

MINUTES
CITY COUNCIL
CITY OF ARCADIA
TUESDAY, FEBRUARY 2, 2010
6:00 PM

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

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

Arcadia City Council

Mayor Roosevelt Johnson
 Councilmember Keith Keene

Deputy Mayor Robert Heine
 Councilmember Lorenzo Dixon

Arcadia City Staff

Interim City Administrator Shelly Baumann
 City Recorder Dana Williams
 Parks & Recreation Director Kathleen Fox

City Attorney Jason Henbest
 City Marshal Charles Lee

Councilmember Keene gave the invocation, which was followed by the Pledge of Allegiance and roll call by the Mayor. The Mayor also noted for the record that Councilmember Goodman was absent due to illness.

CONSENT AGENDA

1. **MINUTES OF THE JANUARY 19, 2010 REGULAR MEETING**
2. **REVENUE AND EXPENDITURES REPORT FOR DECEMBER 2009**

Councilmember Dixon clarified that in regard to item #1, the minutes of January 19th, he had inadvertently referred to the City of West Melbourne as "West Middleburg" when in actuality it was West Melbourne to which he was referring.

On motion of Councilmember Keene, with a second by Councilmember Dixon, the Council voted unanimously, 4-0, to approve items #1 and #2 of the Consent Agenda printed above.

DISCUSSION ITEMS

3. **PERSONNEL APPEAL OF STEVE ROWLEY**

The City Attorney briefly outlined the procedures for the Quasi-Judicial hearing related to the termination of (former) city employee Steve Rowley. The City Recorder swore in persons wishing to provide testimony in the matter. The City Attorney then requested the Councilmembers disclose all ex-parte communication they had in relation to this matter. The Mayor stated he was a recipient of an email from Mrs. Rowley and that he responded by providing her with the procedures to follow related to an administrative appeal. Councilmember Dixon stated he had also spoken with Mrs. Rowley regarding the termination and although he had no [current] knowledge of the termination, he would look into with the [then] City Administrator. Dr. Dixon

also reported on a brief conversation with Jeannie Raines, a co-worker of Mr. Rowley's, related to her role, if any, in the matter and her perspective of the events. Councilmember Dixon stated that Ms. Raines had told him it was not her intent for Mr. Rowley to be terminated and that she felt badly it had happened. Councilmember Keene's communication was two-fold: attendance at the previous meeting where Mrs. Rowley had made a presentation and a phone call from the previous Administrator advising him of the termination. Councilmember Heine stated Mrs. Rowley had contacted him at his home but he advised her he could not discuss the matter other than to explain the appeal procedures.

The Interim Administrator reported that she had met with both Mr. and Mrs. Rowley the previous week and advised them of the policy and procedures; but that based on the advice of the Attorney, she did not have the authority to take action and that a hearing before the Council would be the proper venue.

Mr. Rowley then stated his case, saying after 30 years on the job, he knew how the City worked and he had some concerns because it seemed unreasonable for changes to be moving as fast as they now were. He presented those concerns to the Mayor and Councilmember Goodman via email; but had no hint any disciplinary action or termination was to occur until he was called into his supervisor's office and told he had "gone over her head." Mr. Rowley explained that he took his concerns directly to the two members of Council because he was not comfortable addressing them with either his supervisor or the City Administrator. He continued that his supervisor had accompanied him to the City Administrator's office, where she referred to his actions as "insubordinate" and terminated him immediately. Mr. Rowley offered to be transferred to another department, acknowledging there were a "few things" in his personnel file but insisted there was nothing serious enough to warrant termination.

The City Marshal was the next to testify and reported on a correction to the testimony he gave from the last meeting. He stated the sexual harassment allegation would not be a felony charge since it is over four years old and that at the time the report was made, the timeline was not presented as such. The Marshal confirmed the other facts of the meeting between Mr. Rowley, the Parks & Recreation Director and the (former) City Administrator were as presented.

Mrs. Judy Rowley spoke on her husband's behalf, saying his concerns were genuine and that his written communication with the two members of Council was not done in a malicious manner but rather because the Rowley's have known Dr.'s Johnson and Goodman for many years. Mrs. Rowley expressed that in her opinion the "operations were moving too fast" and that the entire situation was "blown out of proportion."

