Each such application shall be accompanied by a fee in the amount of \$35.00 to cover the cost of processing the application and for a police background investigation.
- (c) Upon receipt of the application there shall be a five-day waiting period, after which the city recorder shall issue a temporary vendor's permit.

Sec. 34-94. Term of permit; limitation on number of permits.

A temporary vendor's permit shall not be issued for more than a three-day period and shall not be issued to any one applicant and/or owner or employer for more than four separate times in

any 12-month period. A separate application must be filed and the \$35.00 fee paid for each permit.

Sec. 34-95. Location.

No temporary vendor's permit shall be issued for any location for a stand, parked van, truck, station wagon, car, or trailer except in a business or commercially zoned district, and the location must be approved by the city marshal for traffic control purposes. The location shall not be on off-street parking required by the zoning code (chapter 110).



**CITY OF ARCADIA
APPLICATION FOR A TEMPORARY VENDOR'S PERMIT**

13-04VP
RECEIVED
MAR 21 2013
CITY OF ARCADIA

Application is hereby made for a Temporary Vendor's Permit to operate in the City of Arcadia for the period designated.

Owner's Name Sandra A. George Phone 863-494-0125
Address 132 W Oak St.

Vendor's Name Fernik Rising Antiques LLC Phone 863-494-0125
Address 132 W. Oak St

DL# _____ DOB 06/20/48 Gender: () Male (X) Female

Business Name Fernik Rising Antiques LLC Phone 863-494-0125

Permanent Address ~~525~~ 132 W. Oak St. Arcadia

Sales Tax # (FL) _____ Type of Merchandise Antiques + Collectibles

Zone B-2 Number of Parking Spaces Needed: N/A

Dates of Temporary Vending: () Mon () Tues () Wed From: 3-22-13 through
() Thur (X) Fri (X) Sat (X) Sun To: 3-24-13

Vehicle Information: Year 2005 Color Blue Tag # _____ State FL
Make Dodge Model Caravan

If the business is unincorporated, fictitious names must show proof of registration or the intent to register with the Clerk of the Court of the County where your principal place of business is located or in DeSoto County.

Each permit is valid for a maximum of three (3) days and no more than four (4) permits can be issued to the same vendor within a 12 month period of time. There is a minimum five (5) day waiting period for the permit.

The following items are required to be attached to your application

1. Copies of the invoices on all items to be sold that you have on hand. Additional invoices must be available for police inspection at the location
3. A \$35 fee must be paid with the application for each three-day event to cover the cost of processing and background investigation.

By signing below, I understand and agree to comply with all rules, regulations, laws and ordinances of the City of Arcadia, DeSoto County and State of Florida.

Sandra A. George Owner 3-20-13
Signature of Applicant Title: Vendor, owner, etc. Date

Approved Yes Permit # 13-04VP Date Issued 3/21/13
Denied _____ Reason N/A

City of Arcadia by: [Signature] Date: 3/21/13

pd. \$ 35.00
Submitted 3/20/13

Sandra@13yehon.com

DeSoto County Property Appraiser

2012 Certified Values

CAMA updated: 3/7/2013

Parcel: 25-37-24-0012-0280-0055

Tax Collector

Tax Estimator

Property Card

Interactive GIS Map

<< Next Lower Parcel | Next Higher Parcel >>

Parcel List Generator

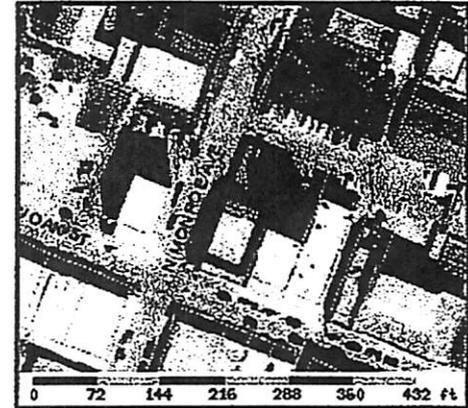
Print

Owner & Property Info

<< Prev Search Result: 3 of 3

Owner's Name	DRILL BARBARA JEAN
Site Address	132 W OAK ST
Mailing Address	P O BOX 511418 PUNTA GORDA, FL 33951-0000
Use Desc. (code)	STORE/OFFI (001200)
Tax District	1 (Within City Limits)
Neighborhood	400000
Land Area	0.160 ACRES
Market Area	04
Description	NOTE: This description is not to be used as the Legal Description for this parcel in any legal transaction.
TOWN OF ARCADIA O S W 50 FT LOTS 5 & 6 BLK 28 IN SEC 36/37/24 OR 465/1086 INST:201014003315	

GIS Aerial



Property & Assessment Values

2012 Certified Values

Mkt Land Value	amt: (1)	\$26,250.00
Ag Land Value	amt: (0)	\$0.00
Building Value	amt: (1)	\$117,948.00
XFOB Value	amt: (2)	\$1,078.00
Total Appraised Value		\$145,276.00

Just Value	\$145,276.00
Class Value	\$0.00
Assessed Value	\$145,276.00
Exempt Value	\$0.00
Total Taxable Value	County: \$145,276.00 City: \$145,276.00 Other: \$145,276.00 School: \$145,276.00

Sales History

Show Similar Sales within 1/2 mile

Sale Date	OR Book/Page	OR Code	Vacant / Improved	Qualified Sale	Sale RCode	Sale Price
4/20/2010	201014003315	QC	I	U	11	\$100.00
11/16/2000	465/1086	CW	I	U	01	\$78,500.00
10/12/1999	440/282	WD	I	U	01	\$0.00
9/2/1997	391/379	WD	I	Q		\$89,000.00
10/4/1990	275/223	WD	I	Q		\$75,000.00
9/1/1982	186/632	WD	I	Q		\$65,000.00
11/1/1977	135/724	WD	I	Q		\$25,000.00

Building Characteristics

Bldg Item	Bldg Desc	Year Blt	Ext. Walls	Heated S.F.	Actual S.F.
1	OFFICE LOW (004900)	1925	CONC BLOCK (15)	7699	8884
Note: All S.F. calculations are based on exterior building dimensions.					

Extra Features & Out Buildings

Code	Desc	Year Blt	Units	Dims	Condition (% Good)
0800	BLK TOP A	1960	0002075.000	0 x 0 x 0	(000.00)
1925	PVMT C	1960	0000575.000	0 x 0 x 0	(000.00)

Land Breakdown

Lnd Code	Desc	Units	Zoning *
001200	STORE/HSE (MKT)	7000 SF - (0000000.160AC)	B-2

* NOTE: The Property Appraiser's Office is NOT responsible for the accuracy of the zoning. To verify the zoning, please call the Planning & Zoning Department at



**CITY OF ARCADIA
APPLICATION FOR A TEMPORARY VENDOR'S PERMIT**

13-05 VP
RECEIVED
MAR 21 2013
CITY OF ARCADIA

Application is hereby made for a Temporary Vendor's Permit to operate in the City of Arcadia for the period designated.

Owner's Name CHRISTINE/JAMES LEE Phone 239-243-4249
Address 133 W. Oak St. Arcadia FL 34266

Vendor's Name CHRISTINE LEE Phone 239-243-4249
Address 133 W. Oak St. Arcadia FL 34266

DL# L000-112-58-7150 DOB 6/15/58 Gender: Male Female

Business Name BIGGAR and BIGGAR ANTIQUE MALL Phone 813-491-5862

Permanent Address 133 W. Oak St. Arcadia FL 34266

Sales Tax # (FL) 24-8015965883-5 Type of Merchandise Antiques + Collectibles

Zone B-2 Number of Parking Spaces Needed: 1

Dates of Temporary Vending: Mon Tues Wed Fri Sat Sun
From: March 22 through To: March 24

Vehicle Information: Year 2012 Color White Tag # 985YHB State FL
Make Ford Model F150 Lariat

If the business is unincorporated, fictitious names must show proof of registration or the intent to register with the Clerk of the Court of the County where your principal place of business is located or in DeSoto County.

Each permit is valid for a maximum of three (3) days and no more than four (4) permits can be issued to the same vendor within a 12 month period of time. There is a minimum five (5) day waiting period for the permit.

The following items are required to be attached to your application

1. Copies of the invoices on all items to be sold that you have on hand. Additional invoices must be available for police inspection at the location
3. A \$35 fee must be paid with the application for each three-day event to cover the cost of processing and background investigation.

By signing below, I understand and agree to comply with all rules, regulations, laws and ordinances of the City of Arcadia, DeSoto County and State of Florida.

Christine Lee OWNER 3-21-13
Signature of Applicant Title: Vendor, owner, etc. Date

Approved Yes Permit # 13-05VP Date Issued 3/21/13
Denied _____ Reason N/A

City of Arcadia by: [Signature] Date: 3/21/13

*pd - \$35 cash
3/21/13*

DeSoto County Property Appraiser

2012 Certified Values

CAMA updated: 3/7/2013

Parcel: 25-37-24-0012-0420-0094

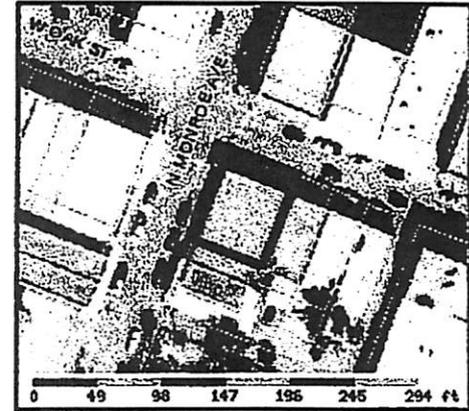
<< Next Lower Parcel | Next Higher Parcel >>

<< Prev Search Result: 3 of 3

Owner & Property Info

Owner's Name	TROPICAL HOLDING CO INC
Site Address	133 W OAK ST
Mailing Address	PO BOX 8 WAUCHULA, FL 33873-0000
Use Desc. (code)	STORES 1 S (001100)
Tax District	1 (Within City Limits)
Neighborhood	400000
Land Area	0.097 ACRES
Market Area	04
Description	NOTE: This description is not to be used as the Legal Description for this parcel in any legal transaction.
TOWN OF ARCADIA O S N 74.5 FT LOTS 4 & 5 BLK 42 IN SEC 36/37/24 DB273/551	

GIS Aerial



Property & Assessment Values

2012 Certified Values

Mkt Land Value	amt: (1)	\$15,924.00
Ag Land Value	amt: (0)	\$0.00
Building Value	amt: (1)	\$57,394.00
XFOB Value	amt: (0)	\$0.00
Total Appraised Value		\$73,318.00

Just Value	\$73,318.00
Class Value	\$0.00
Assessed Value	\$73,318.00
Exempt Value	\$0.00
Total Taxable Value	County: \$73,318.00 City: \$73,318.00 Other: \$73,318.00 School: \$73,318.00

Sales History

Show Similar Sales within 1/2 mile

Sale Date	OR Book/Page	OR Code	Vacant / Improved	Qualified Sale	Sale RCode	Sale Price
NONE						

Building Characteristics

Bldg Item	Bldg Desc	Year Blt	Ext. Walls	Heated S.F.	Actual S.F.
1	STORE RETL (003500)	1906	CONC BLOCK (15)	3318	4664
Note: All S.F. calculations are based on exterior building dimensions.					

Extra Features & Out Buildings

Code	Desc	Year Blt	Units	Dims	Condition (% Good)
NONE					

Land Breakdown

Lnd Code	Desc	Units	Zoning *
001100	STORE (MKT)	4246.5 SF - (0000000.097AC)	B-2
* NOTE: The Property Appraiser's Office is NOT responsible for the accuracy of the zoning. To verify the zoning, please call the Planning & Zoning Department at 863-993-4806.			

