

REGULAR MEETING
JULY 18, 2006

A Regular Meeting of the Arcadia City Council was held on July 18, 2006, at 6:00 p.m. in Room D of the Way Building at 23 North Polk Avenue. Council members attending were Heine, Johnson, Whitlock, Fazzino, and Goodman. Also in attendance were Administrator Strube, Attorney Holloman, Marshal Lee, Public Works Supervisor Reed, Grant Coordinator Weeks, Ms. Way, and Recorder Baumann.

Mayor Heine called the meeting to order.

The Invocation was given by Council member Johnson.

Pledge Allegiance to the Flag.

The Minutes of the Regular Meeting of June 20, 2006, were adopted on motion of Whitlock; seconded by Fazzino and carried.

Mayor Heine called the Public Hearing to order and stated that the purpose of the public hearing as advertised is to provide citizens an opportunity for input regarding the request of DeSoto Memorial Hospital to close that portion of land known as the "alley", lying east of Rt. 17 and west of Mills Avenue, and bordered by Lot 16 the north and Lots 22, 23 and 24 to the south, all owned by the Hospital. Mayor Heine called for comments from the public. There were none. Whitlock moved to grant the request to close the alley by Resolution No. 2006-10; seconded by Johnson and carried.

RESOLUTION 2006-10

WHEREAS, pursuant to the Provisions of Chapter 73-403 of the Laws of the State of Florida and City of Arcadia Ordinance No. 770, Petitioner DeSoto Memorial Hospital has requested the City Council of the City of Arcadia to close and abandon that portion of the 20 foot alley lying between that portion of Lot 16 and Lot 24 Lying East of US Highway 17, Block B. Gilchrist and Baldwin Addition to Arcadia as recorded in the Public Records of DeSoto County, Florida, and

WHEREAS, the City Council of the City of Arcadia, Florida has determined that said petitioner has complied with the requirements set out in Chapter 73-403 of the laws of the State of Florida and Ordinance Number 770 of the City of Arcadia, and

WHEREAS, the Planning and Zoning Board has recommended that the request to close and abandon that portion of the 20 foot alley lying between that portion of Lot 16 and Lot 24 Lying East of US Highway 17, Block B. Gilchrist and Baldwin Addition to Arcadia as recorded in the Public Records of DeSoto County, Florida, be granted, and

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(Resolution 2006-10 continued)

WHEREAS, the City Council of the City of Arcadia, Florida has determined that the closing and abandoning of that portion of the 20 foot alley lying between that portion of Lot 16 and Lot 24 Lying East of US Highway 17, Block B. Gilchrist and Baldwin Addition to Arcadia as recorded in the Public Records of DeSoto County, Florida, will not affect the ownership or right of convenient access of any person.

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

THAT PORTION OF THE 20 FOOT ALLEY LYING BETWEEN THAT PORTION OF LOT 16 AND LOT 24 LYING EAST OF US HIGHWAY 17, BLOCK B, GILCHRIST AND BALDWIN ADDITION TO ARCADIA AS RECORDED IN THE PUBLIC RECORDS OF DESOTO COUNTY, FLORIDA.

BE IT FURTHER RESOLVED that notice of adoption of this Resolution be published one time within thirty (30) days following its adoption in a newspaper of general circulation in Arcadia, DeSoto County, Florida, and that following said publication that a certified copy of this Resolution be recorded in the Public Records of DeSoto County, Florida.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, in Regular Session the 18th day of July, 2006.

/s/ ROBERT W. HEINE
ROBERT W. HEINE
MAYOR

ATTEST:

/s/ RACHELLE M. BAUMANN
RACHELLE M. BAUMANN, CMC
CITY RECORDER

The Public Hearing was closed.

Mayor Heine reconvened the regular meeting.

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Proposed Ordinance No. 923 was presented for first reading. Each Councilmember had previously been given a copy for study. Recorder Baumann explained the reason for this ordinance was to finalize and combine all previous verbiage in relation to the City of Arcadia Police and Firefighters' Retirement System due to the merge of the City and County Firefighters. Fazzino moved to waive the rules and read the proposed ordinance by title only, seconded by Whitlock and carried.

