

**MINUTES
CITY COUNCIL
CITY OF ARCADIA
TUESDAY, JANUARY 4, 2011
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 Sharon Goodman

Councilmember Martha Craven
Councilmember Roosevelt Johnson

Arcadia City Staff

City Administrator Lawrence Miller
Asst. City Administrator Judi Jankosky
City Marshal Charles Lee
Pro Shop Manager Valerie Bonnett

City Recorder Dana Williams
City Attorney Jason Henbest
Public Works Supervisor Jerry Cordes

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

CONSENT AGENDA

1. MINUTES OF THE DECEMBER 21, 2010 WORKSHOP
2. MINUTES OF THE DECEMBER 21, 2010 REGULAR MEETING
3. CHECK WARRANT FROM DECEMBER 17, 2010
4. GOLF COURSE FINANCIAL REPORTS FOR NOVEMBER 2010
5. PRO SHOP FINANCIAL REPORT FOR NOVEMBER 2010

On motion of Councilmember Goodman and seconded by Councilmember Johnson, the five items of the consent agenda printed above were unanimously, 5-0, approved.

DISCUSSION ITEMS

6. BANQUET ROOM RENTAL AT THE GOLF COURSE/ PRO SHOP - MAYOR HEINE

The Mayor noted how nicely the banquet room inside the Pro Shop had been renovated and addressed consideration of renting it for weddings, parties, etc. He asked for the opinion of the other Councilmembers.

Councilmember Goodman stated she recalled its rental having been the source of several issues in the past and asked for confirmation from the City Marshal. The Marshal agreed stating there had been problems with alcohol, destruction of fixtures in the restrooms and vehicles driving on and damaging the golf course.

The Deputy Mayor thought there was an opportunity at hand that he didn't want to discount, adding the City's renters would and should be held to the same standards as other private clubs are now being held to. He asked that the City Administrator look into the possibility of rentals and come back to the Council with a proposal or rental agreement. Councilmember Johnson agreed, adding that if the regulations and insurance requirements are followed, it would be an opportunity for the City. Councilmember Goodman added that whatever is decided upon should be equitable for everyone with no groups being excluded. The Marshal reminded everyone the issue of alcohol on city property would need to be addressed as well.

Ms. Bonnett stated she receives many calls about renting the facility and agreed that in addition to security provided by the renter, a staff member would be on site for the entire function. She also felt rentals would be a revenue opportunity.

Councilmember Craven asked who would be serving the alcohol, noting that when staff handles it, the city has more control. She also briefly discussed a security deposit, though admitted it would probably be insufficient to repair the kind of damage as was done in the past.

The City Administrator asked that the pro shop staff provide a draft rental agreement which will be reviewed by him and the City Attorney for uniformity and conformity to the recently passed rental hall ordinance.

On motion of Councilmember Keene and seconded by Councilmember Craven, the Council voted unanimously, 5-0, to direct preparation of a rental agreement for the banquet facilities at the Pro Shop, to have the attorney review it prior to adoption, and to place it on the next regularly scheduled agenda.

7. MISCELLANEOUS GARBAGE COLLECTION - MAYOR HEINE

The Mayor then addressed miscellaneous garbage (mattresses, appliances, furniture, etc) which is being piled up throughout the City without the owners pre-paying for pick up. He questioned whether it should be the property owners' responsibility for keeping their property clean.

Councilmember Johnson cited an example of a vacant lot where an out-of-area truck dumped a couch then pulled away, leaving it there. He also talked about pulling discarded items out of a canal near his home. The point being, whether an out-of-town property owner should be held accountable for others dumping on his/her lot.

The Marshal also addressed miscellaneous items piling up or being dumped on the dead end street near his home, saying the garbage truck goes by twice a week, but doesn't pick up those items which have now been there since November. He felt it was an eyesore and degradation to his neighborhood, but admitted it was a "Catch-22" if no one could be identified as having dumped vs. the City on the hook for the landfill fees. The Marshal also talked about a recent arrest made of a man who had discarded over 2,000 tires on another's property.

Discussion followed on those who don't know to call for a special pick up and the

procedures surrounding pre-payment for special trash pick ups.

The City Administrator talked about the policy of pre-payment as a means to eliminate the City incurring uncollectible dumping fees. He quoted statistics for both the old and current system with the former reflecting only a 16% collection rate as opposed to 100% under the new method of pre-paying.