DeSoto County Property Appraiser

CAMA updated: 3/7/2013

<< Prev

3 of 3

AGENDA No. 2



CITY COUNCIL AGENDA ITEM
Requested Council Meeting Date: July 1, 2014

DEPARTMENT: Administration
SUBJECT: Minutes from June 17, 2014

RECOMMENDED MOTION: Council Approval

SUMMARY:

FISCAL IMPACT: _____ () Capital Budget
() Operating
() Other

ATTACHMENTS: () Ordinance () Resolution () Budget (x) Other

Department Head: _____ Date: _____

Finance Director (As to Budget Requirements) _____ Date: _____

City Attorney (As to Form and Legality) _____ Date: _____

City Administrator: Tom Slaughter _____ Date: _____

COUNCIL ACTION: () Approved as Recommended () Disapproved
() Tabled Indefinitely () Tabled to Date Certain _____ () Approved with Modifications

**AGENDA MINUTES
CITY COUNCIL
CITY OF ARCADIA
TUESDAY, JUNE 17, 2014
6:00 P.M.**

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 Mayor called the meeting to order at approximately 6:00 p.m. with the following members and staff present:

Arcadia City Council

Mayor Alice Frierson

Deputy Mayor Joseph E. Fink

Councilmember Robert R. Allen

Councilmember Keith Keene

Councilmember Robert W. Heine was not present due to a death in his family.

Arcadia City Staff

City Administrator Tom Slaughter

City Attorney Thomas J. Wohl

City Clerk Penny Delaney

Code Enforcement Officer Carl McQuay

Marshal Matthew Anderson

Finance Director Beth Carsten

Councilmember Allen gave the invocation, which was followed by the Pledge of Allegiance and roll call.

PRESENTATION

Agenda Item 1 – Proclamation

Mayor Frierson presented City Clerk Penny Delaney with a proclamation regarding her service to the City of Arcadia.

Agenda Item 2 – Special Recognition of Willy Bailey

Mayor Frierson presented Willy Bailey with a plaque regarding his courage and meritorious service to the community.

Agenda Item 3 – GSG Stormwater and Fire Assessment Study

Sandi Melgarejo of Government Services Group, Inc. presented the GSG Stormwater and Fire Assessment Study to the City Council. After the presentation, Mayor Frierson asked what the company's upfront cost was. Ms. Melgarejo stated it would be just under \$30,000.00, \$14,500.00 approximately for each of the programs. She advised that in order to help with the implementation, if the City just wanted to do the fire, the charge would be \$7,500.00. If the City chose to go forward with both the fire and stormwater, the fees would be reduced from \$15,000.00 to \$12,500.00, which would include helping with the implementation. She further stated that GSG could help with developing and sending out the first-class notices for an additional cost because there are a lot of hard costs that would come out of GSG's pocket. Mayor Frierson asked if that cost would come out of the revenue collected and Ms. Melgarejo agreed that the City could be paid back through that. She advised there is a collection issue with government properties because they can't be put on the tax bill, however, churches and the institutional tax exempt would be able to be on the tax bill so there is not the collection issue with them.

Deputy Mayor Fink stated that he felt the Council needed to look seriously at putting into effect the first timetable presented by Ms. Melgarejo which was the \$68.00 for fire and \$9.00 for stormwater to ensure it would be revenue neutral. He further stated that he would not be able to vote to not have churches taxed. Ms. Melgarejo pointed out that churches provide community services that the City might would have to provide such as opening facilities for polling. Therefore, that is why they can be exempted.

The City Attorney wanted to clarify any decision on the actual rate would not be done until the resolution. Ms. Melgarejo stated that the initial assessment resolution is when the City would make their preliminary decision and whatever that decision is, the City could go lower, but not higher. When you send the first-class notices out, it has the ceiling level and it states it won't go up any further unless another notice is sent out. She further stated the final decision on the final rates is made at the August 19th resolution adoption. Deputy Mayor Fink made a motion that Council adopt the first schedule of dates rather than the second to give plenty of time to do this and implement the schedule. Councilmember Keene asked if they would want the motion to include the proposed rates as well. Deputy Mayor Fink stated that it was to include the proposed rates. Mayor Frierson asked if the public understood what was happening, that they were raising their taxes again. Deputy Mayor Fink stated that they were actually not raising their taxes. Ms. Melgarejo stated that if Council went with the \$68.00 and \$9.00, it would be revenue neutral to the residential properties. Councilmember Keene seconded the motion.

William Bailey of 422 E. Magnolia Street, Arcadia, Florida, stated that it sounded like it was an additional amount of money. Deputy Mayor Fink stated that it would not be on residential. The City Attorney advised there is currently a \$77.00 assessment on residential properties and the \$68.00 figure would keep the income the same for the fire assessment because it would also include additional commercial properties or include more of a rate to commercial properties. He further advised to make up the difference of \$9.00 to get it back to \$77.00, that's where the additional \$9.00 would come on the stormwater assessment so either way residential

would still be assessed \$77.00. The City Attorney stated that based on today's vote, the high would be from \$77.00 now to a maximum of \$92.00 and that would all be determined at the final assessment resolution vote. He further stated that he wanted to be clear that he has been instructed to come back with an assessment ordinance on fire and stormwater. Council confirmed.

Gary Frierson of 1 N. Luther Avenue, Arcadia, Florida, stated that they had already decided to do this and from what he understood, the motion was to pick a date to get started and he asked when Council actually decided to implement this. He further stated that what this does is provide another revenue source that Council can raise later. He felt people should be cautious of the fact that the government can start filling two buckets instead of one bucket. He asked if residents would now be getting a reduction on their water bill and will the extra funds for stormwater be included into the enterprise zone of our water system or is this going to be general fund money? Councilmember Keene stated that they have to start somewhere. He stated he was reluctant to talk about properties that currently don't pay any taxes at all. He further stated that he liked the revenue neutral option, but felt if they had to set a rate higher tonight but knowing that they could come down, he would rather see Council do that which is why he is support of the motion to get the ball rolling and they didn't have to make all the decisions tonight. He referenced Mr. Frierson's question regarding when Council decided to do this and advised that he had pulled out the agenda from August 20, 2013 and that's when Council voted to hire someone to do this study for them so it's not brand new. Mayor Frierson wanted to make the point that it was done in 2013, but they are facing July 1st and now in a push to make a decision on it right now and stated that was her problem with it. She advised that she was going to vote for the motion to get it started but felt they were in a pinch and shouldn't be. No discussion followed and it was unanimously, 4/0, approved.

Agenda Item 4 - Review Draft Memorandum of Understanding Between City of Arcadia and Smith-Brown Community Foundation

Ashley Coone of the Smith-Brown Community Foundation advised that the Smith-Brown Community Foundation had met with staff, the City Attorney and Councilmember Keene and provided a Memorandum of Understanding to present to Council. The City Attorney advised that he had reviewed it and other than a couple of typographical errors, from a legal standpoint it looked fine. Councilmember Keene stated that he appreciated being involved in it and felt it gave the City an opportunity to achieve some success with the Smith-Brown Gym and the surrounding areas. Mayor Frierson stated that they were really ambitious on the improvements and didn't know how they were going to raise the funds, but it will be a job. Councilmember Keene wanted to be clear for Council and wanted to confirm with Ms. Coone that by Council approving the memorandum; it would allow them to move forward with some funding mechanisms to get started. Ms. Coone stated that they would need a lease, but this will get the ball rolling. She advised they had raised over \$3,300.00 during a one week fundraiser. She stated they just needed something in place so the community knows they are donating to a cause that the foundation has a right to renovate. The City Attorney stated that in order to clarify for Council, this is merely a sketch of what the terms will be set out in the lease, so there is phase 1-4 renovations. Likely my recommendation will be to include timelines on when those are

completed and opt out provisions in the event those timelines are not met and also some more specific perimeters as to what exactly those renovations will entail. He just wanted to make sure this is not the language that will likely wind up in the lease. Councilmember Keene made a motion to approve the memorandum as corrected and Deputy Mayor Fink seconded the motion. No discussion followed and it was unanimously, 4/0, approved.

CONSENT AGENDA

Agenda Item 5 – City Council Minutes for June 3, 2014

Agenda Item 6 – Amendment 2 to Specific Authorization No. 17 – Construction Services Associated with Utility Relocation along US 17

Deputy Mayor Fink made a motion to approve the Consent Agenda as presented and Councilmember Allen seconded the motion. No discussion followed and it was unanimously, 4/0, approved.

ACTION ITEMS

Agenda Item 7 – Electric Carillon – Trinity United Methodist Church

Carl McQuay addressed Council to advise Trinity United Methodist Church was given an electric carillon system. He advised there was not an ordinance against it and stated it would be used for church services, at noon time, and possibly for other services such as funerals and such. Mayor Frierson stated that there has been something very similar in the past and she felt it was great.

Agenda Item 8 – Ordinance Amending City Election Code

The City Attorney stated that as discussed at the last council meeting, he was bringing back the ordinance amending the election code. He advised that they are looking to adopt the Florida Election Code and since the Supervisor of Elections handles all the City's elections anyway, it makes sense to get on the timeline they provide. Now that the City is voting in November, the City ballots will be included on the ballots with the federal, state and county level. He further stated that it doesn't make sense to have two separate canvassing boards, so they had also included having the County canvass the votes. He advised that the one thing he did was maintain the City's right to handle the elections in the future if they wanted to. He further advised that he kept the election sign ordinance in place. It is much more restrictive than what the state allows which is thirty (30) days. The City's is five (5) days.

Gary Frierson of 1 N. Luther Avenue, Arcadia, Florida, stated that in the past the election was over and done in October and during the first meeting of October, the Mayor was elected. He asked if the Mayor would still be elected in October and he asked if it was correct that the new people elected wouldn't go into office until January. The City Attorney advised they would take office in December. Councilmember Keene made a motion to approve the ordinance and

Deputy Mayor Fink seconded the motion. No discussion followed and it was unanimously, 4/0, approved. The City Attorney stated that he wanted to clarify that in the event there is a run-off, the run-off wouldn't take place until January. He advised that part of the issue the Supervisor of Elections would have, in the event they had not done this, the run-off would take place two (2) weeks after the election and that's impossible for the Supervisor of Elections to do now that there is a 2010 Statute that requires absentee ballots to be mailed out forty-five (45) days in advance. Mayor Frierson instructed the City Clerk to read the ordinance by title only. The Clerk did so. Deputy Mayor Fink made a motion to approve the ordinance as presented to second reading and Councilmember Keene seconded the motion. No discussion followed and it was unanimously, 4/0, approved.

Agenda Item 9 – Arcadia Airport Advisory Committee Appointment of Greg Smith

The City Clerk advised that Mr. Smith's time ran out in May of this year. She advised that he would have to re-apply to be re-appointed and that Mr. Smith had submitted to her a request to have this done. She then advised that at this point it is up to Council. Mayor Frierson asked the City Clerk if there were any other applicants and the City Clerk advised that there were not. Councilmember Keene asked how long the term was for and it was determined it was a three year term. Deputy Mayor Fink stated that difficulties arose last year due to issues not being brought to Council's attention and way too much being brought to the then City Administrator. He expressed his concern with having a board that reports directly to the City Administrator and not to Council. He stated it was unheard of and unprecedented. He stated that before any appointments are made, he felt Resolution 2013-08 should be revoked due to too much authority being given to the City Administrator. He further stated that the League of Cities had never heard of a committee that is authored by Council that reports to the Administrator.

Councilmember Keene stated that he is for making the appointments tonight and if Council wants to revise or change the resolution, he felt that could be done separately if that's what they want to do. He asked if Council was establishing who the spokesperson would be for the airport advisory board. Deputy Mayor Fink advised that it would be the chairman of the committee who they choose themselves.

