

**MINUTES  
 CITY COUNCIL  
 CITY OF ARCADIA  
 TUESDAY, DECEMBER 7, 2010  
 6:00 PM**

**CALL TO ORDER, INVOCATION, PLEDGE OF ALLEGIANCE & ROLL CALL**

The meeting was called to order at approximately 6:00 PM with the following members and staff present:

**Arcadia City Council**

Mayor Robert Heine  
 Deputy Mayor Keith Keene  
 Councilmember Martha Craven

Councilmember Sharon Goodman  
 Councilmember Roosevelt Johnson

**Arcadia City Staff**

City Administrator Lawrence Miller  
 Asst. City Administrator Judi Jankosky  
 City Marshal Charles Lee

City Recorder Dana Williams  
 City Attorney William Galvano  
 Planning Consultant Martina Kuche

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

**CONSENT AGENDA**

1. MINUTES OF THE NOVEMBER 16, 2010 WORKSHOP
2. MINUTES OF THE NOVEMBER 16, 2010 REGULAR MEETING
3. REVENUE AND EXPENDITURES REPORT FOR FY-10
4. MOBILE HOME PARK REPORT FOR NOVEMBER 2010
5. CHECK WARRANT FROM NOV. 12 - DEC. 2

On motion of Deputy Mayor Keene with a second by Councilmember Johnson, the Council voted unanimously, 5-0, to approve the five items listed on the Consent Agenda printed above.

**DISCUSSION ITEMS**

6. AVIATION DAY

The Assistant City Administrator covered her agenda memo by stating the Airport Advisory Committee was requesting the City sponsor an Aviation Day event on Saturday, March 29, 2011. In addition to borrowing a few de minimis items, the Committee is asking that the City incur the rental of two port-a-potties. She went on to say the estimated cost for the rental from United Site Services is \$217.67.

The Deputy Mayor asked about using a local provider to which the Assistant City Administrator stated she had simply done a quick internet search.

On motion of Deputy Mayor Keene and seconded by Councilmember Goodman, the

**Council voted unanimously, 5-0, to approve Aviation Day as a city sponsored event and to incur the cost of renting two port-a-potties using a local vendor if possible at a cost not to exceed \$217.67.**

#### **7. GRANT OPPORTUNITIES**

The Assistant City Administrator discussed a grant opportunity through the Division of Historical Resources for a 2012 Small Matching Historic Preservation Grant up to \$50,000, saying that because the City of Arcadia is within a rural and economical distressed (REDI) county, the City is eligible for a no-match grant. Further, the grant application being proposed will assist with the Margaret Way Building renovation including repairs to the leaking roof, reconditioning or replacement of the wood and metal frame windows, and reconditioning of the façade. In addition, Councilmember Craven has provided contact information for a contractor qualified to remove stucco without damaging the underneath, original brick. If the stucco removal cannot be accomplished, the City would move forward with rendition two as previously presented and paint the entire exterior & trim in colors chosen from the list of National Trust Historic Paint by Valspar. The Assistant City Administration also noted that letters of support for the restoration proposal have been received from Arcadia Main Street and the DeSoto Historical Society.

**On motion of Deputy Mayor Keene and seconded by Councilmember Craven, the Council voted unanimously, 5-0, to authorize submittal for the Florida Department of State, Division of Historical Resources, 2012 Small Matching Historic Preservation Grant.**

The City Administrator asked for clarification on whether the Council would like to be notified in advance of each grant submission or only those which would require City matching funds. **It was the consensus of Council to be advised of all grants requiring a match by the City regardless of proportion.**

The City Administrator also asked about letters of support requested by various agencies or organizations from time to time; and whether he was authorized to prepare /submit those letters on behalf of the City. **It was the consensus of Council that any request for a letter of support or endorsement by the City should be approved by the Council in advance.**

#### **8. PLAYGROUND EQUIPMENT IN LAKE KATHERINE PARK**

Mr. Adam DeBois of the DeSoto County Health Department discussed a proposal for enhancement of the playground equipment at Lake Katherine Park. Mr. DuBois stated this was a coordinated project with the Multi-County Learning Collaborative Project funded by the Robert Wood Johnson Foundation to help maintain an active and healthy community and to encourage exercise. He explained the equipment would be similar to a health education obstacle course, with participants moving from station to station and with signage erected to explain its proper usage. The value of the equipment is \$8,995.00 and once installed, the Health Department will turn it over to the City for maintenance and upkeep.

Deputy Mayor Keene stated the project ties into the walkability and healthy communities initiative adding his appreciation for Mr. DuBois and his presentation.

**Councilmember Goodman made a motion to approve installation and enhancement of the**

playground equipment at Lake Katherine by the DeSoto County Health Department as described. Councilmember Johnson provided a second to the motion, which passed unanimously, 5-0, upon voice vote of the Council.