The Interim Administrator then refuted several of the concerns as listed in Mr. Rowley's email, noting the previous Administrator did not enact change as quickly as Ms. Rupp had, but that there was nothing wrong with implementing policy and/or change more expediently than had been done in the past. The Interim Administrator also expressed some concern with the number and recent frequency of disciplinary write-ups contained in Mr. Rowley's personnel file, particularly for FDOT mandated safety violations of which a 30-year veteran employee should be well versed. She also referenced the "3 strike rule" as stated in the Personnel Policy Manual, which governs employee conduct.

Councilmember Keene questioned the date of the email (January 12th) and whether it was received prior to or following the termination. The Mayor responded it was received prior, adding that Ms. Rupp, once she learned of the email, felt Mr. Rowley's actions were insubordinate. The Mayor continued that during his conversation with Mr. Rupp, she also alluded to or led him to believe the sexual harassment charges filed were a recent occurrence.

Ms. Jeannie Raines was the next speaker, apologizing for her involvement and clarifying that she only mentioned the sexual harassment incident(s) because her current supervisor was not aware of the history between Mr. Rowley and her and was planning to put the two of them together in a work environment. Ms. Raines stated it was not her intention to have Mr. Rowley fired, and she regrets putting anyone in that situation.

The Parks and Recreation (P&R) Director spoke next and described how she had assessed her staff's strengths and weaknesses in an effort to achieve and maintain efficiency within the department. She discussed reorganization of the department and the justification for those decisions, citing examples of both Mr. Rowley's and Ms. Haines' work ethic and habits. The P&R Director explained that Ms. Haines had come to her saying she could not work with Mr. Rowley and the reasons for that statement. The P&R Director also stated that once the former City Administrator learned of Mr. Rowley's email, she had instructed the P&R Director to complete a disciplinary action form citing insubordination, to have Mr. Rowley sign it, and to bring it to her [the Administrator's] office without delay. According to the P&R Director, upon arrival at the Administrator's office, the Administrator terminated Mr. Rowley immediately.

Councilmember Keene asked about the highlighted policy as provided in the agenda package and the Interim Administrator stated she had excerpted it but that the "3 strike rule" was included as part of the entire policy manual. The Mayor asked the P&R Director if Mr. Rowley was written up each time there was a violation, to which the Director responded that she had given him a verbal warning on two occasions as well as two written warnings; but that her preference is to "talk" to the employees and give them the benefit of the doubt. Councilmember Keene then questioned the "hit" on the Director, to which she answered another employee had told her about Mr. Rowley's threat and that she had contacted the police regarding it as a precautionary measure; but as Councilmember Dixon pointed out, it was hearsay at this point.

Councilmember Dixon confirmed with the Director that it was her testimony she had given Mr. Rowley two warnings but that it was at the direction of the former Administrator for her to write up the third incident and that the impetus for the termination was the email sent to two Councilors. He continued that the "punishment needs to fit the crime" and that a man's livelihood should not be taken away over a safety belt.

Mr. Rowley then presented his rebuttal, saying that in reference to the stuck truck incident, the truck was not a City truck and because others were already working on it, he did not feel as though he should "waste City money standing around pointing." In addition and with regard to the safety vests, having worked for another department head for the last 12 years who did not require the vests, he simply was not used to wearing them.

In summation for the City, the Interim Administrator reaffirmed there were two warnings for the same safety issue occurring within a month's time in Mr. Rowley's personnel file and that as

a 30-year employee, he should be setting the example for other employees; but also should reinstatement be the action of the Council, at the very least Mr. Rowley should be required to sign an acknowledgment of his understanding of the DOT requirement, his agreement to treat his supervisor and foreman with dignity and respect, and that all decisions of supervisors such as those to reorganize a department, do not involve the Council.

Councilmember Heine felt the situation sounded like miscommunication and a little disrespect; adding that if Mr. Rowley were to be reinstated perhaps he could be reassigned to another department. Mr. Heine also pointed out that every employee receives and signs a receipt for the personnel manual and as such should be aware of the rules contained therein.