Deputy Mayor Fink made a motion that they repeal Resolution 2013-08. Councilmember Allen preferred to review it rather than repeal it. Deputy Mayor Fink amended his motion to have Resolution 2013-08 reviewed at the next meeting and Councilmember Allen seconded the motion. Mayor Frierson asked if they wanted to put off the appointments. Deputy Mayor Fink stated that until they have a good solid resolution, he felt they should put it off until the next meeting. The City Attorney was asked to review it and determine if Council could go back to Resolution 2009-20. The City Attorney advised that Council can repeal its own resolution.

Mayor Frierson stated that she didn't know that the Airport Advisory Committee had abused their actions and if there has never been a problem in the past, she felt there may be ulterior motives here. Deputy Mayor Fink stated that he never stated anyone abused anything except that it's unusual and unprecedented. Gary Frierson of 1 N. Luther Avenue, Arcadia, Florida, addressed Council and stated that they have two people who are basically off so there is

a three member board at this time. He advised there are some meetings scheduled to go over with the engineer for public comment with the master plan coming in. By doing this, it would eliminate those if one person is missing, you'd have a two person committee. He stated that it was his understanding that Council could eliminate the board at any time if they should decide to do so. He further stated that if Council put people on the committee, they could continue to do the job Council asked them to do and if Council wants to review or change it at a later date, they could. He advised there are meetings scheduled and the engineer will be here as such has been advertised. If Council does not make these two separate issues, they essentially will shut the committee down and won't get the input they asked for from the engineer.

Councilmember Keene stated that there is a motion and a second to review the resolution and he called for the question. No discussion followed and it was, 3/0, approved with one dissenting vote by Councilmember Keene.

Councilmember Keene made a motion to grant the request of Greg Smith to be re-appointed to the Airport Advisory Committee and the motion was seconded by Deputy Mayor Fink. No discussion followed and it was unanimously, 4/0, approved.

Agenda Item 10 – Arcadia Airport Advisory Committee Appointment of Gary Frierson

Councilmember Keene made a motion to grant the request of Gary Frierson to be re-appointed to the Airport Advisory Committee and the motion was seconded by Deputy Mayor Fink. Mayor Frierson abstained from voting on this issue as she is married to Gary Frierson. No discussion followed and it was unanimously, 3/0, approved.

COMMENTS FROM DEPARTMENTS

6. CITY MARSHAL

Marshal Anderson stated he was there to address any concerns the City Council or the general public may have. No concerns were brought to his attention. He stated that a big tree had fallen across Hwy. 70 causing it to be blocked off for several hours and City employees worked diligently to remove it. He also updated Council to advise Mitzi McGavic is slowly but surely coming back to work.

7. CITY ATTORNEY

None.

8. FINANCE DIRECTOR

The Finance Director, Beth Carsten, provided Council with an update regarding revenues and expenses. She advised that to date, the City had taken in 64.2% of expected revenues. She advised that she had checked to see how the revenues came in last year, and the City is very much on schedule. She advised that the City had received some more money from the small city

surtax. Mr. Carsten stated that the City had expended approximately 50.5% of its expenses for each department to date. She felt the departments were doing a good job of keeping their expenses as low as they can. Mayor Frierson asked if she had heard anything regarding the audit. Ms. Carsten advised they were continuing to do the audit. In the process of going through things requested by the auditors, some items are taking longer to balance than expected and it will be close. She further advised that they are still going forward that they will be able to file and the auditor will be able to give the City a plan if they cannot file. She stated that the auditor, at this time last month, felt that we would be on schedule to be able to file. Ms. Carsten stated that she had talked with the auditor regarding the chance that we can't file, and was advised that it would be very close to that time, to the beginning of July and she didn't feel it would hurt our funding or revenue sources at that point. The auditor advised that the biggest thing they look for is that we do file in this fiscal year. Ms. Carsten advised that she has made every effort to get this completed.

9. CITY ADMINISTRATOR

The City Administrator advised that with the exception of Councilmember Keene, staff had set up council members' one-on-one workshop on June 19, 2014 throughout the day. The planning team will be getting in touch with each of them. He advised that Councilmember Keene's had been scheduled for June 24, 2014. He further advised that staff had put together a format and advertisement which advertised for Thursday, June 19, 2014 from 5:00-7:30 p.m., Tuesday, June 24, 2014 from 1:00-3:00 p.m. and on the same date from 5:30-7:30 p.m. He advised the format will be the exact same for all three meetings and it will essentially allow the community to provide input. The planning team will review concepts regarding strategic planning, will share some of council's preliminary comments and thoughts in regards to issues from the SWOT (strengths, weaknesses, opportunities and threats) analysis, and lastly will try to hone down on a vision statement for the community. He stated that the idea is to get some of these concepts and thoughts presented, and then from that to prioritize major capital projects that will be used to help council target some of our spending for the next fiscal year. He further stated that they will probably have a list of deficiencies greater than our budget, but it will allow the public to weigh in regarding what they believe would be the priorities for council in the next year. With no further comment, he advised that he hoped all can attend one of the meetings.

PUBLIC

Gary Frierson of 1 N. Luther Avenue, Arcadia, Florida, advised Lee Snyder is doing an excellent job mowing at the airport. He stated that it looks better than it has in years. He stated there is a triangular area between Runway 13 and Runway 6 with a lot of trees and the limbs have grown and you can't see through there. He advised that a number of years ago, volunteers had gone out with chainsaws and trimmed the trees and it was nice for a while. He stated that if the City could, it would be nice if they could do that again.

William Bailey of 422 E. Magnolia Street, Arcadia, Florida, addressed Council to thank them, the Marshal, the Chamber of Commerce and to all of those who recognized their son, Willy, for what he did. He stated that he felt it was very wonderful of them to do that and it

made a lasting impression in his life. Mr. Bailey stated that there is always negative everywhere and people have stepped up for a positive.

MAYOR AND COUNCIL MATTERS

Deputy Mayor Fink asked Council to consider naming the Chamber in honor of two (2) council members who have served or will have served twenty (20) years; one who is retiring and is not with us tonight and one is Dr. Roosevelt Johnson. He asked that they consider naming the chambers in honor of Dr. Roosevelt Johnson and Robert Heine. He felt it was well deserved and it should be considered. He further asked Council to consider naming the administrative offices in honor of Edward Strube. He stated that twenty-eight (28) years to the City is a long time and people should be honored for their time. He felt it should be done because they understand what these individuals have given. No discussion followed.

ADJOURN

Having no further business at this time, the meeting was adjourned at 7:30 P.M.

ADOPTED THIS ___ DAY OF _____, 2014

By:

Alice Frierson, Mayor

ATTEST:

Penny Delaney, City Clerk

AGENDA No. 3



CITY COUNCIL AGENDA ITEM
Requested Council Meeting Date: July 1, 2014

DEPARTMENT: Administration

SUBJECT: Air-Cadia Flowage and Hangar Rent Report for May 2014

RECOMMENDED MOTION: Council Approval

SUMMARY:

FISCAL IMPACT: _____ Capital Budget
 Operating
 Other

ATTACHMENTS: Ordinance Resolution Budget Other

Department Head: _____ Date: _____

Finance Director (As to Budget Requirements) _____ Date: _____

City Attorney (As to Form and Legality) _____ Date: _____

City Administrator: Tom Slaughter _____ Date: _____

COUNCIL ACTION: Approved as Recommended Disapproved
 Tabled Indefinitely Tabled to Date Certain _____ Approved with Modifications

Air-Cadia

2268 SE AC Polk Jr Dr
Arcadia, Fl 34266
863-990-9314
863-993-2114

RECEIVED

JUN 13 2014

CITY OF ARCADIA

FLOWAGE AND HANGER RENT REPORT May 2014

<i>Aviation Fuel</i>	532.2 GALLONS @ \$0.01/ga	\$	5.32
<i>Lubrication oil</i>	0.00Gallons.04/gal	\$.00
<i>Tiedown Fee</i>	50.00/50%	\$	25.00
<i>BLDG F...unit 1 and 2</i>	650.00/90%	\$	585.00
<i>Bldg F Unit 3</i>	433.00/90%	\$	390.00
<i>T-hangers</i>	\$4,500.00/90%	\$	4,050.00
<i>Late Fee</i>	100.00/90%		90.00
<i>This month 20 of the 20 hangers rented-Building A and B</i> <i>3 of the 3 hangers rented-Building F</i>			
<i>Adjustments uncollected- Martell -May</i>			(\$225.00)
<i>Ring-May</i>			(\$225.00)
<i>Greene-May</i>			(\$225.00)
<i>Collected - Ruple-April</i>			315.00

Total due City for May 2014 \$ 4,785.32

Paid Check # 1035

1035

AIR-CADIA INC

2268 SE AC POLK JR DR
ARCADIA, FL 34266

63-215-631

DATE 6-12-14

PAY
TO THE
ORDER OF

City of Arcadia

\$ 4,785³⁷/₁₀₀

Four Thousand Seven Hundred Eighty Five ³⁷/₁₀₀ -

DOLLARS  Security Features
include
Olefin on Back



ACH RT 061000104

FOR

R. M. Mear

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AGENDA No. 4



CITY COUNCIL AGENDA ITEM
Requested Council Meeting Date: July 1, 2014

DEPARTMENT: Administration

SUBJECT: Ordinance 999 – Police Officers’ and Firefighters’ Retirement System

RECOMMENDED MOTION: Council Approval

SUMMARY:

FISCAL IMPACT: _____ () Capital Budget
() Operating
() Other

ATTACHMENTS: (X) Ordinance () Resolution () Budget () Other

Department Head: _____ Date: _____

Finance Director (As to Budget Requirements) _____ Date: _____

City Attorney (As to Form and Legality) _____ Date: _____

City Administrator: Tom Slaughter _____ Date: _____

COUNCIL ACTION: () Approved as Recommended () Disapproved
() Tabled Indefinitely () Tabled to Date Certain _____ () Approved with Modifications

Law Offices

Christiansen & Dehner, P.A.

63 Sarasota Center Blvd. Suite 107 Sarasota, Florida 34240 • 941-377-2200 • Fax 941-377-4848

May 7, 2014

Mr. Tom Slaughter, Interim City Administrator
City of Arcadia
23 N. Polk Avenue
Arcadia, FL 34266

Re: City of Arcadia Police Officers' and Firefighters' Retirement System

Dear Mr. Slaughter:

I represent the Board of Trustees of your City of Arcadia Police Officers' and Firefighters' Retirement System. Enclosed please find a proposed ordinance amending the City of Arcadia Police Officers' and Firefighters' Retirement System, which is recommended by the Board for adoption by the City Council. This ordinance amends Section 1, Definitions to amend the definition of Actuarial Equivalent to reflect the current mortality table being utilized by the plan's actuary.

I am enclosing a letter from the plan's actuary, Foster & Foster, Inc., indicating that there is no cost associated with the adoption of this ordinance.

If you or any member of your staff have any questions with regard to this ordinance, please feel free to give me a call. In addition, if you feel it would be appropriate for me to be present at the meeting at which this ordinance is considered by the City Council, please contact my office to advise me of the date that the ordinance would be considered.

Yours very truly,



Scott R. Christiansen

SRC/dm
enclosure

cc: Doug Lozen
Shelly Baumann, with enclosure



April 24, 2014

VIA EMAIL AND MAIL

Shelly Baumann, Plan Administrator
14 Kelly Drive
Arcadia, FL 34266

Re: City of Arcadia Police Officers' and Firefighters' Retirement System

Dear Shelly:

In response to Scott Christiansen's letter dated April 15, 2014, we have reviewed the proposed ordinance (identified as dm/arcadia/pf/04-09-14.ord) providing for a change in the assumptions utilized for the definition of Actuarial Equivalence to match the current valuation assumptions for mortality and interest. While adoption of these assumptions may result in a de minimis impact (either positive or negative) over the life of the Plan, it is not currently measurable and therefore does not result in an immediate change to the Plan's funding requirements.

