

**AGENDA MINUTES
CITY COUNCIL
CITY OF ARCADIA
TUESDAY, OCTOBER 7, 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.

INVOCATION& PLEDGE OF ALLEGIANCE

Councilmember Keene gave the invocation which was followed by the Pledge of Allegiance.

CALL TO ORDER & 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
Councilmember Keith Keene
Councilmember Robert W. Heine

Deputy Mayor Joseph E. Fink
Councilmember Robert R. Allen

Arcadia City Staff

Interim City Administrator Beth Carsten
City Attorney Thomas J. Wohl

City Clerk Penny Delaney
Marshal Matthew Anderson

PRESENTATION

Agenda Item 2 – Lewanda Polk – 30 Years of Employment

Marshal Anderson presented Lewanda Polk with a plaque commemorating thirty (30) years of employment with the City of Arcadia.

Agenda Item 1 – LAP – Local Agency Program

Mandy Hines, DeSoto County Administrator, made a presentation of LAP (Local Agency Program) and introduced Mike Giardullo, the County Engineer. Regarding the downtown improvement project plan, she advised they had been working with FDOT, the City and the community. She advised they had funding programmed for construction, approximately \$194,000.00 programmed for the project. They received one bid and it came in over bid. She advised this project is for the Oak and Manatee intersection, Oak and Monroe Avenue and Oak and Polk Avenue. She explained the improvements are beautification, but the primary purpose

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of the improvements are ADA requirements and drainage to help in those areas. Ms. Hines advised there is a redevelopment trust fund that was established by the Board of County Commissioners at the recommendation of the Economic Development Advisory Committee and there is \$150,000.00 in that fund. However, they would still be short and she made a request of \$30,000.00 from the City for participation which would leave approximately \$115,000.00 that they would request the Board of County Commissioners to fund through the redevelopment trust fund. Ms. Hines explained that they were at a point that if they don't give the DOT a determination of how they wish to move forward, they risk losing the \$194,000.00. Councilmember Keene asked when the \$30,000.00 would need to be paid and Ms. Hines advised the project would probably start the first of the year and that could be determined whether it be on the front end, middle or back end of the project. Councilmember Keene stated that he felt finding the \$30,000.00 to make a \$300,000.00 project work is what they need to try to figure out how to do. Councilmember Keene made a motion to approve pursuing the program so the County Administrator can take that message back to the Board of County Commissioners and Councilmember Heine seconded the motion. No discussion followed and it was unanimously, 5/0, approved.

CONSENT AGENDA

Agenda Item 3 – City Council Minutes for September 16, 2014

Agenda Item 4 – City Council Minutes for September 23, 2014

Agenda Item 5 – Air-Cadia Flowage and Hangar Rent Report

Agenda Item 6 – Request for Special Event Permit – Private Memorial Service

Agenda Item 7 – Request for Special Event Permit – Arcadia Plein Air Paint-Out

Agenda Item 8 – Request for Special Event Permit - Arcadia Heritage Festival

Agenda Item 9 – Request for Special Event Permit – Car Show

Deputy Mayor Fink made a motion to approve Consent Agenda Items 3, 4, 5, 7, 8 and 9 and to pull Consent Agenda Item 6 for discussion. Councilmember Keene seconded the motion. No discussion followed and it was unanimously, 5/0, approved.

Regarding Agenda Item 6, Deputy Mayor Fink advised that it had been brought to his attention that the memorial service was by invitation only and if that's the case, then there's a problem as it is being held in a public park. The applicant, Janie Watson, advised that it is not invitation only. William Thronebury, 223 Bridle Path, Arcadia, Florida, advised that the service was for his brother and he stated he is not allowed to be there and was told it was by invitation only. Deputy Mayor Fink stated that if he could be guaranteed that it was open to the public, he didn't have a problem with it and Ms. Watson advised that as far as she knew, it was open to the public. Mr. Thronebury stated that he was told the police would get involved if he made an attempt to appear. Mayor Frierson asked the City Planner/Code Enforcement Officer if he had anything he wanted to add to the discussion. Mr. McQuay advised that he didn't believe the police department would step in unless there was disruption because it is a public park. Deputy Mayor Fink stated that with that guarantee, he made a motion to accept the permit and Councilmember Heine seconded the motion. No discussion followed and it was unanimously, 5/0, approved.