The Mayor stated that in being advised of the termination he was misled by the former Administrator when she implied the sexual harassment charges were new and that there had actually been an incident of insubordination rather than her interpretation of Mr. Rowley contacting a councilmember as such. He continued that he felt it was an intentional dismissal regardless of what was in the personnel file and agreed that if reinstated, Mr. Rowley needed to follow the rules and show respect for supervisors.

Councilmember Dixon made a point that these types of matters rarely made it before the Council under the tenure of a prior Administrator because he, Mr. Strube, took care of problems, rather than creating them. Councilmember Dixon then made a motion which was seconded by Councilmember Keene, to reinstate Steven Rowley to his former position with no loss of benefits or pay; with the condition of a written acknowledgement signed by Mr. Rowley within seven (7) days as to his stipulation and awareness of the existing warnings in his personnel record and his agreement to treat and show respect to his supervisors. Additionally, the Council directed the "third or final warning" referred to and prepared on January 14, 2010, be expunged from his record. A roll call vote recorded unanimously, 4-0, approval.

The City Attorney pointed out the reinstatement would not be in effect until the day following the next Council meeting due to the rights of the Council to make a motion for reconsideration.

4. COUNTY FLUSH WATER INTERLOCAL AGREEMENT

The Interim Administrator stated this final version of the agreement has been reviewed by Julie Karleskint of Hazen and Sawyer; and while the agreement is not free to the City, there are benefits to it. She explained the City will purchase 2,000 gallons of water per day at a cost of \$0.40 per gallon but even that will generate a cost savings by reduced chemical and electricity charges. She continued the purchase will also allow the City wells to rest alternately and to be able to perform maintenance on them when down. The Interim Administrator added the cost is a 75% grant from SWFMD and 25% from the City, which will be offset by the County.

On motion of Councilmember Keene and seconded by Councilmember Dixon, the Council voted unanimously, 4-0, to approve the Flush Water Interlocal Agreement with DeSoto County.

5. CONSIDERATION OF CRA REQUEST

The Interim Administrator provided several pages of previous actions and discussions the Council has had on formations of a CRA. She also stated that the City is working with the Regional Planning Council (RPC) who is looking to include a CRA district in the Comprehensive Plan. Councilmember Keene asked if there were any additional items needed to move the project forward, to which the City Attorney responded it does need to be in the Comp Plan and the Evaluation & Appraisal Report (EAR), which is essentially a 5-year refresher and scheduled for March 2010.

Mr. Lonnie Ward, from the public, stated the City should not drop the ball but rather looks for ways to get around waiting. He suggested perhaps soliciting grants for areas trying to upgrade. Mr. Ward said the Comprehensive Plan "will give you things you may not have thought of, but we've thought of this now." He encouraged the creation of a Community Redevelopment Agency.

The Interim Administrator clarified that Mr. Ward was suggesting a CRA Board but that she will need to talk with the RPC representatives about a resolution for establishing the Board and the process or requirements for the Council to make appointments to an Advisory Committee.

Councilmember Dixon requested that be done by the next meeting and the Mayor recommended receiving applications or resumes complete with qualifications and background investigations. The City Attorney clarified that it was the Council's desire to act as the CRA Board and to make appointments based on qualification to the CRA Advisory Committee.

Ms. Valerie Gilchrist, a member of the public, stated she had done research and that the City of Leesburg has a CRA and staff who would be willing to make a presentation on it. The Council asked Ms. Gilchrist to provide the information to the Recorder or make arrangements for the presentation and designated 5 PM prior to the next meeting (2/16/10) for a special meeting to receive the CRA presentation.

PRESENTATIONS

6. SOUTHERN SHOCKERS - GOALS FOR THE YEAR AND FOR THE COMMUNITY

Mr. Tom Lipe and Mike Jeter, representing the Southern Shockers each spoke on behalf of the league and thanked the Council and City for their support. Mr. Lipe gave an overview of the Shocker's program, goals and accomplishments before talking a little about the tournament circuit to be held in Arcadia.

Mr. Frederick Carter from the public also spoke about the young ladies' league and how well disciplined and hard working they are. He encouraged everyone to come out and support them at their next game to be held February 20th.