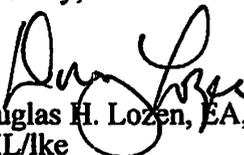
Because the changes do not result in a change in the valuation results, it is our opinion that a formal Actuarial Impact Statement is not required in support of its adoption. However, since the Division of Retirement must be aware of the current provisions of all public pension programs, it is recommended that you send a copy of this letter and a copy of the fully executed Ordinance to each of the following offices:

Mr. Keith Brinkman
Bureau of Local Retirement Systems
Division of Retirement
P. O. Box 9000
Tallahassee, FL 32315-9000

Ms. Sarah Carr
Municipal Police and Fire
Pension Trust Funds
Division of Retirement
P.O. Box 3010
Tallahassee, FL 32315-3010

If you have any questions, please let me know.

Sincerely,


Douglas H. Lozen, EA, MAAA
DHL/lke

cc via email: Scott Christiansen, Plan Attorney

ORDINANCE NO. 999

AN ORDINANCE OF THE CITY OF ARCADIA, AMENDING CHAPTER 2, ARTICLE V, DIVISION 2, POLICE OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES OF THE CITY OF ARCADIA; AMENDING SECTION 2-181, DEFINITIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA;

SECTION 1: That Chapter 2, Article V, Division 2, Police Officers' and Firefighters' Retirement System, of the Code of Ordinances of the City of Arcadia, is hereby amended by amending Section 2-181, Definitions, to amend the definition of *Actuarial Equivalent*, to read as follows:

* * * * *

Actuarial Equivalent means a benefit or amount of equal value, based upon the ~~1983 Group Annuity~~ RP 2000 Combined Healthy Mortality Table, Unisex, with disabled lives set forward five (5) years, and an interest rate of eight (8%) per annum. This definition may only be amended by the City pursuant to the recommendation of the Board using assumptions adopted by the Board with the advice of the plan's actuary, such that actuarial assumptions are not subject to City discretion.

* * * * *

SECTION 2: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Arcadia.

SECTION 3: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 5: That this Ordinance shall take effect pursuant to Chapter 73-403 of the laws of the State of Florida.

PASSED ON FIRST READING, this _____ day of _____, 2014.

PASSED ON SECOND READING, this _____ day of _____, 2014.

Alice Frierson, Mayor

ATTEST:

Penny Delaney, City Clerk

Approved as to form:

City Attorney

AGENDA No. 5



CITY COUNCIL AGENDA ITEM
Requested Council Meeting Date: July 1, 2014

DEPARTMENT: Administration
SUBJECT: Ordinance 1000 – Fire Rescue

RECOMMENDED MOTION: Council Approval

SUMMARY:

FISCAL IMPACT: _____ () Capital Budget
() Operating
() Other

ATTACHMENTS: (X) Ordinance () Resolution () Budget () Other

Department Head: _____ Date: _____

Finance Director (As to Budget Requirements) _____ Date: _____

City Attorney (As to Form and Legality) _____ Date: _____

City Administrator: Tom Slaughter _____ Date: _____

COUNCIL ACTION: () Approved as Recommended () Disapproved
() Tabled Indefinitely () Tabled to Date Certain _____ () Approved with Modifications

ORDINANCE NO. 1000

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA; RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES, AND PROGRAMS THROUGHOUT THE INCORPORATED AREAS OF ARCADIA, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF FIRE RESCUE ASSESSMENTS AGAINST PROPERTY; PROVIDING CERTAIN DEFINITIONS INCLUDING A DEFINITION FOR THE TERM “FIRE RESCUE ASSESSMENT”; ESTABLISHING A PROCEDURE FOR IMPOSING FIRE RESCUE ASSESSMENTS; PROVIDING THAT FIRE RESCUE ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR A FIRE RESCUE ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; AUTHORIZING THE IMPOSITION OF INTERIM ASSESSMENTS; PROVIDING AUTHORIZATION FOR EXEMPTIONS AND HARDSHIP ASSISTANCE; PROVIDING A PROCEDURE FOR THE COLLECTION OF FIRE RESCUE ASSESSMENTS; PROVIDING FOR A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON GOVERNMENT PROPERTY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Arcadia, Florida:

ARTICLE I

INTRODUCTION

SECTION 1.01. DEFINITIONS. As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

“Annual Rate Resolution” means the resolution described in Section 2.08 hereof, establishing the rate at which a Fire Rescue Assessment for a specific Fiscal Year will be computed. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which a Fire Rescue Assessment is imposed or reimposed.

“Assessed Property” means all parcels of land within the City included on the Assessment Roll that receive a special benefit from the delivery of the fire rescue services, programs or facilities identified in the Initial Assessment Resolution or a subsequent Preliminary Rate Resolution.

“Assessment Roll” means the special Assessment Roll relating to a Fire Rescue Assessment approved by a Final Assessment Resolution pursuant to Section 2.06 hereof or an Annual Rate Resolution pursuant to Section 2.08 hereof.

“Building” means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile homes. This term shall include the use of land in which lots or spaces are offered for use, rent or lease for the placement of mobile homes, travel trailers, or the like for residential purposes.

“City” means the City of Arcadia, Florida.

“City Administrator” means the chief administrative officer of the City, designated by the City Council to be responsible for coordinating Fire Rescue Assessments or such person's designee.

“City Clerk” means the City Clerk of the City of Arcadia, Florida.

“City Council” means the City Council of the City of Arcadia, Florida.

“County” means DeSoto County, Florida.

“Final Assessment Resolution” means the resolution described in Section 2.06 hereof which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the initial imposition of Fire Rescue Assessments.

“Fire Rescue Assessment” means a special assessment lawfully imposed by the City Council against Assessed Property to fund all or any portion of the cost of the provision of fire rescue services, facilities, or programs providing a special benefit to property as a consequence of possessing a logical relationship to the value, use, or characteristics of the Assessed Property.

“Fire Rescue Assessed Cost” means the amount determined by the City Council to be assessed in any Fiscal Year to fund all or any portion of the cost of the provision of fire rescue services, facilities, or programs which provide a special benefit to Assessed Property, and shall include, but not be limited to, the following components: (A) the cost of physical construction, reconstruction or completion of any required facility or improvement; (B) the costs incurred in any required acquisition or purchase; (C) the cost of all labor, materials, machinery, and

equipment; (D) the cost of fuel, parts, supplies, maintenance, repairs, and utilities; (E) the cost of computer services, data processing, and communications; (F) the cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever; (G) the cost of any indemnity or surety bonds and premiums for insurance; (H) the cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits; (I) the cost of uniforms, training, travel, and per diem; (J) the cost of construction plans and specifications, surveys and estimates of costs; (K) the cost of engineering, financial, legal, and other professional services; (L) the costs of compliance with any contracts or agreements entered into by the City to provide fire rescue services; (M) all costs associated with the structure, implementation, collection, and enforcement of the Fire Rescue Assessments, including any service charges of the Tax Collector, or Property Appraiser and amounts necessary to offset discounts received for early payment of Fire Rescue Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Fire Rescue Assessments collected pursuant to Section 3.02 herein; (N) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of fire rescue services, facilities, or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the City Council by subsequent resolution; (O) a reasonable amount for contingency and anticipated delinquencies and uncollectible Fire Rescue Assessments; and (P) reimbursement to the City or any other Person for any moneys advanced for any costs incurred by the City or such Person in connection with any of the foregoing components of Fire Rescue Assessed Cost. The Fire Rescue Assessed Cost shall not include costs for the provision of emergency medical services by the City.

"Fiscal Year" means that period commencing October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the Fiscal Year for the City.

"Government Property" means property owned by the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

"Initial Assessment Resolution" means the resolution described in Section 2.02 hereof which shall be the initial proceeding for the identification of the Fire Rescue Assessed Cost for which an assessment is to be made and for the imposition of a Fire Rescue Assessment.

“Maximum Assessment Rate” means the highest rate of a Fire Rescue Assessment established by the City Council in an Initial Assessment Resolution or Preliminary Rate Resolution and confirmed by the City Council in the Final Assessment Resolution or Annual Rate Resolution.

“Ordinance” means this Fire Rescue Assessment Ordinance.

“Owner” means the Person reflected as the Owner of Assessed Property on the Tax Roll.

“Person” means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

“Preliminary Rate Resolution” means the resolution described in Section 2.08 hereof initiating the annual process for updating the Assessment Roll and directing the reimposition of Fire Rescue Assessments pursuant to an Annual Rate Resolution.

“Property Appraiser” means the DeSoto County Property Appraiser.

“Tax Collector” means the DeSoto County Tax Collector.

“Tax Roll” means the real property ad valorem tax Assessment Roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

“Uniform Assessment Collection Act” means sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

SECTION 1.02. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Ordinance; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

SECTION 1.03 GENERAL FINDINGS. It is hereby ascertained, determined, and declared that:

(A) Pursuant to Article VIII, Section 2(b), Florida Constitution, and Sections 166.021 and 166.041, Florida Statutes, the City Council has all powers of local self government to perform municipal functions and to render municipal services in a manner not inconsistent with law, and such power may be exercised by the enactment of City ordinances.

(B) The City Council may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Council may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes, are not relevant to the imposition of assessments related to Fire Rescue services, facilities or programs of the City.

(C) The purpose of this Ordinance is to: (1) provide procedures and standards for the imposition of citywide Fire Rescue Assessments under the general home rule powers of a municipality to impose special assessments; (2) authorize a procedure for the funding of Fire Rescue services, facilities or programs providing special benefits to property within the City; and, (3) legislatively determine the special benefit provided to Assessed Property from the provision of the City's Fire Rescue services.

(D) The annual Fire Rescue Assessments to be imposed using the procedures providing in this Ordinance shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(E) The Fire Rescue Assessments to be imposed using the procedures provided in this Ordinance are imposed by the City Council, not the DeSoto County Board of County Commissioners, the Property Appraiser or the Tax Collector. The duties of the Property Appraiser and Tax Collector under the provision of this Ordinance and the Uniform Assessment Collection Act are ministerial.

SECTION 1.04. LEGISLATIVE DETERMINATION OF SPECIAL BENEFIT. It is hereby ascertained and declared that the Fire Rescue services, facilities, and programs provide a special benefit to property because Fire Rescue services possess a logical relationship to the use and enjoyment of improved property by: (1) protecting the value and integrity of the improvements and structures through the provision of available Fire Rescue services; (2) protecting the life and safety of intended occupants in the use and enjoyment of property; (3) lowering the cost of fire insurance by the presence of a professional and comprehensive Fire Rescue program within the City; and, (4) containing the spread of fire incidents occurring on vacant property with the potential to spread and endanger the structures and occupants of improved property.

ARTICLE II
ANNUAL FIRE RESCUE ASSESSMENTS

SECTION 2.01. GENERAL AUTHORITY

(A) The City Council is hereby authorized to impose an annual Fire Rescue Assessment to fund all or any portion of the Fire Rescue Assessed Cost upon benefitted property at a rate of assessment based on the special benefit accruing to such property from the City's provision of fire rescue services, facilities, or programs. All Fire Rescue Assessments shall be imposed in conformity with the procedures set forth in this Article II.

(B) The amount of the Fire Rescue Assessment imposed in a Fiscal Year against a parcel of Assessed Property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the Fire Rescue Assessed Cost among properties on a basis reasonably related to the special benefit provided by fire rescue services, facilities, or programs funded with assessment proceeds.