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ACTION ITEMS

Agenda Item 10 – Lease Between City of Arcadia and Smith-Brown Community Foundation

The City Attorney advised that there were changes made that he wanted to bring to Council's attention. He stated that the lease premises include the gymnasium, the industrial arts building and the shared parking lot and the term would be for twenty-five (25) years. The City Attorney pointed out that the biggest obstacle they ran into was the various phases of alterations that were going to be made and what alterations would be made. He advised that the difficulty the foundation has is that they need to have a signed lease before they try to get funding. It was impossible for them because they don't have a budget because they don't have funding yet. He stated that the foundation indicated that three (3) years is about what they would need to get the funding so it was included in the lease is that within three years after the effective date, they will revisit the issue as to the various phases of alterations and if the parties can't come to a mutual agreement as to the work that's going to be done and the completion dates, then the City has the ability to opt out of the lease. Mr. Wohl explained that regarding the liability insurance, typically the tenant will be responsible for liability insurance, but the foundation doesn't have funding yet. Due to that reason, the City will maintain the liability coverage on the property and no later than ten (10) days prior to the time they take active possession or begin any alterations to the property, the foundation will secure the liability policy on the property. Regarding taxes, he advised that was essentially whether the City wanted to be responsible for the property taxes or have the foundation responsible for those. As it reads right now, the foundation would be responsible.

Councilmember Keene asked if the foundation is willing for the City to move forward with the foundation being responsible and see what could be worked out with the tax assessor to determine the taxes. The City Attorney stated that they could talk to the Tax Collector and get that information. Councilmember Keene stated that he was satisfied with the lease as it is with just the one point that needs to be clarified. Ms. Coone asked the City Attorney if they could handle it the way they are handling the liability insurance once they are occupying the facility. The City Attorney that was something they could do and have that same provision. Ms. Coone thanked City Council for all their help. Councilmember Keene made a motion to approve the lease as is with changes to the paragraph on taxes and Deputy Mayor Fink seconded the motion. No discussion followed and it was unanimously, 5/0, approved.

Agenda Item 11 – Resolution 2014-12 – Establishing Reasonable Rules and Policies for the City Council and for Comment at City Council Meetings

The City Attorney advised that Council had requested that he draft a proposed Resolution regarding decorum and reasonable rules regarding their public meetings. He pointed out that it was proposed and wanted Council to feel free to critique, make comments or suggestions. Councilmember Keene felt they have to have some control for persons coming up and making comment for documentation for the benefit of the City Clerk and record accuracy. Other issues were discussed such as information to be provided, time frames for speaking and issues being

brought before Council repetitively from numerous persons were discussed. Councilmember Heine asked the County Administrator for her input and she shared the procedures and requirements of the County regarding the issue.

Deputy Mayor Fink expressed his concern with a person repeatedly addressing Council during a meeting. The City Attorney stated that it provided that a person has three (3) minutes to speak on an agenda item and is not entitled to come back up. Deputy Mayor Fink stated that he was concerned that it didn't turn into a debating society. Mayor Frierson opened the discussion to the public. William Bailey of 422 E. Magnolia Street, Arcadia, Florida, commented regarding follow-up questions. The City Attorney stated that limitations can be placed as long as they are applied equally to everyone and it would be up to Council. Deputy Mayor Fink made a motion for the Resolution to be read by title only and Councilmember Keene seconded the motion. Mayor Frierson directed the City Clerk to read the Resolution by title only and the City Clerk did so. Mayor Frierson asked if the effective date would be today's date and the City Attorney advised that it would be. Deputy Mayor Fink made a motion to approve the Resolution as presented and Councilmember Keene seconded the motion. No discussion followed and it was unanimously, 5/0, approved.

Agenda Item 12 – Mobile Home Park – Approval of Notice of Lot Rental Increase

The City Attorney stated the ninety (90) day notice for lot rental will now increase pursuant to Section 723.037, Florida Statutes. He advised there are two (2) different price increases; one being \$165.00 to \$175.00 and the other being \$171.00 to \$181.00. He pointed out that because of the two (2) differences of how they are priced right now, they are providing one (1) notice to the owners of lots situated on the north side on Maine Street and a separate notice to homeowners of lots situated on the south side of Maine Street. He advised if they are approved, he will work with Linda Hinson on getting them passed out. He stated that he had been asked if this was a repetitive \$10.00 increase for the homeowners of the mobile home park. His answer was no, this was a one (1) time increase of \$10.00. He advised that the entire issue would have to come back to Council at least a year from now before Council considered raising the rents any further. Mayor Frierson asked when it would take effect and the City Attorney advised the first month's increase would be February 1, 2015.