COMMENTS FROM DEPARTMENTS

7. CITY MARSHAL

The Marshal briefly reported on receipt of the JAG/Edward Bryne Grant, which will fund ammunition for training purposes. He added this was free money with no matching requirement.

The Marshal also noted that with regard to the CRA, Mr. Ward's contract for code enforcement with the Arcadia Police Department has been completed and therefore he is no longer working with or speaking on behalf of the department.

8. ATTORNEY
A) PURCHASE OF AIR-CADIA LEASE AGREEMENT

The City Attorney reported that he has discussed the lease termination agreement with Mr. Ribel, the attorney for the Minnear's and believes the agreement to be near final with only "small wordsmithing" to be done; however he wanted to be certain that his efforts were "still heading in the right direction." The Attorney clarified the \$150,000 payment to *Air-Cadia* would be in installments and that any environmental impacts to that property would be deducted for remediation of those impacts.

Councilmember Dixon stated his position had not changed and that a positive financial position should be revealed prior to the City incurring additional debt. Dr. Dixon noted that the cost of purchasing the lease would not be limited to \$150,000 but could run hundreds of thousands of dollars more to come into compliance and for the operations. The Deputy Mayor and Councilmember Keene felt the purchase of the lease would be a plus for the City. The Mayor preferred to weigh all factors such as income generated vs. the financial position of the city before making a decision. The Interim Administrator pointed the environmental information on the airport revealed some Phase II concerns related to historic crop dusting operations and the use of septic systems.

A brief discussion followed on length of the existing lease, how the airport became privatized, terms of the airport, potential revenue and the like. It was the opinion of the City Attorney to continue with finalization of the lease, although no action was taken by the Council.

On another note, the City Attorney reported that his associate, Mr. Adam Fernandez would be attending the next meeting in both Mr. Galvano's and his absence.

9. ADMINISTRATOR
A) ADVERTISEMENT FOR CITY ADMINISTRATOR POSITION
B) COMPENSATION FOR INTERIM CITY ADMINISTRATOR

These two items were deferred for later in the meeting.

C) RECOMMENDATION FOR RE-ROOFING OF WAY BUILDING AND CITY HALL

The Interim Administrator explained the Building Official/Planner had reviewed the bids for re-roofing and found that each bidder was non-compliant in some form. He had recommended all responses be rejected and the work re-bid in order to be able to objectively compare quotes.

On motion of the Deputy Mayor and seconded by Councilmember Dixon, the Council voted unanimously, 4-0, to reject all bids for RFP 2009-01 Roofing Services.

The Deputy Mayor then made a motion to rebid the roofing project for the Way Building and City Hall. Councilmember Dixon provided a second to the motion, which passed unanimously, 4-0, upon voice vote.

D) UPDATE ON LIVESTOCK MARKET -

I) DEMOLITION PERMIT

II) ENVIRONMENTAL REPORT

The Interim Administrator reported on an extension to the demolition permit for the Livestock Market, saying it had been extended through February 14, 2010. She continued that, in addition, the environmental report from the Market had been received showing there were two areas having levels of asbestos that exceeded the EPA regulatory limit, namely the white tiles on the exterior walls of the auction house and the 12x12 floor tiles and mastic location on the auction stand of the auction house. The Administrator stated that based on these results any demolition of the two buildings will require removal of asbestos containing materials in accordance with federal and state regulations; and that a quote from Environmental Services Inc. had provided a quote of \$9,850 with additional sample testing at \$50 each if/as needed.

On motion of the Deputy Mayor, and seconded by Councilmember Dixon, the Council voted unanimously, 4-0, to authorize the Mayor to sign the contract with Environmental Services, Inc. to begin the asbestos abatement at the Livestock Market.

The Interim Administrator also reported on the testing and clean up related to the cattle-dipping vat as presented in notation #4 of her agenda memorandum. Related to the laboratory analysis of sampling, the Administrator stated she had authorized the expenditure of \$260 each for the four samples because they were time sensitive for expiration.