(C) Nothing contained in this Ordinance shall be construed to require the imposition of Fire Rescue Assessments against Government Property.

SECTION 2.02. INITIAL PROCEEDINGS. The initial proceeding for the imposition of a Fire Rescue Assessment shall be the adoption of an Initial Assessment Resolution by the City Council, (1) containing a brief and general description of the fire rescue services, facilities, or programs to be provided; (2) determining the Fire Rescue Assessed Cost to be assessed; (3) describing the method of apportioning the Fire Rescue Assessed Cost and the computation of the Fire Rescue Assessment for specific properties; (4) establishing an estimated assessment rate for the applicable Fiscal Year; (5) establishing a Maximum Assessment Rate, if desired by the City Council; and (6) directing the City Administrator to: (a) prepare the Initial Assessment Roll, as required by Section 2.03 hereof; (b) publish the notice required by Section 2.04 hereof; and (c) mail the notice required by Section 2.05 hereof using information then available from the Tax Roll.

SECTION 2.03. INITIAL ASSESSMENT ROLL.

(A) The City Administrator shall prepare, or direct the preparation of, the Initial Assessment Roll, which shall contain the following:

(1) A summary description of all Assessed Property conforming to the description contained on the Tax Roll.

(2) The name of the Owner of the Assessed Property.

(3) The amount of the Fire Rescue Assessment to be imposed against each such parcel of Assessed Property.

(B) The Initial Assessment Roll shall be retained by the City Administrator and shall be open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Fire Rescue Assessment for each parcel of property can be determined by use of a computer terminal available to the public.

SECTION 2.04. NOTICE BY PUBLICATION.

(A) Upon completion of the Initial Assessment Roll, the City Clerk shall publish, or direct the publication of, once in a newspaper of general circulation within the City a notice stating that at a meeting of the City Council on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the City Council will hear objections of all interested persons to the Final Assessment Resolution which shall establish the rate of assessment and approve the aforementioned Initial Assessment Roll.

(B) The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include: (1) a geographic depiction of the property subject to the Fire Rescue Assessment; (2) a brief and general description of the fire rescue services, facilities, or programs to be provided; (3) the rate of assessment including a Maximum Assessment Rate in the event one was adopted; (4) the procedure for objecting provided in Section 2.06 hereof; (5) the method by which the Fire Rescue Assessment will be collected; and (6) a statement that the Initial Assessment Roll is available for inspection at the office of the City Clerk and all interested persons may ascertain the amount to be assessed against a parcel of Assessed Property at the office of the City Clerk.

SECTION 2.05. NOTICE BY MAIL.

(A) In addition to the published notice required by Section 2.04 hereof, the City Administrator shall provide notice, or direct the provision of notice, of the proposed Fire Rescue Assessment by first class mail to the Owner of each parcel of property subject to the Fire Rescue Assessment.

(B) Such notice shall include: (1) the purpose of the Fire Rescue Assessment; (2) the rate of assessment to be levied against each parcel of property, including a Maximum Assessment Rate in the event one was adopted; (3) the unit of measurement applied to determine the Fire Rescue Assessment; (4) the number of such units contained in each parcel of property; (5) the total revenue to be collected by the City from the Fire Rescue Assessment; (6) a statement that failure to pay the Fire Rescue Assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property; (7) a statement that all affected Owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of the notice; and (8) the date, time, and place of the hearing.

(C) The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each Owner at such address as is shown on the Tax Roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The City Administrator may provide proof of such notice by affidavit. Failure of the Owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Fire Rescue Assessment imposed by the City Council pursuant to this Ordinance.

SECTION 2.06. ADOPTION OF FINAL ASSESSMENT RESOLUTION.

(A) At the public hearing as noticed pursuant to Sections 2.04 and 2.05 hereof, or to which an adjournment or continuance may be taken by the City Council, the City Council shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the City Council, adopt the fire Assessment Resolution which shall: (1) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be

deemed appropriate by the City Council; (2) establish the rate of assessment to be imposed in the upcoming Fiscal Year; (3) establish a Maximum Assessment Rate that may be imposed in the event such rate was adopted; (4) approve the Initial Assessment Roll, with such amendments as it deems just and right; and (5) determine the method of collection.

(B) The adoption of the Final Assessment Resolution by the City Council shall constitute a legislative determination that all parcels assessed derive a special benefit from the fire rescue services, facilities, or programs to be provided or constructed and a legislative determination that the Fire Rescue Assessments are fairly and reasonably apportioned among the properties that receive the special benefit.

(C) All written objections to the Final Assessment Resolution shall be filed with the City Administrator at or before the time or adjourned time of such hearing. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which Fire Rescue Assessments are imposed or reimposed hereunder.

SECTION 2.07. EFFECT OF FINAL ASSESSMENT RESOLUTION. The Fire Rescue Assessments for the initial Fiscal Year shall be established upon adoption of the Final Assessment Resolution. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property; the method of apportionment and assessment; the initial rate of assessment; the Maximum Assessment Rate, if any; the Initial Assessment Roll; and the levy and lien of the Fire Rescue Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Council action on the Final Assessment Resolution. The Initial Assessment Roll, as approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 3.02 hereof is used to collect the Fire Rescue Assessments, such other official as the City Council by resolution shall designate.

SECTION 2.08. ANNUAL ADOPTION PROCEDURES.

(A) Annually, during the budget adoption process, the City Council shall determine whether to impose the Fire Rescue Assessment for the upcoming Fiscal Year. If the City Council elects to reimpose the Fire Rescue Assessment, the procedures in this Section 2.08 shall apply.

(B) The initial proceedings for the reimposition of an annual Fire Rescue Assessment shall be the adoption of a Preliminary Rate Resolution by the City Council: (1) containing a brief and general description of the fire rescue services, facilities, or programs to be provided; (2) determining the Fire Rescue Assessed Cost to be assessed for the upcoming Fiscal Year; (3) establishing the estimated assessment rate for the upcoming Fiscal Year; (4) establishing or increasing a Maximum Assessment Rate, if desired by the City Council; (5) authorizing the date, time, and place of a public hearing to receive and consider comments from the public and consider the adoption of the Annual Rate Resolution for the upcoming Fiscal Year; and (6) directing the City Administrator to: (a) update the Assessment Roll; (b) provide notice by publication and first class mail to affected Owners in the event circumstances described in subsection (F) of this section so require; and (c) directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the City.

(C) At the public hearing established in the Preliminary Rate Resolution or to which an adjournment or continuance may be taken by the City Council, the City Council shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the City commission, adopt the Annual Rate Resolution, which shall: (1) establish the rate of assessment to be imposed in the upcoming Fiscal Year; and (2) approve the Assessment Roll for the upcoming Fiscal Year with such adjustments as the City Council deems just and right. The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution, or any subsequent Preliminary Rate Resolution, together with modifications, if any, that are provided and confirmed in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(D) Nothing herein shall preclude the City Council from providing annual notification to all Owners of Assessed Property in the manner provided in Sections 2.04 and 2.05 hereof or any other method as provided by law.

(E) The City Council may establish or increase a Maximum Assessment Rate in an Initial Assessment Resolution or Preliminary Rate Resolution and confirm such Maximum Assessment Rate in the Annual Rate Resolution in the event notice of such maximum rate assessment has been included in the notices required by Sections 2.04 and 2.05 hereof.

(F) In the event: (1) the proposed Fire Rescue Assessment for any Fiscal Year exceeds the rates of assessment adopted by the City Council including a Maximum Assessment Rate, if any, that were listed in the notices previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof; (2) the purpose for which the Fire Rescue Assessment is imposed or the use of the revenue from the Fire Rescue Assessment is substantially changed from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof; (3) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an increased Fire Rescue Assessment from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof; or (4) an Assessment Roll contains Assessed Property that was not included on the Assessment Roll approved for the prior Fiscal Year, notice shall be provided by publication and first class mail to the Owners of such Assessed Property as provided by law. Such notice shall substantially conform with the notice requirements set forth in Sections 2.04 and 2.05 hereof and inform the Owner of the date, time, and place for the adoption of the Annual Rate Resolution. The failure of the Owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Fire Rescue Assessment imposed by the City Council pursuant to this Ordinance.

(G) As to any Assessed Property not included on an Assessment Roll approved by the adoption of the Final Assessment Resolution or a prior year's Annual Rate Resolution, the adoption of the succeeding Annual Rate Resolution shall be the final adjudication of the issues presented as to such Assessed Property (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the establishment or increase of a Maximum Assessment Rate, the Assessment Roll, and the levy and lien of the Fire Rescue Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from

the date of the City Council action on the Annual Rate Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Fire Rescue Assessment not challenged within the required 20-day period for those Fire Rescue Assessments previously imposed against Assessed Property by the inclusion of the Assessed Property on an Assessment Roll approved in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(H) The Assessment Roll, as approved by the Annual Rate Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 3.02 hereof is used to collect the Fire Rescue Assessments, such other official as the City Council by resolution shall designate. If the Fire Rescue Assessment against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the Assessment Roll.

SECTION 2.09. LIEN OF FIRE RESCUE ASSESSMENTS. Upon the adoption of the Assessment Roll, all Fire Rescue Assessments shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid. The lien for a Fire Rescue Assessment shall be deemed perfected upon the City Council's adoption of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable. The lien for a Fire Rescue Assessment collected under the Uniform Assessment Collection Act shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes imposed under the Tax Roll. The lien for a Fire Rescue Assessment collected under the alternative method of collection provided in Section 3.02 shall be deemed perfected upon the City Council's adoption of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

SECTION 2.10. REVISIONS TO FIRE RESCUE ASSESSMENTS. If any Fire Rescue Assessment made under the provisions of this Ordinance is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the City Council is satisfied that any such Fire Rescue Assessment is so irregular or defective that the same cannot be enforced or collected, or if the City Council has failed to include or omitted any property on the Assessment Roll, which property should have been so included, the City Council may take all necessary steps

to impose a new Fire Rescue Assessment against any property benefited by the Fire Rescue Assessed Costs, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Fire Rescue Assessment is annulled, vacated, or set aside, the City Council may obtain and impose other Fire Rescue Assessments until a valid Fire Rescue Assessment is imposed.

SECTION 2.11. PROCEDURAL IRREGULARITIES. Any informality or irregularity in the proceedings in connection with the levy of any Fire Rescue Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Fire Rescue Assessment as finally approved shall be competent and sufficient evidence that such Fire Rescue Assessment was duly levied, that the Fire Rescue Assessment was duly made and adopted, and that all other proceedings adequate to such Fire Rescue Assessment were duly had, taken, and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

SECTION 2.12. CORRECTION OF ERRORS AND OMISSIONS.

(A) No act of error or omission on the part of the Property Appraiser, Tax Collector, City Administrator, City Council, or their deputies or employees, shall operate to release or discharge any obligation for payment of a Fire Rescue Assessment imposed by the City Council under the provision of this Ordinance.

(B) When it shall appear that any Fire Rescue Assessment should have been imposed under this Ordinance against a parcel of property specially benefited by the provision of fire rescue services, facilities, or programs, but that such property was omitted from the Assessment Roll; or such property was erroneously assessed; or was not listed on the Tax Roll as an individual parcel of property as of the effective date of the Assessment Roll approved by the Annual Rate Resolution for any upcoming Fiscal Year, the City Council may, upon provision of a notice by mail provided to the Owner of the omitted or erroneously assessed parcel in the manner and form provided in Section 2.05, impose the applicable Fire Rescue Assessment for the Fiscal Year in which such error or omission is discovered, in addition to the applicable Fire Rescue Assessment due for the prior two Fiscal Years. Such Fire Rescue Assessment shall

constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles, and claims in and to or against the real property involved, shall be collected as provided in Article III hereof, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.