Mayor Frierson opened the discussion to the public. The following park residents spoke regarding their concerns: Rose Williams of 90 Texas Avenue, Arcadia, Florida; Glenn Bartholomew of 56 Ohio Avenue, Arcadia, Florida; Sue Leversee-Grossman of 34 Iowa, Arcadia, Florida; Roseanna Beauchamp of 29 Iowa, Arcadia, Florida; Carol Anderson of 90 Kentucky Avenue, Arcadia, Florida; Diane Duart of 24 Michigan Avenue, Arcadia, Florida; and Kathy Lorenz of 81 Kentucky Avenue, Arcadia, Florida. Their concerns ranged from the rent increase being continual over the next three (3) years to the financial hardship on others that the rent increase would cause to ADA compliancy with the clubhouse bathroom and areas in the park where the road has broken through.

Councilmember Heine made a motion to approve the notices and Councilmember Keene seconded the motion. Interim City Administrator Beth Carsten advised that the increase will go

toward the utilities that the City pays for. She advised that the water is included in the rent and it is an \$80,000.00 yearly expense that the City pays in full. Discussion was made regarding desired improvements to the park and Mayor Frierson suggested the Interim City Administrator get with the park manager and make up a list and start with something small. No discussion followed and it was 4/1 approved with Councilmember Allen casting the dissenting vote.

Agenda Item 13 – Minimum Standards and Guidelines for Commercial Services

Gary Frierson and Ronald Watson, the new Chairman of the Arcadia Airport Advisory Committee, addressed Council to advise they had brought the minimum standards and guidelines before the Council for adoption. Councilmember Keene made a motion for the approval of the minimum standards and guidelines and Councilmember Heine seconded the motion. No discussion followed and it was unanimously, 5/0, approved.

Mr. Frierson advised some of the other issues that they will be addressing in the future are a recommendation on what to do with the fuel system in 5 or 6 months and also when the mowing season starts, the equipment is worn out so it will have to be addressed, along with who will be doing the mowing. Deputy Mayor Fink stated that since they will have a parting of the ways with the FBO on the 31st of March, he asked the City Attorney if there is a checklist of what Council expects to be there and what they don't expect to be there and has it been set into motion. The City Attorney stated that he will review the contract and he was in complete agreement especially considering the litigious nature that the FBO has taken against the City and felt that they should enforce every bit of the contract. He advised he will take a look at the contract, come back and let Council know what he finds.

Mr. Frierson advised the committee had a new election of officers and Mr. Watson is the new Chairman and will be the one addressing Council in the future with the support of the rest of the committee. Deputy Mayor Fink stated that with the new advisory board and new Chairman, he didn't feel they needed to wait until the last minute regarding how the airport will continue after March 31st. He advised that with that in mind, he felt they needed the guidance of the Airport Advisory Board to tell Council what they think is a reasonable way to look at this regarding continuing with a FBO with a contractual agreement with an outside firm or with staff. He asked for a consensus to have them come back with guidance on that particular issue. Mr. Frierson stated that they had already had discussions regarding this issue before the seven member board was elected and he understood there is one (1) or two (2) companies that are looking at drafting a proposal that are interested in coming to the airport. There was a consensus for this issue.

Greg Smith had a question about obtaining records regarding the fuel tank inspection. Councilmember Keene stated that records regarding the physical inspection that the Department of Environmental Protection conducts, the inspection results are available online at the DEP website. Everyone was in agreement for the records to be requested from the DEP if it can't be found online. Further discussion was made regarding inspection reports being submitted and petroleum liability insurance. Councilmember Keene stated that he would obtain documentation regarding the inspections and provide it to everyone.

Agenda Item 14 – City Administrator Position

The City Attorney advised that the out-of-title pay is established in the Personnel Manual. He stated it is either five percent (5%) of their pay grade or equal to whatever position they are assuming, whichever is higher. He advised that it goes into effect as long as the person holds the position for more than five (5) days, but it is retroaction to the date that they were put into that position. The City Attorney confirmed that the Interim City Administrator/Finance Director is not receiving two (2) separate salaries. After much discussion regarding responsibilities of the Interim City Administrator, it was common consensus that the responsibilities would be the same as a standard Administrator. The City Attorney advised that there is an ordinance that provides that you need a City Administrator and the ordinance that provides what that persons duties are and their rights under the ordinance.