The Administrator added that ownership of the Livestock Market property had been deeded to the State with the inclusion of a reverter clause; however since the State had installed the dipping vats, the City should be prepared to take on mediation and negotiation for their clean up and/or removal. The City Attorney added there is very specific State Statute on regulatory chemicals so abatement should be turned over to them. Councilmember Keene pointed out that in the FAQ section of the DEP website on cattle-dipping vats, there is no requirement for clean up of the vats, however if the clean up is done, the procedures and to what level it must be done is very precise. He also added there is some concern with leaching. The City Attorney responded that he would bring the matter to the attention of Mr. Galvano in an effort to urge the State to take remedial action.

E) SPECIAL REPORT ON 1ST QTR EXPENDITURES COMPARISON

The Interim Administrator provided this financial report as requested, but explained that it was not a true reflection of year-by-year quarters and provided a few circumstances such as paying three administrators in one calendar year as an example of that. She informed the Council that if there were any specific questions on the report, to feel free to contact her.

F) CONCERNS RELATED TO THE EXISTING SIGN ORDINANCE (ORD. 956)

The Interim Administrator stated the recently adopted sign ordinance had been put to Council prior to any review of it by the Planning & Zoning Board and that in relation to making an

interpretation of it, the Board had discovered several conflicting regulations or provisions that were not necessarily consistent with the Council's vision for the City. She continued it was the desire of the P&Z Board to review and make suggestions for change to the ordinance so as to restrict certain size (per side) signs in certain geographic areas and to be more consistent with the downtown area, overlay district, residential areas, etc.

Councilmember Keene made a motion to implement a moratorium on the installation of signs until such time as the P&Z Board reviews, marks up and recommends amendments to the sign ordinance with all issues being resolved. The Deputy Mayor provided a second to the motion and it was unanimously, 4-0, approved by a vote of the Council.

Other items briefly mentioned by the City Administrator were: the CDBG administrator would be here tomorrow to begin work on the housing grant, that the city has requested \$145,000 in FEMA funds on completed project worksheets, and the City is working on a request for \$50,000 in grant funds due on the phase I of the valving water distribution project.

One noteworthy topic was that the State Department of Agriculture has received an offer from the Turner Center to relocate their offices there and to provide storage for the large equipment. The Interim Administrator reminded Council the City had made provisions in the lease agreement for restroom facilities and access to water although neither had been done. Mr. John Court, the Agriculture and Consumer Protection Supervisor had contacted the City, noting the lease agreement did not have a "kick out clause" on either party and while they have not paid any rent to-date, similarly they have not been billed for any. The Administrator continued that at this time it may be in the City's best interest to allow the State offices to move for two reasons: saving the expense of building restrooms and mitigation of the environmental issues.

On motion of the Deputy Mayor and seconded by Councilmember Dixon, the Council voted unanimously, 4-0, to approve dissolution of the Ground Lease Agreement between the City of Arcadia and the Florida Department of Agriculture and Consumer Services for the parcel of land located at 1502 North Brevard Avenue, Arcadia, FL.

Another item mentioned was the dead fish in Lake Katherine on January 22, 2010, as a result of the cold weather. The City Administrator stated she had contacted Steve Underwood, not as a city employee, but because she was aware he owned a boat. Mr. Underwood extracted approximately 600-700 two-pound dead fish from the lake. She continued that Mr. Underwood was compensated, not as an employee, but has an accounts payable contractual service.

The Interim Administrator distributed to each of the Council a letter of resignation from the City Planner/Building Official Jerry Smith; but requested no action.

A) ADVERTISEMENT FOR CITY ADMINISTRATOR POSITION

The Interim Administrator broached the topic of advertising for the full-time administrator position and provided a copy of the ad used during the last search. She pointed out a few minor tweaks such as the number of employees, name of the current Recorder, new date and deletion of the reference to the City Administrator retiring. The Council instructed that the advertising include the changes noted above, a salary range of \$70-75,000, the term "open until filled" and posting on

internet sites which cater to government and its administration such as the Florida League of Cities, Florida City County Manager's Association and the like.

Councilmember Keene asked about the process used last time to screen the applicants and the tools for making the cut. The Interim Administrator explained the process used during the previous hiring whereby the Council received and reviewed all applications, essentially rating their top candidates for interviews, then processing the rankings from there.