(C) Prior to the delivery of the Assessment Roll to the Tax Collector in accordance with the Uniform Assessment Collection Act, the City Administrator shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the Owner of any property subject to a Fire Rescue Assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the Fire Rescue Assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the Fire Rescue Assessment imposed under the provisions of this Ordinance. All requests from affected property Owners for any such changes, modifications or corrections shall be referred to, and processed by, the City Administrator and not the Property Appraiser or Tax Collector.

(D) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the Tax Roll upon timely written request and direction of the City Administrator.

SECTION 2.13. INTERIM ASSESSMENTS.

(A) An interim Fire Rescue Assessment may be imposed against all property for which a certificate of occupancy is issued after the adoption of the Annual Rate Resolution. The amount of the interim Fire Rescue Assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the Annual Rate Resolution for the Fiscal Year for which the interim Fire Rescue Assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. In addition to the monthly rate, the interim Fire Rescue Assessment may also include an estimate of the subsequent Fiscal Year's Fire Rescue Assessment.

(B) Issuance of the certificate of occupancy without the payment in full of the interim Fire Rescue Assessment shall not relieve the owner of such property of the obligation of full payment. Any interim Fire Rescue Assessment not collected prior to the issuance of the certificate of occupancy may be collected pursuant to the Uniform Assessment Collection Act as provided in Section 3.01 of this article, under the alternative collection method provided in Section 3.02 or by any other method authorized by law.

(C) Any interim Fire Rescue Assessment shall be deemed due and payable on the date the certificate of occupancy was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the certificate of occupancy.

SECTION 2.14. AUTHORIZATION FOR EXEMPTIONS AND HARDSHIP ASSISTANCE.

(A) The City Council, in its sole discretion, shall determine on an annual basis whether to provide exemptions from payment of the Fire Rescue Assessment for Government Property or Institutional Property whose use is exempt from ad valorem taxation under Florida law.

(B) The City Council, in its sole discretion, shall determine on an annual basis whether to provide a program of hardship assistance to City residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of the Fire Rescue Assessments.

(C) On an annual basis, the City Council shall designate the funds available to provide any exemptions or hardship assistance. The provision of an exemption or hardship assistance in any one year shall in no way establish a right or entitlement to such exemption or assistance in any subsequent year and the provision of funds in any year may be limited to the extent funds are available and appropriated by the City Council. Any funds designated for exemptions or hardship assistance shall be paid by the City from funds other than those generated by the Fire Rescue Assessment.

(D) Any shortfall in the expected Fire Rescue Assessment proceeds due to any hardship assistance or exemption from payment of the Fire Rescue Assessments required by law or authorized by the City Council shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Fire Rescue Assessments. In the event a court of competent jurisdiction determines any exemption or reduction by the City Council is improper or otherwise adversely affects the validity of the Fire Rescue Assessment imposed for any Fiscal Year, the sole and exclusive remedy shall be the imposition of a Fire Rescue Assessment upon each affected Tax Parcel in the amount of the Fire Rescue Assessment that would have been otherwise imposed save for such reduction or exemption afforded to such Tax Parcel by the City Council.

ARTICLE III

COLLECTION AND USE OF FIRE RESCUE ASSESSMENT

SECTION 3.01. METHOD OF COLLECTION.

(A) Unless otherwise directed by the City Council, the Fire Rescue Assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act, and the City shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act or other provision of law.

(B) The amount of a Fire Rescue Assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefitted property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility, or program provided: (1) the collection method used in connection with the prior year's assessment did not employ the use of the uniform method of collection authorized by the Uniform Assessment Collection Act; (2) notice is provided to the Owner as required under the Uniform Assessment Collection Act; and (3) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Fire Rescue Assessment upon certification of a non-ad valorem roll to the Tax Collector by the City.

SECTION 3.02. ALTERNATIVE METHOD OF COLLECTION. In lieu of using the Uniform Assessment Collection Act, the City Council may elect to collect the Fire Rescue Assessments by any other method which is authorized by law or under the alternative collection method provided by this Section:

(A) The City Council shall provide Fire Rescue Assessment bills by first class mail to the Owner of each affected parcel of property that is subject to the Fire Rescue Assessment. The bill or accompanying explanatory material shall include: (1) a brief explanation of the Fire Rescue Assessment; (2) a description of the unit of measurement used to determine the amount of the Fire Rescue Assessment; (3) the number of units contained within the parcel; (4) the total amount of the Fire Rescue Assessment imposed against the parcel for the appropriate period; (5) the location at which payment will be accepted; (6) the date on which the Fire Rescue Assessment is due; and (7) a statement that the Fire Rescue Assessment constitutes a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(B) A general notice of the lien resulting from imposition of the Fire Rescue Assessments shall be recorded in the Official Records of DeSoto County. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(C) The City Council shall have the right to foreclose and collect all delinquent Fire Rescue Assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A Fire Rescue Assessment shall become delinquent if it is not paid within 30 days from the date payment was due, as identified in accordance with paragraph (A)(6) of this section. The City Council or its agent shall notify any property owner who is delinquent in payment of his or her Fire Rescue Assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the City Council or its agent will either: (1) initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent Fire Rescue Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property; or (2) cause an amount equivalent to the delinquent Fire Rescue Assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the City may be the purchaser to the same extent as any Person. The City Council or its agent may join in one foreclosure action the collection of Fire Rescue Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent Owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City Council and its agents, including reasonable attorney fees, in collection of such delinquent Fire Rescue Assessments and any other costs incurred by the City Council as a result of such delinquent Fire Rescue Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) In lieu of foreclosure, any delinquent Fire Rescue Assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that: (1) notice is provided to the Owner in the manner required by the Uniform Assessment Collection Act and this Ordinance; and (2) any existing lien of record on the affected parcel for the delinquent Fire Rescue Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector.

(F) Notwithstanding the City Council's use of an alternative method of collection, the City Administrator shall have the same power and authority to correct errors and omissions as provided to him or other City officials in Section 2.12 hereof.

(G) Any City Council action required in the collection of Fire Rescue Assessments may be by resolution.

SECTION 3.03. GOVERNMENT PROPERTY.

(A) In the event Fire Rescue Assessments are imposed against Government Property, the City Council shall provide Fire Rescue Assessment bills by first class mail to the Owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include: (1) a brief explanation of the Fire Rescue Assessment; (2) a description of the unit of measurement used to determine the amount of the Fire Rescue Assessment; (3) the number of units contained within the parcel; (4) the total amount of the parcel's Fire Rescue Assessment for the appropriate period; (5) the location at which payment will be accepted; and (6) the date on which the Fire Rescue Assessment is due.

(B) Fire Rescue Assessments imposed against Government Property shall be due on the same date as all other Fire Rescue Assessments and, if applicable, shall be subject to the same discounts for early payment.

(C) A Fire Rescue Assessment shall become delinquent if it is not paid within 30 days from the date payment was due, as identified in paragraph (A)(6) of this Section. The City Council shall notify the Owner of any Government Property that is delinquent in payment of its Fire Rescue Assessment within 60 days from the date such assessment was due. Such notice shall state that the City Council will initiate a mandamus or other appropriate judicial action to compel payment.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent Owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City, including reasonable attorney fees, in collection of such delinquent Fire Rescue Assessments and any other costs incurred by the City Council as a result of such delinquent Fire Rescue Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) As an alternative to the foregoing, a Fire Rescue Assessment imposed against Government Property may be collected as a surcharge on a utility bill provided to such Government Property in periodic installments with a remedy of a mandamus action in the event of nonpayment. The City Council may contract for such billing services with any utility, whether or not such utility is owned by the City.

ARTICLE IV

GENERAL PROVISIONS

SECTION 4.01. APPLICABILITY. This Ordinance and the City Council's authority to impose assessments pursuant hereto shall be applicable throughout the City.

SECTION 4.02. ALTERNATIVE METHOD.

(A) This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This article, being necessary

for the welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.

(B) Nothing herein shall preclude the City Council from directing and authorizing, by resolution, the combination with each other of: (1) any supplemental or additional notice deemed proper, necessary, or convenient by the City; (2) any notice required by this Ordinance; or (3) any notice required by law, including the Uniform Assessment Collection Act.

SECTION 4.03. SEVERABILITY. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

SECTION 4.04. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and adoption on the second and final reading.

PASSED on First Reading on the 1st day of July, 2014.

PASSED AND ADOPTED on Second and Final Reading on the 15th day of July, 2014.

CITY OF ARCADIA, FLORIDA

(SEAL)

Alice Frierson, Mayor

ATTEST:

Penny Delaney, City Clerk

APPROVED AS TO FORM AND CONTENT:

Thomas J. Wohl, City Attorney

AGENDA No. 6



CITY COUNCIL AGENDA ITEM
Requested Council Meeting Date: July 1, 2014

DEPARTMENT: Administration
SUBJECT: Ordinance 1001 – Stormwater

RECOMMENDED MOTION: Council Approval

SUMMARY:

FISCAL IMPACT: _____ () Capital Budget
() Operating
() Other

ATTACHMENTS: (X) Ordinance () Resolution () Budget () Other

Department Head: _____ Date: _____

Finance Director (As to Budget Requirements) _____ Date: _____

City Attorney (As to Form and Legality) _____ Date: _____

City Administrator: Tom Slaughter _____ Date: _____

COUNCIL ACTION: () Approved as Recommended () Disapproved
() Tabled Indefinitely () Tabled to Date Certain _____ () Approved with Modifications

ORDINANCE NO. 1001

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA, RELATING TO THE CREATION AND OPERATION OF A STORMWATER UTILITY; MAKING FINDINGS; CREATING SECTIONS 83-1 THROUGH 83-15; PROVIDING FOR FINDINGS AND PURPOSE; PROVIDING DEFINITIONS; CREATING THE CITY STORMWATER MANAGEMENT PROGRAM; CREATING BENEFIT AREA(S); PROVIDING FOR A STORMWATER UTILITY ASSESSMENT AND RATE RESOLUTION; PROVIDING FOR PREPARATION AND CERTIFICATION OF THE ANNUAL STORMWATER UTILITY ASSESSMENT ROLL TO THE TAX COLLECTOR; SETTING FORTH A METHOD OF COLLECTION OF ANNUAL STORMWATER UTILITY ASSESSMENT; PERMITTING A SEPARATELY PREPARED ANNUAL STORMWATER UTILITY ASSESSMENT NOTICE; PROVIDING FOR THE CORRECTION OF ERRORS AND OMISSIONS, ADJUSTMENTS, AND PETITION TO THE CITY COUNCIL; DESCRIBING THE PROCESS FOR THE CORRECTION OF THE FAILURE TO INCLUDE REAL PROPERTY ON ANNUAL STORMWATER UTILITY ASSESSMENT ROLL; SETTING FORTH A POLICY RELATING TO THE APPLICATION OF AN ANNUAL STORMWATER UTILITY ASSESSMENT TO GOVERNMENTAL AGENCIES; SETTING FORTH A POLICY RELATING TO THE APPLICABILITY OF STORMWATER UTILITY ASSESSMENTS TO TAX EXEMPT REAL PROPERTY; PROVIDING FOR A STORMWATER UTILITY FUND; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND INTERPRETATION; REPEALING ORDINANCES AND RESOLUTIONS INCONSISTENT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida has adopted stormwater management legislation which encourages proper management of stormwater runoff and water quality; and

WHEREAS, the City Council desires to develop a stormwater management program, to be responsible for: the operation, construction, and maintenance of stormwater devices; stormwater system planning; and review of development plans for compliance with stormwater management codes; and

