



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

TUESDAY, OCTOBER 18, 2016
6:00 P.M.

INVOCATION, PLEDGE, CALL TO ORDER AND ROLL CALL

PRESENTATIONS

1. Proclamation - Red Ribbon Week (Mayor Coker)
2. Proclamation – Veterans Appreciation Week (Mayor Coker)

CONSENT AGENDA

3. Request to Place Temporary Signs and Banners on City Properties - DeSoto County Historical Society (Terry Stewart – City Administrator)
4. Request to Place Temporary Signs and Banners on City Properties – DeSoto Arts and Humanities Council, Inc. (Terry Stewart – City Administrator)

ACTION ITEMS

5. Ordinance No. 1019 - Establishing Procedures for Public Hearings – **Second and Final Reading** (T.J. Wohl – City Attorney)
6. Placement of Police Department Computers on Governmental Surplus Website for Auction (Terry Stewart – City Administrator)

COMMENTS FROM DEPARTMENTS

7. City Marshal
8. City Attorney
9. City Administrator

PUBLIC (Please limit presentation to three 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

AGENDA No. 1



Proclamation

WHEREAS, alcohol and other drug abuse in this nation has reached epidemic stages; and

WHEREAS, it is imperative that visible, unified prevention education efforts by community members be launched to eliminate the demand for drugs; and

WHEREAS, The National Family Partnership is sponsoring the National Red Ribbon Campaign offering citizens the opportunity to demonstrate their commitment to drug-free lifestyles (no use of illegal drugs, no illegal use of legal drugs); and

WHEREAS, the National Red Ribbon Campaign will be celebrated in every community in America during "Red Ribbon Week", October 23-31; and

WHEREAS, business, government, parents, law enforcement, media, medical, religious institutions, schools, senior citizens, service organizations and youth will demonstrate their commitment to healthy, drug-free lifestyles by wearing and displaying Red Ribbons during this week long campaign; and

WHEREAS, the City of Arcadia further commits its resources to ensure the success of the Red Ribbon Campaign;

NOW, THEREFORE, BE IT RESOLVED, the Mayor and Council for the City of Arcadia do hereby proclaim October 23-31, 2016 as

RED RIBBON WEEK

and encourage its citizens to participate in drug prevention education activities, making a visible statement that we are strongly committed to a drug-free state.

SO DONE THIS 18TH DAY OF OCTOBER, 2016

BY: _____

SUSAN COKER, MAYOR

ATTEST:

Penny Delaney, City Clerk

AGENDA No. 2



Proclamation

WHEREAS, Veterans Day is a day to honor those veterans who have served and are serving the nation; and

WHEREAS, the armistice ending World War I, regarded as the end of “the war to end all wars,” went into effect on the eleventh hour of the eleventh day of the eleventh month, on November 11, 1918; and

WHEREAS, in 1919, President Woodrow Wilson proclaimed November 11th as the first commemoration of Armistice Day and in 1954, the 83rd Congress amended that act by replacing the word “Armistice” with the word “Veterans” and President Dwight D. Eisenhower issued the first Veterans Day Proclamation; and

WHEREAS, with the passage of the Uniform Holiday Bill in 1968, the observance of Veterans Day was moved to a Monday, but due to the historic and patriotic significance of November 11th, President Gerald R. Ford signed a law in 1975 returning the day to November 11, beginning in 1978; and

WHEREAS, our veterans and their loved ones have made significant sacrifices on behalf of our nation; and

NOW, THEREFORE BE IT RESOLVED, the Mayor and Council for the City of Arcadia do hereby proclaim the week of November 6-12, 2016 as

VETERANS APPRECIATION WEEK

in the City of Arcadia and encourage all residents, businesses, government agencies and service groups to join in celebrating Veteran’s Appreciation Week and give support to the activities surround it.

SO DONE THIS 18TH DAY OF OCTOBER 2016.

By: _____
Susan Coker, Mayor

ATTEST:

Penny Delaney, City Clerk

AGENDA No. 3



CITY COUNCIL AGENDA ITEM

Requested Council Meeting Date: October 18, 2016

DEPARTMENT: Code Enforcement

SUBJECT: Advertisement of event on City property by the DeSoto County Historical Society

RECOMMENDED MOTION: **Motion to approve temporary posting of sign on city property**

SUMMARY: The DeSoto County Historical Society request permission to hang a 3' X 6' banner advertising their annual yard sale on November 5, 2016 on the fence at McSwain Park at the corner of North U.S. 17 and East State Road 70. The banner will be hung two weeks prior to the event on Saturday, October 22, and removed at the conclusion of the event.