#### 9. DACS RENT AND LEASE AT THE FORMER LIVESTOCK MARKET

The City Administrator provided some background and particulars for this item, saying the City had a lease agreement with the Department of Agriculture and Consumer Services (DACs) and that there have been several issues with it namely, the rent which is owed and the equipment still on the property although in February the Council took action to dissolve the lease. Mr. John Court (of DACs) and the Administrator recently met to discuss those concerns and the lease provisions for restroom and water utilities; and that there had been no request for rent until recently. The City Administrator rhetorically asked how far the Council wanted to pursue receipt of the rent, adding he believes \$3,200 would be difficult to recover considering the other issues at hand.

Councilmember Craven questioned whether the amount owed was \$3,200 or \$6,800 to which the Administrator responded with the former since the lease had been terminated. The City Attorney added he believes the matter of the cattle dipping vats should be addressed by the State and that he disagrees with the conditions noted above; specifically there was no provision for the City to invoice for rent and the contract states only to have "access" to water and restrooms, not that the City would construct or lay lines. The City Attorney noted he joined in the recommendation of the Administrator but also would not concede on the side of the City.

The Mayor felt the DACs should vacate the property if they are not willing to pay the arrears. The City Attorney added his understanding that only emergency equipment was currently located on the property and that it would be to the benefit of the City.

Mr. Court next addressed the Council saying the equipment can be moved, although it will take some time to do so. He talked about the value of the equipment and how exposing it to the weather would initiate the deterioration process of it; but that he would certainly relocate it. Mr. Court requested till the end of the month to have that done.

The Deputy Mayor stated that DACs had experienced a benefit of having had the equipment stored under shelter and that certainly that was of some value. He also stated an expectation to recover rent owed prior to the date of lease termination. Discussion on the various components followed. At the conclusion, the City Attorney advised that the Council should not waive its right to any rent or to accept the state's position on rent. He added the equipment will be removed by the end of the month but that rent is an open issue.

#### ORDINANCES

##### 10. PUBLIC HEARING AND SECOND READING OF ORDINANCE 962 - SIGN REGULATIONS

The Planning Consultant stated she had not received nor made any changes to the sign ordinance since first reading but that she was available to answer any questions pertaining to it. The City Recorder read Ordinance 962 by title and the Mayor opened a public hearing to receive comments. With no one coming forward to speak, he then closed the public hearing and turned the matter over to Council for their consideration.

On motion by Councilmember Goodman and a second by Deputy Mayor Keene, the Council voted unanimously, 5-0, to adopt Ordinance 962 on second reading. The ordinance title is printed below and a full copy is available from the Recorder's office.

**ORDINANCE NO. 962**

**AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA, A MUNICIPAL CORPORATION, REGARDING SIGNS; AMENDING ARTICLE III OF CHAPTER 6 OF THE ARCADIA MUNICIPAL CODE; AND PROVIDING AN EFFECTIVE DATE.**

**11. FIRST READING OF ORDINANCE 963 - GOLF CARTS**

Mr. Tim Twohig expressed concern over this proposed ordinance saying there are already enough bicycles on the streets and doesn't believe golf carts should also be allowed.

Councilmember Craven also asked for discussion on this item, noting Arcadia is a working community, not a retirement one, and felt consideration of this ordinance was changing everything for one person and not in the best interest of the City. Deputy Mayor Keene agreed before questioning the need for the golf carts to be properly equipped and insured, adding he does not want the Police Department's workload to increase.

The Marshal, when asked, stated his preference is not to allow golf carts on streets, but added his department would enforce whatever policies or ordinances the Council implemented. The City Attorney also clarified the question is actually whether the Council wants golf carts on city streets or not.

Ms. Judy Schaeffer, DeSoto County Commissioner, talked briefly about the approved golf cart use in Sunny Breeze, a designated golf cart community and how the County reinstated the use as that community grew. She also noted the residents there must stay off Highway 17 (and other main highways) which they understand and abide by the rules established.

Deputy Mayor Keene asked the Marshal if there were certain streets more applicable to golf cart usage than others. The Marshal responded that in the interest of fairness, he would recommend usage be allowed on all (non-State highway) streets in the City.

On motion of Councilmember Johnson and seconded by Councilmember Goodman, the Council voted 3-2 to approve Ordinance 963 on first reading. Councilmembers Craven and Keene cast the dissenting votes.