ORDINANCE NO. 923

AN ORDINANCE OF THE CITY OF ARCADIA, AMENDING CHAPTER 2, ARTICLE VII, DIVISION 3, SECTION 2, INCLUSIVE, OF THE CODE OF ORDINANCES OF THE CITY OF ARCADIA BY RESTATING THE CITY OF ARCADIA POLICE OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM; PROVIDING FOR DEFINITIONS; PROVIDING FOR MEMBERSHIP; PROVIDING FOR A BOARD OF TRUSTEES; PROVIDING FOR FINANCES AND FUND MANAGEMENT; PROVIDING FOR CONTRIBUTIONS; PROVIDING FOR BENEFIT AMOUNTS AND ELIGIBILITY; PROVIDING FOR PRE-RETIREMENT DEATH BENEFITS; PROVIDING FOR DISABILITY BENEFITS; PROVIDING FOR VESTING OF BENEFITS; PROVIDING OPTIONAL FORMS OF BENEFITS; PROVIDING FOR BENEFICIARIES; PROVIDING CLAIMS PROCEDURES; PROVIDING FOR REPORTS TO THE DIVISION OF RETIREMENT; PROVIDING FOR A ROSTER OF RETIREES; PROVIDING FOR A MAXIMUM PENSION LIMITATION; PROVIDING FOR MINIMUM DISTRIBUTION OF BENEFITS; PROVIDING MISCELLANEOUS PROVISIONS; PROVIDING FOR REPEAL OR TERMINATION OF THE SYSTEM; PROVIDING FOR EXEMPTION FROM EXECUTION AND NON-ASSIGNABILITY; PROVIDING FOR PENSION VALIDITY; PROVIDING FOR FOREITURE OF PENSION UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR CONVICTION AND FORFEITURE, FALSE, MISLEADING OR FRAUDULENT STATEMENTS; PROVIDING FOR INDEMNIFICATION AND DEFENSE OF CLAIMS; PROVIDING FOR DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS, ELIMINATION OF MANDATORY DISTRIBUTIONS; PROVIDING FOR PURCHASE OF CREDIT FOR MILITARY SERVICE PRIOR TO EMPLOYMENT; PROVIDING FOR THE PURCHASED OF CREDITED SERVICE FOR ABSENCES PURSUANT TO THE FAMILY AND MEDICAL LEAVE ACT; PROVIDING FOR THE PURCHASE OF CREDITED

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(Ordinance No. 923 Continued)

SERVICE FOR PRIOR POLICE OR FIRE SERVICE; PROVIDING FOR A DEFERRED RETIRMENT OPTION PLAN; PROVIDING FOR REEMPLOYMENT AFTER RETIREMENT; PROVIDING FOR A MERGER WITH COUNTY FIRE SERVICE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Whitlock then moved to adopt Ordinance No. 923 on the first reading; seconded by Fazzone. Mayor Heine called for comments from the public, there were none. The motion carried on roll call vote. Ayes: Fazzone, Whitlock, Johnson, Goodman, and Heine. Nays: None.

Ms. Melissa Saunders, Long Term Coordinator of Disaster Recovery appeared before the Council with an update of 211 services available to the citizens through United Way 211 of Manasota. She introduced Ms. Katie Grantham, local Public Relations/Data Manger, who works in partnership with the local EOC in a disaster or emergency. Ms. Sanders reported that the Council donated \$5,000.00 for fiscal year 2005/06 and she then requested a donation of \$6,000.00 to be budgeted for 2006-2007. Fazzone moved to grant the request to provide \$6,000.00 to 211 for fiscal year 2006/07; seconded by Goodman and carried.

A report of Police Fines and Forfeitures for the month of June 2006 indicates fines in the amount of \$3,114.20, and radios \$12.50.

The Police Department Activity Report for the month of June 2006 was presented.

Marshal Lee addressed the Council to advise them that a Cease and Desist Order was given to DeSoto Manor Nursing Home for improper permits. The nursing home will not be allowed to admit additional residents until this is corrected.

Administrator Strube reported receiving the 2006 Certification of Taxable Value from the County Appraiser. The report projects a 38% increase for the City and a 52% increase for the County. The increase is the result of increased land sales and new construction. This increase will provide the City with approximately \$500,000.00 of additional tax revenues. Last year the City received an increase of just \$21,000.00. The last significant asset value increas received by the City was in 1987-1988. Administrator Strube stated that a possible issue in the future would be the shift from property owners with

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homestead exemption and the "save our homes" (which limits an increase in assessed value to 3%) to new property owners. He noted that the Florida Legislature did attempt to pass a law which would have allowed "portability" of your current property value to a new property; however the law was not approved. It was noted that for the last three (3) or four (4) years the auditors have placed a management comment in the audit regarding the City's lack of reserves. Whitlock asked if the increase this year would satisfy the auditor regarding the City's reserve Fund Balance to which Administrator Strube stated that it would. Administrator Strube stated that the City needs to give the proposed millage rate to the Property Appraiser by August 5, 2006. Administrator Strube recommends the Council reduce the current millage rate of 8.9963 to 8.900 which would allow the City to still receive additional tax revenues. Johnson then moved to reduce the millage rate from 8.9963 to 8.900; seconded by Whitlock and carried.