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

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

Department Head: Carl A. McQuay *CMQ* Date: 10/18/16

Finance Director (As to Budget Requirements) Date:

City Attorney (As to Form and Legality) Date:

City Administrator: Terry Stewart *TS* Date: *10-6-16*

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



SIGNAGE CERTIFICATE APPLICATION

Date Stamp

City of Arcadia Florida
Community Development
23 Polk Avenue North
Arcadia, FL 34266
(863) 494-4114

Fee \$60.⁰⁰

R# _____

City Website: arcadia-fl.gov

File No.: 15 - _____ **SP**

Signage regulations are designed to ensure public safety and minimize the negative visual impacts of outdoor advertising within the City. All commercial, professional and residential zoning districts establish regulations which limit the number, size, type, placement, and appearance of all signage and signage structures. Receiving a Sign Certificate from the City is generally the first step in the approval process, followed by applying for a Building Permit from the Desoto County Building Department for the actual sign installation or construction activities for securing or powering the structure.

APPLICANT'S INFORMATION (Agent or Contractor)	PROPERTY OWNER'S INFORMATION (Leave Blank if Same as Applicant)
Name: <u>Carol Mahler</u>	Name: <u>Gary Boyle</u>
Organization: <u>Desoto County Hist. Soc.</u>	Organization: <u>City of Arcadia's McSwain Crossroads Sheds, Inc. Park</u>
Address: <u>P.O. Box 1824</u>	Address: <u>2 S. Volusia Ave. 8 W. Hickory St.</u>
City: <u>Arcadia</u>	City: <u>Arcadia</u>
State: <u>FL</u> Zip Code: <u>34266</u>	State: <u>FL</u> Zip Code: <u>34266</u>
Telephone No.: <u>(863) 445-0789</u>	Telephone No.: <u>(863) 863 494-4114 (863) 494-1678</u>
Email: <u>carolmahler3@gmail.com</u>	Email: <u>sheds@crossroadssheds.com</u>

I. Property Information

Parcel Address (if assigned): 8 W. Hickory St. / 2 S. Volusia Ave.

Parcel Identification Number: 25-37-24-0012-0240-0145 / 25-37-24-0012-040-0010

Business Name: Crossroads Sheds / City of Arcadia

Street Name that Signage Will Face: W. Hickory & S. U.S. 17 / E. Magnolia & N. U.S. 17

Is Signage for a Building with: Single Tenant Multi-Tenant Building Structure **PARK**

Duration of Sign Placement: Permanent Temporary (No. of Days): 2 weeks

Zoning District of Subject Property: C-1 / P-1

Lot Frontage (in feet): 252' / 354' (17) Building Frontage (in feet): _____
(Hickory) 75' / 300' (Magnolia)

II. Signage Details - Please review each information block and indicate project information details:

Type of Signage

Ground sign
 Wall sign
 Awning sign
 Tenant Panel
 Other

Banner

Action

Erect
 Alter
 Sign Copy Change
 Repair
 Other

Illumination

No Lighting
 Externally Lit
 Internal LED
 Internal Florescent
 Other

Construction

Painted
 Plastic
 Metal
 Channel Letters
 Concrete Block
 High Density Foam
 Light Box
 Wood
 Other

Vinyl

No. of Sign Faces

Single Face
 Double Face

Size of Sign Structure

3' Height
6' Length
 _____ Width

Sign Copy Area Size

30" Height
74" Length

III. Signage Development Standards

Identify All Existing Signs (if any)

For Temporary Signs, leave blank

Total Existing Signs: _____

Total Sq. Ft. of All Signs: _____

_____ No. of Signs on Building

_____ No. of Signs on the Ground

For Ground Signs Only

Zoning District: _____

City Code Standard	Your Proposed Standard
_____ Front Yard	_____ Front Yard
_____ Front Yard	_____ Front Yard (corner lots)
_____ Side Yard	_____ Side Yard

IV. Site Plan, Exhibits and Renderings – Please attach a signage detail and site plan sheet for ALL PROPOSED signage. Identify sign orientation, size of sign (sign copy area), and size of sign structures (height, length, and width). Incomplete information may delay your application review. Refer to the Sign Code to gain a better understanding of the sign standards, sign types, presence of other on-building or on-site signs that may count against maximum number of signs or total square footage of all sign copy area that may be permitted based on zoning district allowances.

Planning and Zoning Review:	Utility Systems Review:	Notes, Restrictions, and Permit Coordination: _____ _____ _____
<input type="radio"/> Approved	<input type="radio"/> Approved	
<input type="radio"/> Denied	<input type="radio"/> Denied	
_____ Zoning Inspector Signature	_____ Utility Inspector Signature	
Date: _____	Date: _____	

DeSoto County Historical Society's Temporary Banners

6 feet

3 feet

Historical Society

Yard Sale

8 a.m to 2 p.m., Nov. 5

Fairgrounds



DeSoto County Historical Society
P.O. Box 1824
Arcadia, FL 34265
www.historicdesoto.org

**To preserve and promote the history of DeSoto
County, Florida, for future generations.**

September 22, 2016

City of Arcadia City Council
23 N. Polk Avenue
Arcadia, Florida 34265

Dear Mayor Coker, and Council Members Fink, Frierson, Turner, and Wertz-Strickland:

The DeSoto County Historical Society respectfully requests permission to hang a 3' x 6' banner advertising our annual yard sale on November 5 on the fence at McSwain Park at the corner of N. U.S. Highway 17 and E. State Road 70 (Magnolia Street). The Society will hang the banner two weeks before the event on Saturday, October 22, and remove it at the conclusion of the event on Saturday, November 5.