WHEREAS, Section 403.0893, Florida Statutes, authorizes the City Council to create one or more stormwater utilities and adopt stormwater utility fees or assessments sufficient to plan, construct, operate and maintain stormwater management systems throughout the City, and to establish and set aside, as a continuing source of revenue, other funds sufficient to plan, construct, operate, and maintain stormwater management systems within the City; and

WHEREAS, Section 403.0893(3), Florida Statutes, authorizes the City Council to create, alone or in cooperation with other local governments, one or more stormwater management system benefit areas within the City, and specifically providing that all property owners within said benefit areas may be assessed a stormwater utility fee or assessment to fund the planning, construction, operation, maintenance, and administration of a public stormwater management system for the benefitted area, with any benefit area containing different land uses which receive substantially different levels of stormwater benefits being designated stormwater management system benefit sub-areas, which shall be assessed different stormwater utility fees or assessments from sub-area to sub-area, based upon a reasonable relationship to benefits received; and

WHEREAS, Section 403.0893(3), Florida Statutes, further provides that the fees to be assessed with stormwater management system benefit areas and sub-areas shall be calculated to generate sufficient funds to plan, construct, operate, and maintain stormwater management systems, and authorizes the City to utilize the non-ad valorem levy, collection, and enforcement methods provided for in Chapter 197, Florida Statutes; and

WHEREAS, the cost of operating and maintaining stormwater management systems, and financing of existing and future necessary repairs, replacement, improvements, and extensions thereof, should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom; and

WHEREAS, the City Council has determined that the adoption of this Ordinance, and the creation of a stormwater management system benefit area with the City during the fiscal year commencing October 1, 2014, under the terms, conditions, and criteria set forth hereunder, is necessary to protect and enhance the health, safety, and welfare of the citizens, residents, and inhabitants of the City of Arcadia,

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Arcadia, Florida:

SECTION 1. Findings. The Council hereby adopts and incorporates by reference herein all of the findings set forth above as findings of the Council.

SECTION 2. Amendment of the Code of Ordinances. Chapter 83 of the Code of Ordinances of the City of Arcadia is hereby created as follows:

**“CHAPTER 83: STORMWATER
ARTICLE I. STORMWATER UTILITY**

Sec. 83-1. FINDINGS AND PURPOSE.

(a) Uncontrolled drainage and development of land has a significant adverse impact upon the health, safety, and welfare of the citizens of the City. More specifically:

(1) Stormwater runoff is capable of carrying pollutants into receiving bodies, thereby degrading water quality;

(2) Improperly channeling water increases the velocity of stormwater runoff, thereby increasing erosion and sedimentation;

(3) Construction requiring the alteration of natural topography and removal of vegetation tends to increase erosion;

(4) Impervious surfaces increase the volume and rate of stormwater runoff, and allow less water to percolate into the soil, thereby decreasing groundwater recharge;

(5) Improperly managed stormwater runoff may increase the incidents of flooding and the level of floods which occur, thereby endangering property and human life;

(6) Sound stormwater utility management practices result in the avoidance of future problems concerning the development of land and the maintenance of the quality of the City environment.

(b) The purpose of this article is to protect, maintain, and enhance both the immediate and the long-term health, safety, and general welfare, of the citizens, residents, and inhabitants of the City. In order to effectuate this stated purpose, this article has the following objectives:

(1) To develop a stormwater management program, to be responsible for: the construction, operation, and maintenance of stormwater devices; stormwater system planning; and review of development plans for compliance with stormwater management codes;

(2) To create one or more stormwater management system benefit areas and adopt stormwater utility fees or assessments sufficient to plan, construct, operate, and maintain stormwater management systems throughout the City;

(3) To establish and set aside, as a continuing source of revenue, other funds sufficient to plan, construct, operate, and maintain stormwater management systems throughout the City;

(4) To prevent individuals, business organizations, and governments from causing harm to the community, by activities which adversely affect water resources;

(5) To encourage the construction of drainage systems which aesthetically and functionally approximate natural systems;

(6) To encourage the protection of natural systems, and the use of such natural systems in ways which do not impair their beneficial functioning;

(7) To maintain or restore groundwater levels;

(8) To reduce damage from flooding, while recognizing that natural fluctuations in water levels are beneficial; and

(9) To ensure the attainment of these objectives by requiring the approval and implementation of a stormwater management program for all activities which may have an adverse impact upon community waters.

Sec. 83-2. DEFINITIONS.

(a) For the purposes of this article, the following terms shall have the meaning set forth in this section.

"Benefit Area" shall mean the area(s) benefitted by the stormwater management system program, the boundaries of which are described in Section 83-4.

"Building" means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile homes. This term shall include the use of land in which lots or spaces are offered for use, rent or lease for the placement of mobile homes, travel trailers, or the like for residential purposes.

"City" means the City of Arcadia, Florida.

"City Council" shall mean the City Council of the City of Arcadia, Florida.

"County" means DeSoto County, Florida.

"Developed Property" means property that has been developed with Impervious Area. Developed Property shall not include public roads.

"Director" shall mean the City Administrator, or such other person as is designated by the City Administrator.

"*Division*" shall mean the stormwater utility program or its successor in function.

"*DOR Code*" means a property use code established in Rule 12D-8.008, Florida Administrative Code, as amended, and as applied by the Property Appraiser to parcels within the City.

"*Dwelling Unit*" means a Building, or a portion thereof, which is located upon residential property and lawfully used for residential purposes, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family unit only.

"*Equivalent Stormwater Unit (ESU)*" shall be defined as a reference from which an equitable distribution of the cost of services and facilities can be made among all properties within the City through a stormwater management service charge rate methodology. The equivalent stormwater unit within the City for the purpose of service charge ratemaking has been determined through engineering analysis to be a gross area of 2,693 square feet of effective impervious area.

"*General Parcel*" means a parcel of Developed Property within the City that is not a Residential Parcel.

"*Impervious Areas*" shall mean surfaces which have been compacted or covered with a layer of material which is highly resistant to infiltration by water, such as roofed and paved areas, including, but not limited to, areas covered by roofs, roof extensions, slabs, patios, porches, driveways, sidewalks, parking areas and athletic areas. It shall also include semi-impervious areas, such as compacted clay.

"*Lot*" shall mean a parcel of land shown on a recorded plat or on the DeSoto County Property Appraiser's maps, or any piece of land described by deed and recorded in the Public Records of DeSoto County, Florida.

"*Owner*" shall mean the person in whom is vested the fee ownership, dominion, or title of real property. This term may also include a tenant, if chargeable under tenant's lease for the maintenance of the subject real property, and any agent of the owner or tenant, including a developer.

"*Person*" shall mean any and all persons, natural or artificial, and includes any individual, firm, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

"*Property Appraiser*" means the DeSoto County Property Appraiser.

"*Residential Parcel*" shall mean a parcel of Developed Property within the City to which the Property Appraiser has assigned a DOR code of 000100, 000200, 000300 or 000400, consisting of single-family, multi-family, mobile homes, mobile home parks and residential condominium parcels.

"*Stormwater Assessment*" means a special assessment lawfully imposed by the City Council against property located within the Benefit Area to fund the Stormwater Service Cost.

"*Stormwater Management Program*" shall mean and refer to the City program by which the objectives set forth in Section 83-1(b) shall be achieved and pursuant to which a stormwater utility shall be operated to achieve those objectives.

"*Stormwater Service Cost*" means the estimated amount for any Fiscal Year of all expenditures and reasonable reserves that are properly attributable to the Stormwater Management Program provided within the Benefit Area under generally accepted accounting principles, including without limiting the scope of the foregoing, reimbursement to the City for any moneys advanced for the Stormwater Management Program, and interest on any interfund or intrafund loan for such purpose.

"*Tax Collector*" means the DeSoto County Tax Collector.

"*Uniform Assessment Collection Act*" means sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

(b) When consistent with the context, words used in the present tense shall include the future, and words in the future tense shall include the present tense. Words in the plural shall include the singular, and words in the singular shall include the plural. Words in the male gender shall include the female gender, and the word "shall" is always mandatory and not merely directive.

Sec. 83-3. CITY STORMWATER MANAGEMENT PROGRAM.

(a) Pursuant to the authority granted under Section 403.0891, et seq., Florida Statutes, the City Council hereby directs the City Administrator to develop and implement a stormwater management program, for the purposes and objectives set forth hereunder.

(b) The stormwater management program shall be instituted within the City, as the City boundaries are amended from time to time, dependent upon need and fiscal ability to plan, design, and construct necessary capital improvements therein.

Sec. 83-4. STORMWATER MANAGEMENT SYSTEM BENEFITS AREA.

(a) There is hereby created, pursuant to Chapter 403, Florida Statutes, the City stormwater management system benefit area, the boundaries of which shall be the incorporated limits of the City as amended from time to time.

(b) All property owners within the benefit area shall be assessed an annual stormwater utility fee to fund the planning, construction, operation, maintenance and administration of a public stormwater management system for the benefit area, pursuant to the criteria and standards set forth in this article, and any applicable rate resolution adopted pursuant hereto.

(c) In the event that said benefit area contains different land uses which receive substantially different levels of stormwater benefits, stormwater management system benefit sub-areas may be created, which shall be assessed different stormwater utility fees from sub-area to sub-area based upon a reasonable relationship to benefits received.

Sec. 83-5. ASSIGNMENT OF ESUs.

(a) Each parcel of Developed Property located within the Benefit Area shall be classified as either a Residential Parcel or General Parcel. ESUs shall be assigned to each parcel of Developed Property within the Benefit Area in accordance with the procedures provided in this Section 83-5.

(b) *Residential Parcels:*

(1) The cost of measuring or verifying the Impervious Area for each individual Residential Parcel greatly exceeds any benefit to be derived from individual measurement and verification.

(2) The City has computed the ESU Value (2,693 square feet) as the Impervious Area for each Residential Parcel within the Benefit Area.

(c) *General Parcels:* The number of ESUs attributable to each General Parcel shall be determined by dividing the Impervious Area of the General Parcel by the ESU Value (2,693 square feet).

Sec. 83-6. STORMWATER UTILITY ASSESSMENT; RATE RESOLUTION.

(a) Pursuant to the provisions of Section 403.0893, Florida Statutes, a stormwater utility assessment is hereby created and imposed on all real property located within the City's stormwater management system benefit areas for services and facilities provided by the stormwater management program.

(b) Said stormwater utility assessment shall constitute a non-*ad valorem* assessment, pursuant to the provisions of Section 403.0893, Florida Statutes.

(c) On or before the 15th day of September of the first year of assessment, the City Council shall hold a public hearing to adopt a rate resolution. The rate resolution shall stay in effect until such time as a change in the stormwater utility fee or assessment is proposed. On or before the 15th day of September in the year of a proposed rate change, the City Council shall hold a public hearing to adopt the modified rate resolution for the purposes of imposing the stormwater utility fee or assessment upon the owners of all real property located within the designated stormwater management system benefit area. Said rate resolution shall incorporate a schedule of rates and classifications of all affected real property in the designated stormwater management system benefit area.

(d) On or before the 15th day of September of each year, the City Council shall adopt a budget for the operation and maintenance of the stormwater management program for the ensuing City fiscal year. Said budget shall include funds for the payment of outstanding and anticipated indebtedness, including all reserves necessary in connection with such financing, for the provision of contributions into such reserves as deemed necessary for future capital and land acquisitions and renewal and replacement of existing facilities, for the enforcement and administration of the billing and collection of the annual stormwater utility fees or assessments provided for under the provisions of this article, including the necessary reserves for anticipated delinquent or uncollectible annual stormwater utility fees or assessments, and for the payment of the current operation and maintenance of such stormwater management program. The rate resolution adopted by the City Council shall provide sufficient revenues to fund the budget adopted for the operation and maintenance of the stormwater management program.