The Planning and Zoning Board at their meeting of July 11, 2006 recommended the following items to the Council.

1. That the request by Day Star Communications to erect a 350- foot tower, on property owned by Sun Coast Media Group, at Magnolia Street and Polk Street be approved. Mr. Don Baughman, Director of Business Development for DayStar Communications addressed the Council as to the products and services that will be provided by this tower. Attorney Holloman stated this recommendation was to be treated as a quasi-judicial matter. He then asked if any Council Member had spoken with anyone regarding this recommendation. Council member Fazzone stated he did discuss this request with Joe Gilmore and he also visited the site. Attorney Holloman then swore in those parties that wished to speak before the Council regarding to issue. Mr. Joe Gilmore, General Manager of DeSoto Sun stated that DayStar is a good business and would be an asset to the City of Arcadia. Don Baughman reported that DayStar was founded five (5) years ago and now serves well over 1000 business and government customers in the surrounding areas with high-speed data, voice and wireless communication products and services. Administrator Strube noted that the location in question is in a Commercial C-1 district and that there are towers in General Business B-2 and B-3 districts. Mr. George Whitlock, a local realtor spoke in opposition to the tower. Mr. Whitlock stated that this tower would not be conducive to the City's historical district. He stated this was a good company and had a good product, however, he suggested that they look into another area that would not distract from the downtown area. Administrator Strube stated the 1996 Communications Act allows businesses to erect a tower and does not allow the City to discriminate as to the location. Goodman asked if the Planning and Zoning Board had all of this information when they made their recommendation for approval and was informed that they did. Attorney Holloman then read City Code Section No. 110-

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(Planning and Zoning Recommendations Continued)

599 which addresses exclusions from any height restrictions. Mr. Derek Dunn-Rankin, President of Sun Coast Media Group stated that he understood the concern about the location and he is willing to talk to local realtors to see if he can find a reasonable priced property as an alternative. Melissa Sanders also spoke in opposition to the location of the tower. Goodman stated that she respects the downtown district and the paper and she does not believe that the paper will put up junk. She stated that legally the Council can not deny the request. Goodman then moved to grant the approval by Resolution No. 2006-11 as recommendation by the Planning and Zoning Board and subject to meeting all City, County, State and FAA regulations to allow DayStar to erect a 350-foot tower on property owned by SunCoast Media Group; seconded by Whitlock and carried.

RESOLUTION 2006-11

WHEREAS, Don Baughman, Director of Business Development for Daystar Communications; a telecommunication network appeared before the Council requesting approval to install a 350 foot communication tower on a portion of Lot3, Block 45, Original Survey, Zoned C-1, presently owned by their parent company, Sun Coast Meida Group and

WHEREAS, there are towers established years ago in the vicinity and in other areas of the City which are regulated by the FAA and the FCC, and

WHEREAS, it appears that City Code Section 110-599-“Exclusion from height limits covering Radio and Television antennas would also include communication towers, and

WHEREAS, the Planning and Zoning Board, after consideration, recommended to the City Council that a Special Approval be granted, and

WHEREAS, the City Council feels this tower location will be in the best interest of the citizens of Arcadia.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Arcadia, Florida that a Special Approval be granted to Daystar Communications to construct a 350 foot communication tower on a portion of Lot 3, Block 45, Original Survey.

BE IT FURTHER RESOLVED that this Special Approval be granted subject to the tower being in compliance with FAA and FCC Regulations and with all other City, County and State requirements.

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(Resolution 2006-11 continued)

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA,
in Regular Session the 18th day of July, 2006.