The Society also requests permission to hang a 4' x 6' banner on the property of Crossroads Sheds, 8 W. Hickory Street, at the corner of U.S. Highway 17 South and W. State Road 70 (Hickory Street). The owner has given his permission for us to hang a banner using two posts and plywood. Again, the Society will hang the banner two weeks before the event on Saturday, October 22, and remove it at the conclusion of the event on Saturday, November 5.

Thank you for your consideration of these requests.

Yours sincerely,

Carol Mahler

Carol Mahler
Coordinator of the DeSoto County Historical Society's
Howard and Velma Melton Historical Research Library



DeSoto County Historical Society, Inc.
P.O. Box 1824
Arcadia, FL 34265
www.historicdesoto.org

**To preserve and promote the history of DeSoto
County, Florida, for future generations.**

September 22, 2016

Mr. Carl McQuay
Code Enforcement Officer
City of Arcadia
23 N. Polk Avenue
Arcadia, FL 34266

**RE: Sign Permit Application
Temporary Banners for Yard Sale on November 5, 2016**

Dear Mr. McQuay:

Please accept this letter as an official request from the DeSoto County Historical Society that the sign permit application fee of sixty dollars (\$60.00) be waived for our sign permit application to hang two temporary 3' x 6' banners to advertise the DeSoto County Historical Society's 12th Annual Yard Sale from 8 a.m. to 2 p.m. on Saturday, November 5, at the DeSoto County Fairgrounds. We hope to hang these banners on the fence at McSwain Park and on post and plywood at 8 W. Hickory Street.

I thank you--in advance--for your consideration of the Society's request and sign permit application, and for your continued assistance in our efforts to preserve and promote the history of DeSoto County for future generations.

Yours sincerely,

Carol Mahler

Carol Mahler, Coordinator
The DeSoto County Historical Society's
Howard and Velma Melton Historical Research Library

AGENDA No. 4



CITY COUNCIL AGENDA ITEM
Requested Council Meeting Date: October 18, 2016

DEPARTMENT: Code Enforcement

SUBJECT: Advertisement of event on City property by the DeSoto Arts and Humanities Council

RECOMMENDED MOTION: **Motion to approve temporary posting of sign on city property**

SUMMARY: The DeSoto Arts and Humanities Council request permission to hang a 2' X 8' banner advertising their 4th annual Arcadia Plein Air Paint Out special event on November 12, 2016 on the fence at McSwain Park at the corner of North U.S. 17 and East State Road 70. They are also requesting to post other signs at the intersection of State Road 70 and U.S. 17 to inform southbound and westbound drivers, as well as on State Road 70 where the one-way begins and ends near Lake Katherine and on Eastbound State Road 70 where the highway splits. All banners and signs will be hung two weeks prior to the event and removed at the conclusion of the event.

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

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

Department Head: Carl A. McQuay Date: 10/18/16

Finance Director (As to Budget Requirements) Date:

City Attorney (As to Form and Legality) Date:

City Administrator: Terry Stewart  Date: 10-18-16

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



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

Report of Special Agent in Charge, [Name], dated [Date], at [Location], regarding [Subject].

Reference is made to [Reference Number] and [Reference Number].

On [Date], [Name] advised that [Name] had been [Action].

[Name] stated that [Name] had been [Action] on [Date].

[Name] further advised that [Name] had been [Action] on [Date].

[Name] stated that [Name] had been [Action] on [Date].

[Name] further advised that [Name] had been [Action] on [Date].

[Name] stated that [Name] had been [Action] on [Date].

[Name] further advised that [Name] had been [Action] on [Date].

[Name] stated that [Name] had been [Action] on [Date].

[Name] further advised that [Name] had been [Action] on [Date].



DeSoto Arts and Humanities Council, Inc.

A 501(c)(3) nonprofit corporation

P.O. Box 2451

Arcadia FL 34265

863-703-0373

desotoartscouncil.org

desotoartscouncilinfo@gmail.com

to: Arcadia City Council
Arcadia FL
cc: City Administrator Terry Stewart
Code Enforcement Carl McQuay
date: Sept. 29, 2016
re: *Permission for temporary display of signs*

Pursuant to Section 8.10.00 of the city's code, the DeSoto Arts and Humanities Council Inc. seeks permission to place several signs around the city to inform residents and visitors about the Fourth Annual Arcadia Plein Air Paint-out, which will take place in downtown Arcadia on Nov. 12, 2016.