**COMMENTS FROM DEPARTMENTS**

**12. CITY MARSHAL**

**A) POLICE DEPARTMENT AND CODE ENFORCEMENT - NOVEMBER**

**B) DEMOLITION OF BLIGHTED STRUCTURES - CODE ENFORCEMENT**

The Marshal brought this code enforcement proposal to the Council's attention as a request to address blighted and/or abandoned structures in the City. He distributed a memorandum from CE Officer Carl McQuay which explained how oftentimes owners living out of state or in financial

straits have abandoned properties which then causes a decline in value and destabilization of neighborhoods. He also pointed out that many times the amount of liens surpasses the value of a structure. This proposal would secure a legal waiver from the owner to demolish the structure for only the prepaid cost of dumping fees, gas and labor estimated to be \$48/ton and \$25/load. Taking this action would provide the City with approximately 60 properties of viable land.

**It was the consensus of the Council to bring this item back for further discussion at the December 21<sup>st</sup> regular meeting.**

**13. ATTORNEY  
A) BALL FIELD LEASE AGREEMENT WITH DCYAA**

The City Attorney stated the proposed lease agreement provided in the agenda package had been read and approved by Mr. Johnson of DCYAA and includes a one year term with renewable terms and 90 day termination clause. He also pointed out the City was to be the beneficiary of any improvements made.

**Deputy Mayor Keene made a motion to approve the lease as presented. Councilmember Johnson provided a second and a voice vote of the Council recorded unanimous, 5-0, approval.**

**14. ADMINISTRATOR**

The City Administrator stated the Intergovernmental Relations Committee has decided to recommend to the Florida League of Cities that they support legislation which eliminates unfunded mandates and economic development. The committee wanted to show support for the new governor's initiative to create more jobs in the state and to impress upon the legislature that unfunded mandates continue to provide an undue fiscal burden to local governments and small businesses.

He also talked about a workshop with AECOM regarding the Master Plan for the City pertaining to utilities. AECOM will provide a work up of the plan which will be presented to the Council during the first quarter of next year. In addition, there were various needs outlined with the most immediate being the replacement and repair of various fire hydrants throughout the City. The Systems department has already begun work necessary to accomplish revamping the entire network of hydrants.

The City Administrator then discussed improvements to the Way Building saying the cost of automatic doors and the windows above the doors will cost approximately \$10,975, which will come from the CDBG project as part of the ADA compliance portion of the grant. Additional funds for the renovation of the building as depicted in the artist's rendition will be needed, the largest expense of which are the windows for the front of the building.

The next item the Administrator discussed was the amended consent order with the Florida Department of Environmental Protection related to the contamination of ground water at the landfill. FDEP has requested the City to continue monitoring the landfill which David Smith Associates has been contracted to do. The amended consent order would include language requiring the indefinite monitoring of the groundwater at the site.

The City Administrator then spoke briefly about the savings in energy costs over the last quarter of nearly \$3,000. He "applauded" staff for finding and utilizing ways to save.

The last item mentioned was health care, saying he had received proposals from two entities and would be presenting various plans for consideration at the next meeting.

**15. OTHER DEPARTMENTS**

**A) TOURISM DEVELOPMENT COUNCIL APPOINTMENT - CITY RECORDER**

The City Recorder noted from the agenda memo that the County has determined Councilmember Craven's appointment to the Tourism Development Council is in conflict with her already serving as the "accommodations" representative and that by ordinance, the City must appoint two elected officials to serve (Dr. Goodman being the first member).

**On motion of Deputy Mayor Keene and seconded by Councilmember Goodman, the Council voted unanimously, 5-0, to nominate and appoint Mayor Robert Heine as the second elected official to serve on the DeSoto County Tourism Development Council.**

**B) RE-APPOINTMENT TO POLICE OFFICERS AND FIREFIGHTERS RETIREMENT PENSION BOARD**

The City Recorder also noted the secretary to the Police Officers and Firefighters Retirement Pension Board has requested on behalf of the Board reappointment of current Boardmember Vince Sica for a term of four (4) years running January 1, 2011 through December 31, 2015.

**Councilmember Goodman made a motion to reappoint Vince Sica to the Police Officers and Firefighters Retirement Pension Board for a four (4) year term, specifically January 1, 2011 through December 31, 2015. Deputy Mayor Keene provided a second to the motion, which passed unanimously, 5-0, upon roll call vote.**

**EXECUTIVE SESSION**

At 7:25 PM, the Mayor stated an executive session of the Arcadia City Council would convene as noticed by publication in a newspaper of general circulation, *The Sun-Herald*, on Thursday, December 2, 2010.

The City Attorney then read the following:

"Pursuant to §286.011(8), Florida Statutes, at this time, I would like to request that we adjourn to executive session so that I, the City Attorney and John Thomas, the attorney of record for the City of Arcadia in *Craig A. Smith & Associates, Inc., v. City of Arcadia, Florida, Case #2006-CA-000724 in the Circuit Court for the Twelfth Judicial Circuit in and for Desoto County, Florida* may receive the Council's advice regarding the strategy to be used in this case and the type of expenses to be incurred.