Regarding the position, Mayor Frierson felt the Council should consider advertising for the position for six (6) weeks and by the time the new Council is seated, they should have all the applications and then the new Council can decide if they wish to use a panel or however they wish to handle it. The City Attorney suggested the Council may wish for the City Clerk to contact the prior applicants. It was common consensus that the prior applicants would need to submit an updated application. The City Clerk asked if they wished to use the same ad which was used prior and Council agreed that they did. Councilmember Keene asked if they would still be able to advertise in the Florida League of Cities publications for free and if so, he felt they should do that. It was decided that in addition to the Florida League of Cities, the advertisement would be placed on the City's website and not in any newspapers as before.

Agenda Item 15 – Personnel Manual

Mayor Frierson advised that on March 18, 2014, Council made a change to the Personnel Manual and it reads "an employee may be discharged . . . Discharge results in loss of eligibility for re-employment and loss of pay for accumulated leave time and other benefits." She advised "and loss of pay for accumulated leave time and other benefits" has been marked through and she asked the Council when an employee has been discharged for bad behavior, do we want to give them benefits. Councilmember Heine and Councilmember Keene stated that they did not. After much discussion, Mayor Frierson asked the Council if they wished to have a labor attorney look at the manual and it was agreed that a labor attorney should look at it, especially pages 37, 40, 64 and 67. The City Attorney suggested potentially overhauling the whole thing due to it being changed so many times. He advised that Ms. Carsten had been working with someone who the City of Sebring, Lake Placid, Highlands County and a number of other local governments use for all their employment law issues. Councilmember Keene asked if it was reasonable to think Ms. Carsten may have something for Council by the next meeting and Ms. Carsten felt that she could.

COMMENTS FROM DEPARTMENTS

16. CITY MARSHAL

City Marshal Matt Anderson referenced to the Police Department's monthly report that was placed in the packets. He advised they took two (2) shooters and one (1) robber/convicted murderer who was wanted on the east coast for aggravated battery with a deadly weapon, armed robbery and grand theft. He stated the Federal Marshals came over and with their assistance, he was arrested. Mayor Frierson stated that she understood some of their training came in handy during that time. Marshal Anderson stated that one (1) of the shooters fired seven (7) times into an apartment at Oak Trails complex. He advised he was hiding out in a two-story residence and because of their training; they were able to tactically go upstairs without anyone getting hurt.

He informed Council of the Shop with a Cop Program which was started last year. He advised they solicited donations from individuals and business owners and took in a total of 10 or 14 children to Wal-Mart. He explained how the program worked and advised they were doing it again this year and are trying to solicit funds for it. He also informed Council that on October 16th and 17th, APD has partnered with Slim's BBQ for members of the department to be servers (refilling drinks and bussing tables, but not serving the food) during the hours of 11:00 a.m. – 1:00 p.m. and again from 4:30 – 6:30 p.m. on those days. He also advised that entertainment would also be provided. This will not take away from the waitresses, but will be an additional tip to the program. He also stated that they will try to partnership with Winn-Dixie with any additional funds that are raised to be put toward Christmas baskets for all the children.

17. CITY ATTORNEY

The City Attorney advised there will be a Shade Meeting on Friday, October 10, 2014 at 3:00 p.m. He further advised this meeting will be opened as a public meeting and then they will go into the shade meeting which will include the five (5) council members, the Interim City Administrator, himself, the attorney who was hired by the insurance company to defend the lawsuit and a court reporter. He stated when they were finished with their conversation, they would come back to the public meeting and close it. He advised a transcript of the shade meeting will be available once the litigation is concluded.

Regarding the former City Administrator, Mr. Wohl advised that under the contract, Mr. Slaughter is not entitled to any severance because he was still in his probationary period. The other issue is whether he is entitled to any accrued sick leave or vacation time that he would have earned as the City Administrator under contract. He did resign, but the resignation was not a thirty (30) day resignation. In his opinion, there was ample reason for the City Council to decline the resignation and terminate him with cause and therefore he would not be entitled to any of the vacation or sick leave he accrued from May 20, 2014 up until his departure. Mr. Wohl advised that he had spoken with Mr. Slaughter and Mr. Slaughter had advised that he would be happy to accept only his accrued sick time and vacation time that he earned from the time he was the Planner and Interim City Administrator. There would be no need to terminate him with cause and he has agreed to the sum of \$2,961.75 which was what he had earned prior to his tenure as the Administrator. The City Attorney pointed out that as they had just reviewed in the Personnel Manual, Mr. Slaughter is entitled to that even if he was terminated.