We anticipate the following types of signs:

- Two 2-foot by 8-foot vinyl banners, with metal grommets, to be affixed with zip ties to the iron gates or fencing by the splash pad, so as to be visible to drivers on State Road 70 East and U.S. Highway 17 North. Mr. McQuay indicated we could place signs here temporarily.
- Six to eight free-standing signs (with wood posts), no more than 32 feet square, to be placed at other intersections of State Road 70 and U.S. 17 to inform southbound and westbound drivers, as well as on State Road 70 where the one-way begins and ends (i.e., one near the Arcadia sign near Lake Katherine, and one on eastbound S.R. 70 where the highway splits).

We understand under subsection B. of the above code, the signs can be placed up to 14 days before the event, which would be October 30. We understand further that the signs are to be removed within 72 hours after the event.

Sketches of the signs are attached hereto.

Should you have any questions, please call me at 941-815-4899 or 863-703-0373.

Sincerely,

Susan E. Hoffman, Vice President
DeSoto Arts and Humanities Council Inc.

Enc: sign sketches



Arcadia Plein Air Paint-out
Saturday, Nov. 12 - McSwain Park

Artists start: 8 a.m. Judging: 2 p.m.
desotoartscouncil.org



Proposed vinyl banner design

Arcadia Plein Air Paint-out

Saturday, Nov. 12
McSwain Park



Artists start: 8 a.m.
Judging: 2 p.m.



desotoartscouncil.org

Proposed design of free-standing signs

AGENDA No. 5



CITY COUNCIL AGENDA ITEM
Requested Council Meeting Date: October 18, 2016

DEPARTMENT: Legal

SUBJECT: Ordinance No. 1019 Implementing the Provisions of Section 286.0115, *Florida Statutes*, To Establish a Procedure Governing Ex Parte Communications with Local Public Officials and Establishing Procedures for Public Hearings

RECOMMENDED MOTION: Motion to Approve the Second and Final Reading of Ordinance No. 1019

SUMMARY:

For Council's consideration, attached is proposed Ordinance No. 1019 implementing the provisions of Section 286.0115, *Florida Statutes*, to establish procedures governing ex parte communications with local public officials and establishing procedures for public hearings. As you know, Council previously adopted Ordinance No. 1011, which implemented the provisions of Section 286.0115, *Florida Statutes*. However, proposed Ordinance No. 1019 proposes to move these provisions from Chapter 2 of the Code of Ordinances to Article 13 of the Unified Land Development Code, and establish procedures for public hearings.

The creation and implementation of public hearing procedures, including procedures governing the presentation of evidence, will ensure all parties receive the requisite due process for any hearings deemed quasi-judicial.

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: 10/06/16
City Administrator:  _____ Date: _____

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

ORDINANCE NO. 1019

AN ORDINANCE OF CITY OF ARCADIA, FLORIDA PROVIDING FOR THE REPEAL OF CHAPTER 2, ARTICLE IV, DIVISION 6 OF THE CITY'S CODE OF ORDINANCES; CREATING SECTIONS 13.08.00 THROUGH 13.08.13 OF THE CITY'S UNIFIED LAND DEVELOPMENT CODE; PROVIDING FOR INTENT; PROVIDING DEFINITIONS; IMPLEMENTING PUBLIC HEARING PROCEDURES, INCLUDING PRESENTATION OF EVIDENCE;; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Supreme Court has determined that the application of a general rule or policy to specific individuals, interests, or activities that does not affect a large portion of the public is "quasi-judicial" in nature;

WHEREAS, public decision-making bodies are often required to conduct quasi-judicial hearings; and

WHEREAS, the City Council of the City of Arcadia, Florida ("City Council") wishes to ensure procedural due process for matters requiring quasi-judicial hearings; and

WHEREAS, *Jennings v. Dade County*, 589 So. 2d 1337 (Fla. 3d DCA 1991), created a presumption of prejudice if a decision maker is contacted about a quasi-judicial decision in any forum other than a public hearing; and

WHEREAS, Section 286.0115(1), *Florida Statutes*, authorizes the City of Arcadia, Florida (the "City") to adopt an ordinance which removes the presumption of prejudice from an ex-parte communication by establishing disclosure procedures; and

WHEREAS, the City desires to implement Section 286.0115(1), *Florida Statutes*, by establishing a process to disclose ex parte communications with local public officials regarding quasi-judicial matters.

WHEREAS, Section 286.0115, *Florida Statutes*, authorizes the City to adopt procedures and provisions for quasi-judicial proceedings on land use matters so long as the decision of the Decision-Making Body is supported by competent substantial evidence in the record pertinent to the proceedings; and

WHEREAS, the City Council has determined that it is in the best interest of the citizens and residents of the City to implement quasi-judicial procedures so as to be consistent with the provisions set forth in Section 286.0115, *Florida Statutes*.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, AS FOLLOWS:

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

SECTION 2. Repeal of Division 6 contained in Chapter 2, Article IV of the City's Code of Ordinances. Chapter 2, Article IV, Division 6 of the City's Code of Ordinances is hereby repealed.