(e) Notice of the public hearing concerning the above referenced rate resolution shall be published in a newspaper of general circulation in the City at least once, with the first publication being at least 20 days prior to the public hearing. Said public hearing may be continued to a date certain without the necessity of further newspaper advertisement or public notice.

Sec. 83-7. PREPARATION AND CERTIFICATION OF THE ANNUAL STORMWATER UTILITY ASSESSMENT ROLL TO THE TAX COLLECTOR.

(a) On or before the 15th day of September of each year, the Director shall cause to be prepared an annual stormwater utility assessment roll based on information provided by the

Property Appraiser. Such roll shall contain a summary description of each parcel of real property within the designated stormwater management system benefit areas; the name and address of the owner of each such parcel; the rate classification applicable to each parcel of real property as specified in the rate resolution; and the amount of the annual stormwater utility fee or assessment applicable to each such parcel of real property. The summary description of each parcel of real property shall be in such detail as to permit ready identification of each parcel on the real property assessment roll.

(b) The City Council shall, at any regular or special meeting held on or before the 15th day of September of each year, review the annual stormwater utility assessment roll prepared by the Director for its conformity with the rate resolution provided for in Section 83-5. The City Council shall make such changes or additions as necessary to conform such roll with the rate resolution. Upon the completion of such review, if the City Council shall be satisfied that the annual stormwater utility assessment roll has been prepared in conformity with the rate resolution, it shall ratify and confirm such roll and certify the roll to the DeSoto County Tax Collector for appropriate action.

(c) In the event that any classification of real property designated in the rate resolution requires an individual calculation of the annual stormwater utility assessment, the Director shall calculate and determine such annual stormwater utility assessment.

Sec. 83-8. METHOD OF COLLECTION OF ANNUAL STORMWATER UTILITY ASSESSMENT.

(a) Annual stormwater utility assessments shall be collected and enforced in the same manner that *ad valorem* taxes are collected and enforced, including, but not limited to, provisions relating to discount for early payment, prepayment by the installment method, penalty for delinquent payment, and issuance of tax certificates and tax deeds for nonpayment, as provided for in Section 197.3632, Florida Statutes, as amended.

(b) Failure to pay the annual stormwater utility assessment in the required manner will result in the issuance of a tax certificate against the subject property, and may result in the loss of title to the subject property.

Sec. 83-9. SEPARATELY PREPARED STORMWATER UTILITY ASSESSMENT NOTICE.

Nothing contained in this article shall be construed or interpreted to preclude the City Council from submitting, within its discretion, a separately prepared notice of the annual stormwater utility assessment imposed on certain real property within the City, to the owner of such property, if in the opinion of the City Council such procedure will facilitate the billing and collection of such annual stormwater utility assessment.

Sec. 83-10. ALTERNATIVE METHOD OF COLLECTION. In lieu of using the Uniform Assessment Collection Act, the City may elect to collect the Stormwater Assessments by any other method which is authorized by law or under the alternative collection method provided by this Section:

(A) The City shall provide Stormwater Assessment bills by first class mail to the Owner of each affected parcel of property that is subject to the Stormwater Assessment. The bill or accompanying explanatory material shall include: (1) a brief explanation of the Stormwater Assessment; (2) a description of the ESU calculation used to determine the amount of the Assessment; (3) the number of ESUs attributed to the parcel; (4) the total amount of the Stormwater Assessment imposed against the parcel for the appropriate period; (5) the location at which payment will be accepted; (6) the date on which the Stormwater Assessment is due; and (7) a statement that the Stormwater Assessment constitutes a lien against the parcel equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(B) A general notice of the lien resulting from imposition of the Stormwater Assessments shall be recorded in the Official Records of DeSoto County. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(C) The City shall have the right to foreclose and collect all delinquent Stormwater Assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A Stormwater Assessment shall become delinquent if it is not paid within 30 days from the date payment was due, as identified in accordance with paragraph (A)(6) of this section. The City or its agent shall notify any property owner who is delinquent in payment of his or her Stormwater Assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the

City or its agent will initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent Stormwater Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the City may be the purchaser to the same extent as any Person. The City or its agent may join in one foreclosure action the collection of Stormwater Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent Owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City and its agents, including reasonable attorney fees, in collection of such delinquent Stormwater Assessments and any other costs incurred by the City as a result of such delinquent Stormwater Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) In lieu of foreclosure, any delinquent Stormwater Assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that: (1) notice is provided to the Owner in the manner required by the Uniform Assessment Collection Act and this Ordinance; and (2) any existing lien of record on the affected parcel for the delinquent Stormwater Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector.

(F) Notwithstanding the City Council's use of an alternative method of collection, the City Administrator shall have the same power and authority to correct errors and omissions as provided to him or other City officials in Section 83.10 hereof.

(G) Any City Council action required in the collection of Fire Rescue Assessments may be by resolution.

Sec. 83-11. CORRECTION OF ERRORS AND OMISSIONS; ADJUSTMENTS; PETITION TO CITY COUNCIL.

(a) No act or omission or commission on the part of the Property Appraiser, Tax Collector, the City Council, the Director, or their respective deputies or employees, shall operate to defeat the payment of the annual stormwater utility assessment imposed by the City Council under the provisions of this chapter. Provided, however, any acts of omissions or commission may be

corrected at any time by the officer or party responsible, and when so corrected they shall be construed to be valid *ab initio* and shall in no way affect any process by law for the enforcement of the annual stormwater utility assessments imposed under the provisions of this article.

(b) The City Council shall have the authority, at any time, upon its own initiative or in response to a petition from any affected owner of real property, to correct any error of omission or commission in the adoption of any annual stormwater utility assessment roll, or in the implementation of this chapter, and make necessary adjustments thereto.

(c) Any owner of real property may petition the City Council to correct any asserted error or omission or commission in relation to their property in the adoption of the annual stormwater utility assessment roll, or any addendum to such roll, or in the implementation of this article, or any asserted exemption or basis for variance or mitigation from the adopted assessment against their property, within 30 days of the date of mailing the final notice of *ad valorem* taxes and non-*ad valorem* assessments for the current year. Such petition shall be initiated by filing with the Director a written petition containing the name of owner, a legal description of the real property affected, a summary description of the asserted error, or basis for exemption, variance, or mitigation, and the relief requested of the City Council. Such petition may be considered by the City Council at any regular or special meeting, with notice being provided to the petitioner; provided, however, that the City Council may establish, by resolution, a stormwater utility appeals committee, and delegate to such committee the authority and responsibility to hear such petitions provided for under this section, pursuant to the procedures set forth in the enabling resolution creating such appeals committee.

Sec. 83-12. FAILURE TO INCLUDE REAL PROPERTY ON ANNUAL STORMWATER UTILITY ASSESSMENT ROLL.

When it shall appear that any annual stormwater utility assessment might have been imposed under the provisions of this article against any parcel of real property, but such parcel of real property was omitted from the appropriate annual stormwater utility assessment roll, the City Council may, by resolution, impose the applicable annual stormwater utility assessment for the fiscal year in which such error is discovered, plus the applicable annual stormwater utility assessment for up to the prior two fiscal years if such real property was subject to an annual stormwater utility assessment for such prior time of assessment. Such total annual stormwater utility assessments shall become delinquent if not fully paid, upon the expiration of 60 days from

the date of the adoption of said resolution, and upon becoming delinquent shall be subject to the penalties and interest for delinquent annual stormwater utility assessments, as provided in Chapter 197, Florida Statutes. Such total annual stormwater utility assessments shall be subject to a discount for early payment, as provided in Chapter 197, Florida Statutes.

Sec. 83-13. APPLICATION OF ANNUAL STORMWATER UTILITY ASSESSMENT TO GOVERNMENTAL AGENCIES.

All governmental agencies owning real property within designated stormwater management system benefit areas shall be exempt from the annual stormwater utility assessment imposed under the provisions of this chapter.

Sec. 83-14. APPLICABILITY OF STORMWATER UTILITY ASSESSMENT TO TAX EXEMPT REAL PROPERTY.

(a) The City Council, in its sole discretion, shall determine on an annual basis whether to provide exemptions from payment of the annual stormwater utility assessment for Institutional Property whose use is exempt from ad valorem taxation under Florida law.

(b) The City Council, in its sole discretion, shall determine on an annual basis whether to provide a program of hardship assistance to City residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of the annual stormwater utility assessment.

(c) On an annual basis, the City Council shall designate the funds available to provide any exemptions or hardship assistance. The provision of an exemption or hardship assistance in any one year shall in no way establish a right or entitlement to such exemption or assistance in any subsequent year and the provision of funds in any year may be limited to the extent funds are available and appropriated by the City Council. Any funds designated for exemptions or hardship assistance shall be paid by the City from funds other than those generated by the annual stormwater utility assessment.

(d) Any shortfall in the expected annual stormwater utility assessment proceeds due to any hardship assistance or exemption from payment of the annual stormwater utility assessment required by law or authorized by the City Council shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the annual stormwater utility assessment. In the event a court of competent jurisdiction determines any exemption or reduction by the City Council is improper or otherwise

adversely affects the validity of the annual stormwater utility assessment imposed for any Fiscal Year, the sole and exclusive remedy shall be the imposition of a annual stormwater utility assessment upon each affected Tax Parcel in the amount of the annual stormwater utility assessment that would have been otherwise imposed save for such reduction or exemption afforded to such Tax Parcel by the City Council.

Sec. 83-15. STORMWATER UTILITY FUND.

(a) There shall be established a stormwater utility fund for the deposit of all assessments collected pursuant to this article, for each designated stormwater management system benefit area.

(b) The stormwater utility fund shall be used exclusively to provide services and facilities related to the stormwater management program. Said funds shall only be utilized for the following expenditures, and shall be held as trust funds of the City:

(1) Operation or maintenance of storm-water management facilities constructed by the stormwater management program benefitting the City;

(2) Costs for the planning, evaluation, design, construction, and management of the stormwater management program;

(3) Administrative costs related to the management of the stormwater management program;

(4) Management services, such as permit review and planning and development review related to the stormwater management program; and

(5) Debt service financing of capital improvements related to the stormwater management program.”

SECTION 3. Codification. The publisher of the City’s Code of Laws, the Municipal Code Corporation, is directed to incorporate Section 2 above into the Code of Ordinances.

SECTION 4. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

SECTION 5. Effective Date. This ordinance shall be effective immediately upon final passage by the City Council.

PASSED on First Reading on the 1st day of July, 2014.

PASSED AND ADOPTED on Second and Final Reading on the 15th day of July, 2014.

CITY OF ARCADIA, FLORIDA

(SEAL)

Alice Frierson, Mayor

ATTEST:

Penny Delaney, City Clerk

APPROVED AS TO FORM AND CONTENT:

Thomas J. Wohl, City Attorney

DEPARTMENT REPORTS

CITY OF ARCADIA
POLICE DEPARTMENT
725 N. Brevard Ave.

MATTHEW A. ANDERSON
MARSHAL

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ARCADIA POLICE DEPARTMENT
COUNCIL REPORT

TOTALS FOR THIS REPORT PERIOD: **June 2014**

ARREST ACTIVITIES

FELONY ARREST	5	MISDEMEANOR ARREST	21
JUVENILE ARREST	3	TRAFFIC ARREST	4
WARRANT ARREST	4		

TRAFFIC ACTIVITIES

ACCIDENT REPORTS	19	TRAFFIC CITATIONS	81
		WARNING CITATIONS	39

PATROL

COMPLAINTS	597
CITY ORDINANCE VIOLATIONS	6

CRIMINAL INVESTIGATIONS

CASES TOTAL	11
CASES UNDER INVESTIGATION	9
CASES CLOSED	2



CITY MARSHAL
6/24/2014