Further discussion ensued on the role of the property owner, the overlapping boundaries between Code Enforcement and the Street Department, the varied amounts of fines, the distinction of prepaying for \$10 worth of special trash but putting out \$50 worth, and other, though similar issues. At the conclusion, it was decided the City Administrator, Assistant City Administrator, Marshal, Code Enforcement Officer, Sanitation Supervisor and a member from the Health Department would meet to iron out a better or more cost-effective, efficient policy.

8. ARCADIA MOBILE HOME PARK ISSUES

The Assistant City Administrator reported that the Mobile Home Park is not registered with the Florida Commission on Human Relations as a 55+ community and that in doing so, a community is essentially asking to be exempted from the Florida Fair Housing Status and Federal Fair Housing Act as it pertains to familial status. Further, as it stands, the language in the rules and regulations stating "Arcadia Mobile Home Park is an adult retirement community" may not prove adequate to determine the intent of a 55+ status since an adult is defined as a person 18 years or older. The Assistant Administrator requested direction from Council to make the intent clear by either directing staff to amend the rules with the proper 90 day statutory notice to the residents to specifically state "55+ community" and register as such to meet Federal and Florida regulations (\$20 registration fee) or to leave the status of the park as it is.

The Mayor recalled the intent of a previous council was to covert the park to a travel trailer only. Councilmember Johnson agreed but added that after Hurricane Charley, because damage was caused by an act of God, several residents were allowed to replace their mobile homes. He then asked for the advantages and disadvantages of going in one direction or another. The Assistant City Administrator responded there were none; it was simply a matter of preference for the Council to decide. The City Attorney did add that if the park is being touted as a 55+ community, then it must be registered as such to avoid violation of the Fair Housing Acts. Councilmember Johnson noted there were several long time residents of the park who were a "settled" group of individuals and that he like the idea of a 55+ community.

On motion of Councilmember Johnson with a second by Councilmember Goodman, the Council voted unanimously, 5-0, to direct staff to register the park with the Florida Commission on Human Relations as a "55+ community."

The Assistant City Administrator then talked about the prospectus of the mobile home park stating the intent of the Park owner is to gradually convert the Park to solely a recreational vehicle park thereby excluding any additional mobile homes from being placed there. She continued that some of the mobile home lots which have become RV lots remain empty even during the busier winter months and questioned whether it would be prudent to reconsider the

intent of changing the mobile home park into an RV park due to the economy and multiple vacancies at the already converted lots. Ms. Jankosky stated if the Council desires to change the intent from RV to mobile home or if mobile homes will be allowed to be placed back in the park, the prospectus will need to be amended, adopted by Council and submitted to the Department of Business & Professional Regulations; and that while there is no fee to file an amendment, it will require staff and legal counsel time to prepare and review.

Councilmember Johnson asked about an inventory of vacancies based on lot size. Councilmember Craven felt many RV'ers selected parks based on amenities such as a swimming pool and suggested that "x" number of lots be designated for RV's with mobile homes remaining to be allowed in the others. She also asked if it was known how many spaces would be lost with the Department of Transportation's widening of the road. The Assistant City Administrator stated she had inquired of the DOT but has yet to receive the plans although they indicated it would not be many.

The City Administrator added that some residents of the park would like to upgrade or make improvements to their mobile home but are afraid they will lose their space if they pull out. It was the consensus of Council to allow Arcadia Municipal Mobile Home Park residents to make improvements, including replacement, of their mobile home without jeopardizing their status or lot.

The Assistant City Administrator will prepare an inventory and report back to the Council.

RESOLUTIONS

9. RESOLUTION 2011-1, AMENDING THE RETIREMENT PLAN TO ALLOW LOANS

The City Administrator discussed the City's 457 defined contribution plan which currently only allows access to the contributor's (employees) money once they terminate with the City; however this resolution would permit loans from the fund following federal criteria in the case of hardship or as a down payment on a home. He added that currently the plan designates his position as the plan administrator whereby he could have accomplished this without Council consent; but that in the interest of transparency, he was seeking Council approval.

The City Administrator then read the resolution in its entirety. Deputy Mayor Keene stated this was a pretty common practice in the business world and could help make Arcadia "shine" by providing yet another benefit. Councilmember Goodman asked how this request came about to which the City Administrator stated there were currently only two employees enrolled in the ICMA Deferred Comp Plan of which he was one. Councilmember Johnson suggested a workshop to encourage other employee's participation.