SECTION 3. Amendment to Article 13 of the Unified Land Development Code. Sections 13.08.00 through 13.08.13 of the Unified Land Development Code are hereby created to read:

“Section 13.08.00. Public Hearings.

Section 13.08.01. Purpose and Intent.

The purpose and intent of this Section 13.08.00 and its subsections is to establish procedures to ensure fairness and procedural due process and maintain citizen access to local government decision-making process for issues that require quasi-judicial hearings. These procedures shall be applied and interpreted in a manner recognizing both the legislative and judicial aspects of the local government decision-making process in quasi-judicial hearings.

Section 13.08.02. Definitions.

For the purpose of this Section 13.08.00 and its subsections, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

- 1) *Applicant* shall mean the owner(s) of record, the owner's agent, a third-party with written consent of all owner(s) of the property, or any person with a legal or equitable interest in the property for which an application or appeal thereof has been made and which is subject to quasi-judicial proceedings, and shall mean City of Arcadia Staff when the application is initiated by the City.
- 2) *City* means the City of Arcadia, Florida.
- 3) *Competent Substantial Evidence* shall mean testimony, documentary, or other evidence base on personal observation and which will establish a substantial basis from which an issue can reasonably be inferred. It includes fact or opinion evidence offered by an expert on a matter that requires specialized knowledge and that is relevant to the issue to be decided. It is evidence a reasonable mind could accept as having probative weight and adequate to support a legal conclusion.

- 4) *Decision-Making Body* shall mean the City Council, the Planning and Zoning Board, or other authorized Decision-Making Body, as the case may be, that makes a recommendation or decision on an application or decides the appeal.
- 5) *Ex Parte Communications* mean any verbal or written expression made to a Local Public Official which is made in the absence of one or more of the interested parties, and is not made during a public hearing or meeting to consider matters involving the exercise of quasi-judicial decision-making.
- 6) *Local Public Official* means any elected or appointed public official holding a City office who recommends or takes quasi-judicial action as a member of a council, board, or commission. The term does not include a member of the board or commission of any state agency or authority.
- 7) *Participants* means members of the general public, other than the Applicant, including experts and representatives of local governments and governmental agencies, who offer sworn or unsworn testimony at a quasi-judicial proceeding for the purpose of being heard on an application.
- 8) *Party or Parties* means the Applicant(s), Staff, or any person recognized as a Party by the Decision-Making Body.
- 9) *Quasi-judicial or quasi-judicial matter* means a proceeding that results in a decision having an impact on a limited number of persons or property owners, on identifiable parties and interests, where the decision is contingent on facts arrived at from distinct alternatives presented at a hearing, and where the decision can be viewed as the result of an application of policy rather than setting of policy.
- 10) *Staff* means any person employed by, or having a contractual relationship with the City.
- 11) *Witness* means a person who testifies under oath.

Section 13.08.03. Ex Parte Communications.

Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any Local Public Official representing the City the merits of any matter on which action may be taken by any Decision-Making Body on which the Local Public Official is a member. Adherence to the following procedures shall remove the presumption of prejudice arising from Ex Parte Communications with Local Public Officials:

- 1) The subject and substance of any Ex Parte Communication with a Local Public Official representing the City which relates to quasi-judicial action pending before the Local Public Official, as well as the identity of the person, group or entity with whom

the communication took place, is disclosed and made a part of the record before final action is taken on the matter.

- 2) A Local Public Official representing the City may read a written communication from any person. A written communication that relates to quasi-judicial action pending before such Local Public Official shall be made a part of the record before final action is taken on the matter.
- 3) A Local Public Official representing the City may conduct investigations, make site visits and receive expert opinions regarding quasi-judicial action pending before him or her, provided that such activities and the existence of such investigations, site visits, or expert opinions is made a part of the record before final action is taken on the matter.
- 4) Disclosure made pursuant to paragraphs (1-3) above must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the Ex Parte Communication are given a reasonable opportunity to refute or respond to the communication.

Section 13.08.04. General Procedures.

- 1) All quasi-judicial proceedings before the Decision-Making Body shall be hearings of original jurisdiction, unless the Decision-Making Body is acting in an appellate capacity, in which case such proceeding shall be a hearing *de novo*. Unless all Parties waive formal proceedings, each Party shall have the right to call and examine Witnesses, introduce exhibits, cross-examine opposing Witnesses on any relevant matter (subject to the rules contained herein), and rebut evidence.
- 2) Staff shall have the responsibility of presenting the case on behalf of the City. The Staff report on the application shall be made available by Staff to the Applicant and the Decision-Making Body no later than five (5) business days prior to the quasi-judicial hearing on the application.
- 3) All written communication received by the Decision-Making Body or Staff concerning an application, the Staff report, any petitions or other submissions from the public, and all other documents pertaining to the application upon receipt shall be filed in the official file for the application, which shall be maintained by Staff. The Comprehensive Plan, the City Code of Ordinances and the Unified Land Development Code shall be deemed to be part of the official file. The official file shall be available for inspection during normal business hours.
- 4) The printed agenda for the meeting at which the quasi-judicial hearing is scheduled to take place shall identify the hearing as quasi-judicial, and indicate where copies of the procedures that apply may be obtained.