The entire session will be recorded by a court reporter, the transcript of which will be filed with the City Recorder and available to the public at the conclusion of the litigation discussed today. A copy of the published notice of this executive session

is hereby identified as "Exhibit A" and will be attached to the transcript.

In addition to the Mayor and City Councilmembers in attendance tonight, the following persons will be in attendance at the session:

Attorneys for the City:

William S. Galvano, Esq.  
Grimes, Goebel, Grimes, Hawkins,  
Gladfetter & Galvano, P.L.  
P. O. Box 1550  
Bradenton, FL 34206

John Thomas, Esq.  
Thomas & Associates, P.A.  
233 Third Street, NE  
Suite 102  
St. Petersburg, FL 33701

City Administrator: Dr. Lawrence A. Miller

I estimate the executive session will take approximately one hour. At the conclusion, the Council will reconvene in public, accept any motions, and continue with their regular meeting."

Each of the persons listed by the attorney stated their name for record before adjourning to the conference room across the hall.

At 8:30 PM, the Council, two attorneys and City Administrator reentered the Council chambers and the Mayor reconvened the regular meeting. The City Attorney reported it was the position of the Council that notwithstanding the judgment, [we] are not going to accept the judgment and that there is a pending post trial motion for a new trial and reconsideration. He continued that irrespective of how the reconsideration turns out, it is the City's intention to continue to fight this matter, believing there are substantial grounds for appeal and that frankly, the trial court erred by entering a judgment in favor of Craig A. Smith & Associates, Inc. He concluded that the litigation continues.

### PUBLIC

Mr. Vaughn Aiken, 2072 NE Floridian Circle, discussed the proposal to rent the former Livestock Market to Turner Realty. Mr. Aiken talked about a facility on 17 S in Punta Gorda that crushes brick and the noise it emits, saying he doesn't believe the Council would want that inside the City. He then talked about contamination on the property from pesticide spraying dating back to the 1940's as well as the noise & vibration from Tremron plant all hours of the night. Mr. Aiken asked the Council to limit the hours of operation at Tremron or "do something."

Mr. Sam Morgan, president of the NAACP, talked about the Martin Luther King, Jr. Parade on January 17<sup>th</sup> beginning at 10 AM, adding he had already spoken with the Marshal regarding it. He also mentioned that the Smith Brown Gym had been used in the past to showcase community talent, and requested its use again this year. Councilmember Johnson reiterated the gym had been available in year's past at no cost to the event organizers. **It was the consensus of the Council to allow use of the Smith Brown Gym for the Martin Luther King, Jr. Day celebration.**

Mrs. Ann Pepper, 1539 N. Arcadia Avenue, also spoke to the noise issue at Tremron, saying the buffer/barrier at the plant does nothing to curtail noise and that in addition, when the wind

blows, dust and brick particles are blown across Highway 17. She pointed out that Mr. Turner, during his earlier presentation, stated he would not know what kind of noise the machine he was planning to use might make, until he bought it, filled it and "fired it up." Mrs. Pepper then talked about the current vibrations from Tremron, which had recently set off the burglar alarm in her home and that even when the police are called to meter the noise, it's after hours when responses come from the Sheriff's office who are not in possession of or trained to use the dB meter.

Mr. Ken Pepper, 1539 N. Arcadia Avenue, added that he had spoken with both the Marshal and Capt. Anderson requesting they come to his house in the evening, but was told it wasn't necessary. Mr. Pepper stated it was "a real issue for [us]".

Mrs. Pepper then talked about an accident that had happened near her home on the evening prior and that by 12:30 PM "today" the remnants had not been cleaned up. Being in close proximity, she went to remove glass, metal and trash from the shoulder and roadway, but questioned protocol of clearing accident scenes. Among other things, Mrs. Pepper picked up trash from a cervical collar and used latex gloves. The Deputy Mayor stated each vehicle is equipped with a biomedical waste receptacle which should have been used, but most likely delayed clean up was due to the cold weather. The Mayor added that clearing glass and metal is the responsibility of the wrecker service.

Mr. Remus Griffin spoke on two issues, namely the livestock market and the litigation with the previous Administrator. Mr. Griffin, through his research on the livestock market, believes the zoning cannot be changed at the Livestock Market from its current residential designation until after the cattle dipping vats are removed, and that the State will not pay for the clean up or mitigation of the site. Additionally, he does not believe any form of settlement should be made to the former Administrator, alleging that she perpetuated fraud regarding degreed credentials.

#### MAYOR AND COUNCIL MATTERS

The recent passing of Mrs. Diane Strube was mentioned with heartfelt sympathy to the family being extended by the Council and staff.

#### ADJOURN

Having no further business at this time, the meeting was adjourned at 8:55 PM.

APPROVED THIS 21<sup>st</sup> DAY OF DECEMBER 2010.

By:



Robert W. Heine, Mayor

ATTEST:



Dana L.S. Williams, CMC, City Recorder