Deputy Mayor Keene made a motion to approve Resolution 2011-01 and Councilmember Johnson provided a second. A voice vote of the Council revealed unanimous, 5-0, approval. The resolution appears below.

RESOLUTION 2011-01

A RESOLUTION OF THE CITY OF ARCADIA RELATING TO AMENDING A RETIREMENT PLAN TO PERMIT LOANS.

IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA:

WHEREAS, the City of Arcadia offers employees enrollment in a Section 457 Deferred Compensation Plan through ICMA Retirement Corporation (Plan #301434), and

WHEREAS, the Employer has employees rendering valuable services; and

WHEREAS, the Employer has established a retirement plan (otherwise known as "The Plan") for such employees which serves the interest of the Employer by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the Employer has determined that permitting participants in the retirement plan to take loans from the Plan will serve these objectives;

NOW THEREFORE BE IT RESOLVED by the City Council that the Plan will permit loans.

SO DONE THIS 4th DAY OF JANUARY 2011.

By: Robert W. Heine, Mayor

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

ORDINANCES

10. SECOND READING OF ORDINANCE 963 - GOLF CARTS

The City Recorder read Ordinance 963 by title and presented it on second reading. The Mayor opened a public hearing to receive comments.

Mr. George Lempenau, 2998 NW Hwy 70, spoke in favor of golf cart usage, citing their attributes such as economical to operate, lower speeds, green, and require less parking spaces.

Mr. Maurice "Mo" Brown, 2874 SE Norman Avenue, spoke in opposition of allowing golf carts on City streets, calling them life threatening as a safety issue and causing chaos and disorder in traffic.

Mr. Tim Twohig, 1880 SE Maple Drive, also opposed usage, alluding to the increase burden on the police department, the cost for installing proper signage, and noting the pathway from Arcadia Village to SweetBay had been closed. Mr. Twohig felt the Council would be opening a can of worms by allowing cart usage on City streets.

Mr. Robert Bailey, Sr. addressed usage in other areas, saying that although the Statutes allows 14 year olds to drive golf carts, some areas impose stricter restrictions by requiring drivers to be at least 16 with a valid driver's license. Mr. Bailey was not opposed to golf carts in the City.

Mrs. Janie Watson, 803 W. Imogene, felt the Council was attempting to adopt something that affects more people than it is applicable to, adding golf carts are too dangerous and there are too many negatives associated with their use on city streets.

Mr. Remus Griffin pointed out the average speed of a golf cart is 13 mph and the average speed in residential areas is 30 mph. He added it was illegal to pass vehicles in these areas and thought this would be a potential problem.

The Mayor closed the public hearing and turned the matter over to Council and staff. The Marshal stated his stance on the issue had not changed, adding he felt usage would get out of hand quickly and with the liability and accident issues added in, it would not be in the best interest of the City to adopt this ordinance.

The City Attorney pointed out the ordinance as written requires golf cart operators to have insurance and to hold a valid operator's license; and it provides blanks for the Council to decide upon a possible higher minimum age, minimum equipment, and even prohibitive hours of operation if desired. He did point out one correction to page two being the deletion of a duplicate paragraph (3), but added as written, the Council can define the parameters of use as they deem best.

Each member of Council spoke briefly about their thoughts and concerns over the ordinance. At the conclusion there was no action taken and Ordinance 963 relating to golf cart usage in the City died on the floor.

COMMENTS FROM DEPARTMENTS

11. CITY MARSHAL A) ACTIVITY AND CODE ENFORCEMENT REPORTS FOR DECEMBER

The City Marshal presented his monthly report calling specific attention to the number of cab driver permits issued for the month. He was available to answer any questions or concerns.

12. ATTORNEY

The City Attorney discussed the pending lawsuit against former Administrator Markae Rupp, saying the case has proceeded well through this point, with one of the two counts having been dismissed and the other worth very little money. He continued that an offer was made by Ms. Rupp's attorney to settle the case and waive any & all future claims for \$20,000, which would be covered by the City's insurance company. The attorney's for the insurance company (on behalf of the City) have recommended entering into settlement negotiations with the rationale being continued activity, which Ms. Rupp has indicated she will appeal, will only serve to drive up costs. He went on to say his understanding of the value of the current claim

is somewhere around \$1 which is based on interest computed on the amount of the severance not paid within the stated 10 day period. The City Attorney then recommended authorizing the firm of Zimmet, Unice, & Salzman, P.A. to negotiate and present the best settlement agreement to the Council with the certain criteria included.