Section 13.08.05. Hearing Procedures.

- 1) All hearings shall be scheduled within a reasonable time of the date the application was properly and adequately filed.
- 2) The City shall advertise the hearing date, time, and place in accordance with Florida Statutes and regulations, the City's ordinances, and this Unified Land Development Code.
- 3) All hearings shall be open to the public. Members of the public shall be permitted to testify at the quasi-judicial hearing.
- 4) The City Clerk, or the City Clerk's designee, shall attend all hearings, and the City shall record (audio, video, or both) all hearings. The City shall retain the original recording(s) in accordance with the laws of the State of Florida, and, if requested, provide a duplicate of the recording(s) to the Decision-Making Body.
- 5) The hearing shall, to the extent possible, be conducted as follows:
 - a. The Clerk shall read into the record the Ordinance or Resolution Title and Number, or if there is no ordinance or resolution, the Applicant's name, file number, and the subject matter to be decided.
 - b. The Applicant, Staff, and all Participants requesting to speak or present evidence at the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
 - c. The Applicant may waive the Applicant's right to an evidentiary hearing if Applicant agrees with the Staff recommendation, and no one from the audience wishes to speak for or against the application. The Decision-Making Body may then vote on the item, based upon the Staff report, and any other materials contained within the official file.
 - d. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the Chair determines to proceed in a different order, taking proper consideration of fairness and due process:
 - i. The Applicant shall make the Applicant's presentation, including offering any documentary evidence, and introduce any Witnesses as Applicant desires. The Applicant shall present the Applicant's entire case in thirty (30) minutes.
 - ii. Staff shall present a brief synopsis of the application; introduce any appropriate additional exhibits from the official file that have not already been transmitted to the Decision-Making Body with the agenda

- materials, as Staff desires; summarize issues; and make a recommendation on the application. Staff shall also introduce any Witnesses that it wishes to provide testimony at the hearing. Staff shall present its entire case in thirty (30) minutes.
- iii. Participants shall make their presentation in any order, as determined by the Chair. Each Participant shall present their argument in five (5) minutes.
 - iv. The Applicant may cross-examine any Witness, and respond to any testimony presented.
 - v. Staff may cross-examine any Witness, and respond to any testimony presented.
 - vi. The Chair may choose to allow Participants to respond to any testimony if the Chair deems the response to be necessary to ensure fairness and due process.
 - vii. Members of the Decision-Making Body may ask any questions of Staff, the Applicant and the Participants.
 - viii. Final argument may be made by the Applicant, related solely to the evidence in the record.
 - ix. Final argument may be made by the Staff, related solely to the evidence in the record.
 - x. For good cause shown, the Decision-Making Body may grant additional time to any of the hereinabove time limitations.
 - xi. The Decision-Making Body's decision must be based upon Competent Substantial Evidence in the record.
- e. A copy of the procedures shall be made available at the hearing.
 - f. The Chair shall keep order, and without requiring an objection, may direct a Party conducting the direct examination or the cross-examination to stop a particular line of questioning that, in the sole judgment of the Chair, merely harasses, intimidates or embarrasses the individual testifying or being cross-examined; is unduly repetitious or is not relevant; or is beyond the scope of the testimony by the individual being cross-examined. If the Party conducting the direct examination or cross-examination continues to violate directions from the Chair to end a line of questioning deemed improper as set forth herein, the Chair may terminate the direct examination or cross-examination.

- g. The Decision-Making Body may, on its own motion or at the request of any person, continue the hearing to a fixed date, time, and place. The Applicant shall have the right to one continuance; however, all subsequent continuances shall be granted at the sole discretion of the Decision-Making Body.
- h. The Applicant may withdraw an application by requesting such withdrawal in writing prior to the commencement of the hearing.
- i. For all quasi-judicial hearings in which a decision is made regarding an application for any development permit, the decision to approve or deny shall be based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the Unified Land Development Code based on the entirety of the record before the Decision-Making Body.

Section 13.08.06. Rules of Evidence

- 1) The Decision-Making Body shall not be bound by the strict rules of evidence, and shall not be limited only to consideration of evidence which would be admissible in a court of law. The Decision-Making Body shall have the ability, but not the duty, to conduct site visits in their sole discretion and to consider any evidence so adduced in their deliberations.
- 2) The Chair may exclude evidence or testimony that is not relevant, material or competent, or testimony which is unduly repetitious or defamatory.
- 3) The Chair, with the advice of the City Attorney, will determine the relevancy of evidence.
- 4) Matters relating to an application's consistency with the Comprehensive Plan, the City Code of Ordinances, or the Uniform Land Development Code will be presumed to be relevant and material.
- 5) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court.
- 6) Documentary evidence may be presented in the form of a copy of the original, if available. A copy shall be made available to the Decision-Making Body and to Staff no later than two (2) business days prior to the hearing on the application. Upon request, the Applicant and Staff shall be given an opportunity to compare the copy with the original. Oversized exhibits shall be copied and reduced for convenient record storage.