B) COMPENSATION FOR INTERIM CITY ADMINISTRATOR

The Mayor opened this discussion by saying he knows of the Interim Administrator's qualifications and that her current salary is close to what the previous administrator received; however he also feels based on the dual role she's performing, she is entitled to something extra in terms of compensation and hopes she would come up with a suggestion.

The Interim Administrator stated that she is essentially putting in an extra 10-12 hours per week in addition to carrying the city cell phone 24/7 and based on her current hourly wage, the extra would calculate to roughly \$15,000 more than she is currently receiving.

The Deputy Mayor made a motion to authorize a \$15,000 increase for the Interim Administrator; however based on comments among the Council, he withdrew the motion prior to a second or a vote.

Councilmember Dixon referred to the Interim Administrator as a pillar of the town and performing like a "real machine"; however, he added that personally he would appreciate withholding a decision until the full Council were in attendance. The Interim Administrator had no issue with deferring the decision but expressed her expectation that any action be considered retroactive.

10. OTHER DEPARTMENTS

The memorandum on the toddler playground equipment was distributed with the agenda package but not discussed.

PUBLIC

Mr. George Chase spoke briefly encouraging the Council to move forward with the purchase of the airport lease.

Mr. Greg Smith agreed with Mr. Chase, saying the airport opens up prospects for the city to move forward; and as an example, the airport manager in LaBelle recently reported tripling their revenues.

Ms. Martha Craven discussed a fundraising event for the Mural Society to be held February 13th at the Arbor Banquet Hall and reported the first mural will be completed in approximately 2-3 weeks.

Mr. Remus Griffin spoke on a couple of items. First, he believes he can find aerial photos, which will help in locating the 2nd cattle dipping vat as discussed in the environmental report of the Livestock Market. He also believes the sale ring and scales at the Market are the only remaining items of value and would like the Council to consider donating them to the Arcadia Fair Association for use by the 4-H group. Mr. Griffin also spoke briefly about the historical value associated with these two items.

On motion of the Deputy Mayor and seconded by Councilmember Dixon, the Council voted unanimously, 4-0, to donate the sale ring and scales from the Livestock Market to the Arcadia Fair Association.

Councilmember Dixon, recognizing the research skill of Mr. Griffin for the Sun-Herald, suggested the Council may want to consider utilizing Mr. Griffin to assist with the screening of the City Administrator applications. Dr. Dixon hoped to have an extensive background check done on the top four or five candidates. Mr. Griffin willingly agreed to conduct the research into the candidates' background, adding he would donate his time and resources but that he would like to do the work in a city office and on a city computer since it would be city-owned information rather than that of the newspaper.

MAYOR AND COUNCIL MATTERS

Councilmember Dixon also submitted into the record, documents referenced at the last meeting pertaining to the former Administrator. He asked the Recorder to provide copies to each Councilmember.

Councilmember Dixon then referenced Mr. Jack Pooser, 145 Asbury Street, who at the age of 79 years, walks up and down the areas of Arcadia Avenue and Kelly Drive voluntarily picking up trash and has done so for many years. Dr. Dixon felt it would be appropriate for the Council to honor him in some way.

On motion of Councilmember Dixon and seconded by Councilmember Keene, the Council voted unanimously, 4-0, to issue a certificate of appreciation to Mr. Jack L. Pooser recognizing his efforts in picking up trash throughout the City.

Councilmember Keene felt similarly about the volunteer efforts of Nathaniel Lee at the Smith Brown Gym and then **made a motion to prepare a certificate of commendation to Mr. Lee. The motion was seconded by Councilmember Dixon and unanimously, 4-0, approved upon roll call vote.**

Councilmember Keene also mentioned the 2010 ballot amendments which were forwarded to each of the Council, noting his awareness and concern for several of the issues.

The Mayor stated he will be attending the Legislative Action Day in Tallahassee on March 24, 2010.

ADJOURN

Having no further business at this time, the meeting was adjourned at 9:25 PM.

ADOPTED THIS 16TH DAY OF FEBRUARY 2010.

By: Roosevelt Johnson, Ed.D.
Roosevelt Johnson, Ed.D., Mayor

ATTEST:

Dana L.S. Williams
Dana L.S. Williams, CMC
City Recorder