On motion of Deputy Mayor Keene and seconded by Councilmember Johnson, the Council voted unanimously, 5-0, to authorize the firm of Zimmet, Unice, & Salzman, P.A. to negotiate and bring back for Council's consideration the best possible settlement agreement with Markae Rupp with the following stipulations: No admission of liability or wrongdoing on the part of the City, a full waiver of all possible future claims, and any settlement would be at no direct or indirect cost to the city (e.g. increased insurance premiums or blemished record).

Councilmember Goodman also asked whether the City had considered countersuing Ms. Rupp based on falsified credentials and other things which came out as a result of her termination. The City Attorney answered that his office had not looked into that as it was uncertain whether the City had any damages as a result. He added basically she worked, she put in hours, was paid for those hours and left.

13. ADMINISTRATOR

The City Administrator covered several items, the first of which was a workshop for employees and retirees regarding the health insurance plans currently under consideration will be held Wednesday, January 5th at 1 PM and 3 PM. He continued the health insurance brokers, Gehring Group and Public Risk Management have both been invited to attend in order to inform the affected parties about their respective plans before Council makes a final decision. He added the workshop will give the participants an opportunity to ask questions and gather additional information on the various plans.

The next topic concerned a joint staff meeting with DeSoto County to discuss issues and opportunities for the city and county to work together. Examples of these projects are the water treatment plant, fire hydrants, and Brownfield initiatives. The City Administrator emphasized coordinated efforts are especially important based upon dwindling resources from the state and federal governments.

The City Administrator also mentioned that DeSoto Memorial Hospital president Vince Sica and Ms. Johnnie Johnson, a community activist, had contacted him about repaving the street in front of the emergency room and DeSoto Nursing Home. Two quotes for the repaving have been received and the Administrator will be discussing cost sharing with both the county and the hospital.

The last item the City Administrator discussed was a pre-construction meeting that was held regarding the Water Treatment Plant construction project. He noted a disruption of potable water service will occur on or about January 20th but that coordination and advance notification will be done in order to minimize interruption; and that service interruption and tie-in will occur and be completed during the evening after commercial customers have closed. The City Administrator added that a construction schedule was discussed and will be created

by Censtate for the project; and that a SWFMD grant application has been amended to expand the interconnect project, although final word on the funding isn't expected until May 2011.

14. OTHER DEPARTMENTS

The Assistant City Administrator introduced Mr. C.W. Huckabee who spoke about an adult softball league. Mr. Huckabee requested exclusive use of Arcadia Avenue fields 4 and 5 through privatization similar to the agreement done with DCYAA. Mr. Huckabee stated his group would join with DCYAA through their insurance although as an adult softball league and that this would benefit the City particularly with regard to field maintenance. He also requested reduced rates for water and lighting; and was willing to test the arrangement with a one-year contract.

The City Administrator stated that other groups had contacted him about field usage as well and suggested Mr. Huckabee contact him at the office to set up a coordination meeting.

PUBLIC

Mr. Tim Twohig spoke on the previously discussed matter of the Pro Shop room rental, cautioning the Council about operating a bar and the liability associated with it once someone leaves the premises.

MAYOR AND COUNCIL MATTERS

The Deputy Mayor reported the playground equipment for Lake Katherine had arrived and thanked the City for helping to unload the crates. The City Administrator asked that because of the number of Oak trees and associated roots in the area where it is to be set up, would the Health Department consider relocating the playground equipment to another area. The Deputy Mayor answered that it was part of a grant specifically designated for Lake Katherine, so he would have to investigate the feasibility of that.

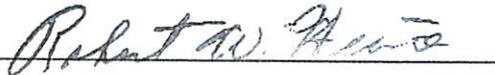
Councilmember Goodman offered her thanks for the many prayers and support she received during her sister's passing.

ADJOURN

Having no further business at this time, the meeting was adjourned at 8:16 PM.

APPROVED THIS 18th DAY OF JANUARY 2011.

By:



Robert W. Heine, Mayor

ATTEST.



Dana L.S. Williams, CMC, City Recorder