- 7) Only the Applicant, the Applicant's authorized representative, Staff, and the Decision-Making Body shall be entitled to conduct cross-examination when testimony is given or documents are made part of the record.
- 8) The City Attorney shall represent the Decision-Making Body and advise it as to procedures to be followed.

Section 13.08.07. Time Allotment.

Notwithstanding anything to the contrary contained in this Section 13.08.00 and its subsections, the Decision-Making Body may place further limitations on or modifications to the time allotments; provided the City Attorney agrees that said limitations or modifications do not affect the Party's or the public's right to due process.

Section 13.08.08. Judicial notice.

The Decision-Making Body shall take judicial notice of all state and local laws, ordinances and regulations, and may take judicial notice of such other matters as are generally recognized by the courts of the State of Florida.

Section 13.08.09. Continuances and Deferrals.

- 1) The Decision-Making Body shall consider requests for continuances made by any Party and may grant continuances in its sole discretion. Generally, as a courtesy, one continuance shall be granted if requested by Staff or the Applicant. If, in the opinion of the Decision-Making Body, any testimony or documentary evidence or information presented at the hearing justifies allowing additional time to research or review in order to properly determine the issue presented, then the Decision-Making Body may continue the matter to a time certain to allow for such research or review. A request for a continuance for the purpose of additional research and review may be granted upon a showing of good cause.
- 2) No additional notice shall be required if a hearing is continued to a fixed date, time and place.

Section 13.08.10. Supplementing the Record.

Supplementing the record after the hearing is prohibited, unless specifically authorized by an affirmative vote of the Decision-Making Body under the following conditions:

- 1) After continuation of a hearing, but prior to the final action being taken.
- 2) If a question is raised by the Decision-Making Body at the hearing to which an answer is not available at the hearing, the Party to whom the question is directed may submit the requested information in writing to the City Clerk and the Decision-Making Body after the hearing with copies to the other Parties, provided the hearing has been continued or another hearing has been scheduled for a future date and no

final action has been taken by the Decision-Making Body. The Decision-Making Body will specifically identify the question to which a response is required. No additional information will be accepted.

- 3) All supplemental information shall be filed with the City Clerk no later than three (3) days prior to the continued or next scheduled hearing and shall be subject to the provisions of Section 13.08.03.
- 4) All Parties and Participants shall have the same right with respect to the additional information as they had for evidence presented at the hearing.

Section 13.08.11. Transcript of Hearing.

- 1) The City Clerk shall preserve the official transcript of the hearing through a digital or tape recording or video recording.
- 2) Any person may arrange, at her or his sole expense, for a certified court reporter to transcribe the hearing.
- 3) If any person, at her or his sole expense, decides to order a transcription of the hearing in its verbatim, written form in accordance with subsection (2) above, that transcription shall become the official transcript.

Section 13.08.12. Maintenance of Evidence and Other Documents.

The City Clerk shall maintain all of the evidence and documents presented at the hearing. Said evidence and documents may be maintained in electronic form.

Section 13.08.13. Failure of Applicant to Appear.

If a Party or a Party's representative fails to appear at the time fixed for the hearing, and such absence is not excused by the Decision-Making Body, the Decision-Making Body may proceed to hear the evidence and render a decision thereon in absentia."

SECTION 4. Codification. The publisher of the City's Code of Laws, the Municipal Code Corporation, is directed to incorporate the amendments included in Section 2 above into the Code of Ordinances. Said publisher is further directed to incorporate the amendments included in Section 3 above into the Unified Land Development Code.

SECTION 5. 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 6. Effective Date. This Ordinance shall be effective immediately upon final passage by the City Council.

PASSED AND ADOPTED by the City Council of the City of Arcadia, Florida, on this ____ day of October, 2016.

City of Arcadia, Florida

Attest:

Susan Coker, Mayor

By: _____
Penny Delaney, City Clerk

Passed on First Reading: October ____, 2016

Passed on Second Reading: October ____, 2016

Approved as to Form:

Thomas J. Wohl, City Attorney

AGENDA No. 6



CITY COUNCIL AGENDA ITEM
Requested Council Meeting Date: Oct. 18, 2016

DEPARTMENT: Administration
SUBJECT: Designate PD laptops as surplus for sale on GovDeals

RECOMMENDED MOTION: **Motion to approve a lot of thirty-three (33) Police Department Toughbook CF-29 laptop computers as surplus and to authorize sale of the same via the GovDeals government surplus website.**

SUMMARY:

1. The identified laptop computers have served their useful life with the department but are no longer able to effectively function within the department's needs.
2. All units were removed from service and replaced by newer and more efficient equipment. They are awaiting disposal designation.
3. If the surplus designation is approved by council, the units will be listed on the GovDeals internet auction site for sale in lots of five.
4. Three of the thirty-three units are non-functioning.
5. The exhibits with this item includes a sheet listing all units with serial numbers and descriptions.