Deputy Mayor Fink made a motion to terminate Mr. Slaughter as City Administrator, formerly, with cause, and further would suggest that the City, if asked by any other agencies for any additional assistance in anything they may want to pursue, be forthcoming and give that assistance. Mayor Frierson asked what they will establish by terminating with cause. The City Attorney stated nothing would be established if he is agreeing to that amount, it's the same. Mr. Wohl stated that the proposal which he had discussed with Mr. Slaughter which would be subject to Council's approval was that they would accept his resignation and he would agree to forgo any money under the contract. He advised if they want to terminate Mr. Slaughter with cause, he may still be willing to accept the sum. Mr. Wohl pointed out that what they would be buying is peace of mind that there won't be a lawsuit down the road. Councilmember Heine seconded the motion. Councilmember Keene stated that he couldn't second the motion because of what the City Attorney had shared with them. Councilmember Heine stated that he was trying to state a different motion. Deputy Mayor Fink's motion died on the floor due to lack of a second.

After much discussion regarding dismissal with cause or dismissal without cause, Councilmember Keene asked that Deputy Mayor Fink reconsider his motion. Councilmember Heine withdrew his motion. Deputy Mayor Fink made a motion that Mr. Slaughter be terminated for cause, that they have to pay him what they have to pay him because the policy is the policy that they have adopted. However, staff is to be instructed to deal with and add assistance to any agency that come before them and ask for specifics on this particular termination. Councilmember Keene seconded the motion and stated that he would have full expectation from staff that they would cooperate with anyone under any circumstance and he didn't know that that needed to be part of the motion, but he was agreeable to it. Mayor Frierson confirmed that this motion would tell the City Attorney that he needed to contact Mr. Slaughter and advise him that he's being dismissed with cause. No discussion followed and it was unanimously, 5/0, approved.

18. INTERIM CITY ADMINISTRATOR

The Interim City Administrator advised that the McSwain bidding closes October 10, 2014. She also advised that the Main Street Program has approached the City with the opportunity to get a grant for the historic City Hall. She stated it would be no match for the City and the Main Street Program would be doing the grant writing of it. She further stated they would like to present it as a workshop on October 21, 2014 at 5:00 p.m. Ms. Carsten advised that if they are going to do it, the grant would have to be completed by the end of the month, so it would have to come before the Council for a vote as to whether Council would want them to pursue it or not. Deputy Mayor Fink suggested that they do what the Interim City Administrator suggested, have a meeting and fast-track it. Councilmember Keene stated that he would like to find out if the new Director could meet with Council individually to allow them to digest the information so that when they make the formal presentation on the 21st, Council can take an educated form of action. Ms. Carsten stated that she would get the gentleman in touch with Council.

She advised Council of a collapsed sewer main on Court Street, between Dade and Orange. She further advised that while no one is affected right now, it could affect somebody

very soon and they are acting on it quickly and they will begin working on fixing that in the next couple of days. She stated that if it goes the way they think it is, it's about a ten (10) or twenty (20) foot break and it will be about \$11,000.00. Fred Lewis stated that he had spoken with Consolidated Production and was advised that they could get started on it as soon as tomorrow. Councilmember Heine made a motion to approve the repair and Deputy Mayor Fink seconded the motion. No discussion followed and it was unanimously, 5/0, approved.

PUBLIC

None

MAYOR AND COUNCIL MATTERS

Deputy Mayor Fink suggested that twice in the meeting, he had been what he would consider abused under Section F on page three of the Resolution regarding decorum. He asked that it not be continued without going into further detail. He said he found it offensive and if anyone wants to know what he's talking about, he will be more than happy to discuss it with them.

Marshal Anderson apologized but he had been reminded of something. Lou Ambler had contacted him last year regarding Imogene and Lee Avenue over to Rio Vista and Marshall to set up barricades and close off that area due to all the trick or treat participants that they get in the neighborhood. He stated it went very smoothly and the APD didn't receive one (1) complaint about anything. They're asking the same thing for this year and Marshal Anderson told Mr. Ambler that he would have to bring it before Council for approval. Councilmember Keene made a motion to approve the closure and Councilmember Heine seconded the motion. No discussion followed and it was unanimously, 5/0, approved.

ADJOURN

Having no further business at this time, the meeting was adjourned at 8:19 P.M.

ADOPTED THIS 21st DAY OF October, 2014.

By:



 Alice Frierson, Mayor

ATTEST:



 Penny Delaney, City Clerk