/s/ ROBERT W. HEINE
ROBERT W. HEINE
MAYOR

ATTEST:

/s/ RACHELLE M. BAUMANN
RACHELLE M. BAUMANN, CMC
CITY RECORDER

Council member Johnson requested the Council move forward to agenda item 12, Council Matters. Due to medical reasons, Johnson must leave the meeting early and wanted to address concerns regarding the golf course. Johnson stated the Council had addressed an issue sometime ago with regards to Council member Fazzone's employment at the golf course as a conflict of interest. Johnson stated that a citizen expressed concern that due to the absence of Special Projects Coordinator Hewett due to illness, Council Member Fazzone is now in a management position. This is why the problem is again being brought up and he feels that this needs to be clarified. It was noted that Fazzone is paid by Lee Drugs. Johnson asked who Lee Drugs was. Attorney Holloman stated that two (2) years ago this item was sent to the ethics committee who after reviewing all of the information stated that there was no conflict of interest with Council Member Fazzone working at the golf course. Council Member Goodman stated that she has also been approached again noting that she is the one who originally brought up the question regarding Council Member Fazzone's employment at the golf course. Administrator Strube explained that Lee Drugs was established many years ago by Jim Mundell of Florida Business Services. Council member Johnson asked for all the information regarding Lee Drugs and the operation of the golf course be presented at the next Council meeting. Administrator Strube stated he would have all information ready for review. Mayor Heine then excused Council Member Johnson from the meeting.

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Original document is skewed

(Planning and Zoning Recommendations Continued)

2. That the request from Jim Patrick, owner of Country Clean Car Wash for a reduction of the required yard from 25' to 10' be granted. Mr. Patrick addressed the Council stating that he plans to construct a Laundromat on his property. Whitlock moved to grant the request by Resolution No. 2006-12 as recommended by the Planning and Zoning Board to reduce the required yard from 25' to 10' subject to meeting all City, County, and State regulations; seconded by Fazzone and carried.

RESOLUTION 2006- 12

WHEREAS, Jim Patrick DBA Chapman & Patrick Partnership own property in Block F, R. A. Mills Addition North of Highway 70 West. They propose to add a Laundromat on the above property on which 2 car wash buildings are located, and

WHEREAS, Section 110-602 of the City Code requires a 25 foot setback from Residentially Zoned Property, and

WHEREAS, to best utilize their property, zoned B-3 which does not require setbacks, they propose a 10 foot setback from the north property line, bordering N.E. Hickory Street, and

WHEREAS, the Residentially Zoned Property adjacent to the proposed Laundromat has been utilized by the school, the Masonic Lodge Hall and RPB Zoning, and

WHEREAS, the Planning and Zoning Board has recommended that Chapman & Patrick Partnership be granted a Special Approval permitting the ten (10) foot setback.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Arcadia, Florida that Chapman & Patrick Partnership be granted a Special Approval to permit a Laundromat to be constructed with a ten (10) foot setback from N.E. Hickory Street.

BE IT FURTHER RESOLVED that this Special Approval is granted subject to all other City, County and State requirements and regulations being met.

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(Resolution 2006-12 Continued)

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA,
in Regular Session the 18th day of July, 2006..

/s/ ROBERT W. HEINE
ROBERT W. HEINE
MAYOR

ATTEST:

/s/ RACHELLE M. BAUMANN
RACHELLE M. BAUMANN, CMC
CITY RECORDER

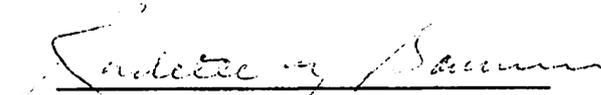
- 3. That Council re-appointed Planning and Zoning Board Members Russ Summers, Alton Fain and Melva Sawyer. Goodman moved to re-appoint Russ Summers, Alton Fain, and Melva Sawyer to the Planning and Zoning Board to serve a three (3) year term said term to expire July 1, 2009; seconded by Fazzone and carried.

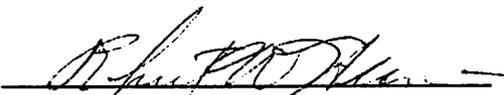
Grants Coordinator Steve Weeks presented a report to the Council regarding the status of modular units being constructed for CDBG homes. Work on all the units should be completed within the next three (3) months.

The June 2006 report of Arcadia Golf Course receipts and number of play was presented. It was noted that the total number played for the month was 1150, as compared to 822 in June 2005.

Sister Ann, of Catholic Charities, addressed the Council to express her concern regarding the loss of \$190,000.00 in grant funds that was denied to the City. Sister Ann stated that she would be happy to help with refilling information and to assist in whatever way she could. Mayor Heine stated that Administrator Strube and Recorder Baumann have already addressed this issue and are working with several state agencies. He thanked Sister Ann for her offer of assistance.

There being no further business, the meeting was adjourned.


CITY RECORDER


PRESIDENT