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: Terry Stewart  _____ Date: 10-6-16

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

Inventory List

SERIAL #	Name	Description	HARD DRIVE	SYSTEM MEMORY	SWAP DRIVE	SCREEN	USB/ETHERNET	MISCELLANEOUS
3KKYA06855	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz processor	40GB	1280 MB	1.44 FLOPPY	13.3 TFT	YES	
5LKYA88493	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.6ghz processor	80GB	1536 MB	1.44 FLOPPY	13.3 TFT	YES	
4LKSA88780	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.3ghz	40GB	1280 MB	1.44 FLOPPY	13.3 TFT	YES	
4KKSA77023	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.3ghz	40GB	512 MB	1.44 FLOPPY	13.3 TFT	YES	
3LKYA10633	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	40GB	512 MB	1.44 FLOPPY	13.3 TFT	YES	
4LKSA85425	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.3GHz	32GB	1280MB	DVD ROM	13.3 TFT	YES	
3LKYA11536	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	40GB	512MB	1.44 FLOPPY	13.3 TFT	YES	NOT WIPE/PASSWORD
3LKYA11544	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	80GB	1280MB	1.44 FLOPPY	13.3 TFT	YES	
3LKYA10485	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	40GB	512MB	1.44 FLOPPY	13.3 TFT	YES	
4KKSA78118	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	40GB	512MB	1.44 FLOPPY	13.3 TFT	YES	
5LKYA87288	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.6ghz	80GB	1024MB	1.44 FLOPPY	13.3 TFT	YES	
5LKYA87233	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.60ghz	80GB	1536MB	1.44 FLOPPY	13.3 TFT	YES	
5LKYA86505	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.60ghz	80GB	512MB	1.44 FLOPPY	13.3 TFT	YES	
4KKSA76371	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.3ghz	40GB	512MB	1.44 FLOPPY	13.3 TFT	YES	
5AKSA91949	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.3ghz	40GB	512MB	1.44 FLOPPY	13.3 TFT	YES	
4LKSA85464	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.3ghz	40GB	512MB	1.44 FLOPPY	13.3 TFT	YES	
4LKSA85471	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.3ghz	40GB	512MB	1.44 FLOPPY	13.3 TFT	YES	
3LKYA10491	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	40GB	1280MB	1.44 FLOPPY	13.3 TFT	YES	
3LKYA11577	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	40GB	512MB	1.44 FLOPPY	13.3 TFT	YES	
5LKYA88432	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.6ghz	40GB	1536MB	1.44 FLOPPY	13.3 TFT	YES	
3LKYA09414	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	40GB	512MB	1.44 FLOPPY	13.3 TFT	YES	
3LKYA10182	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	32GB	1280MB	1.4 FLOPPY	13.3 TFT	YES	
5LKYA87198	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.60ghz	80GB	1536MB	1.44 FLOPPY	13.3 TFT	YES	
4LKSA83999	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.30ghz	40GB	1280MB	1.44 FLOPPY	13.3 TFT	YES	
3LKYAA11686	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	40GB	512MB	1.44 FLOPPY	13.3 TFT	YES	
3KKYA07112	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	40GB	256MB		13.3 TFT		
3KKYA07137	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	80GB	512MB		13.3 TFT		
5AKSA89448	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.3ghz	40GB	512MB		13.3 TFT		
4LKSA85336	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.3ghz	40GB	1280MB		13.3 TFT		
3LKYA10507	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	40GB	512MB	NONE	13.3 TFT		
NOTWORKING	PANASONIC CF-29 TOUGHBOOK	NA				13.3 TFT		
3KKYA07348	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.2ghz	40GB	512 MB		13.3 TFT		
5LKYA87266	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.6ghz	80GB	1536MB		13.3 TFT		
5AKSA89646	PANASONIC CF-29 TOUGHBOOK	intel centrino 1.3ghz	40GB	1280MB		13.3 TFT		

Up for consideration are a lot of five Toughbook CF-29 Laptop computers. These laptops show normal wear and tear for its age. The units have a few minor scratches/scuffs here and there. All the screens are in great conditions. All the computers have a 13.3 inch TFT screen. Each has an Intel Centrino processor that varies from 1.2 GHz to 1.6 GHz. The hard drives (32 to 80 GB) and memory (256MB to 1536) also varies for each computer. Each laptop is equipped with a 1.44 swappable drive. Operating system not installed. However Windows XP Professional COA attached. AC adapter not included. All laptops boot to bios screen

