

**MINUTES
CITY COUNCIL
CITY OF ARCADIA
TUESDAY, NOVEMBER 2, 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

Councilman Lorenzo Dixon

Councilmember Sharon Goodman

Arcadia City Staff

City Administrator Lawrence Miller

Asst. City Administrator Judi Jankosky

City Marshal Charles Lee

City Recorder Dana Williams

City Attorney Jason Henbest

Planning Consultant Martina Kuche

Councilmember Goodman gave the invocation which was followed by the Pledge of Allegiance and roll call. The Mayor announced that Councilman Johnson had been admitted to the hospital earlier today and that Councilman Keene was out of town on business.

SPECIAL PRESENTATIONS

1. **PROCLAMATION RECOGNIZING THE DESOTO COUNTY MURAL SOCIETY, INC.**

The City Recorder read a proclamation honoring the DeSoto County Mural Society members, directors, and artists on their recent achievement of having completed the first in a series of Arcadia tradition style murals. Each of the persons involved came forward to receive the framed plaque from the Mayor and have the acceptance memorialized by the press photographers.

CONSENT AGENDA

2. **MINUTES OF THE OCTOBER 19, 2010 REGULAR MEETING**
3. **CHECK WARRANTS - OCTOBER 6 - 22, 2010**

On motion of Councilmember Goodman and seconded by Councilmember Dixon, the two items of the Consent Agenda printed above were unanimously, 3-0, approved.

DISCUSSION ITEMS

4. **USE OF THE BASEBALL FIELD NEXT TO RICHARD BOWERS STADIUM - ELMER JOHNSON**

Mr. Johnson and Mr. Kirk Simsic on behalf of the DeSoto County Youth Athletic Association, (DCYAA) requested permission for their organization to take control of the baseball field which they had used as a practice field in the past. Mr. Simsic stated the DCYAA would like to stripe the field for use as a football practice field, remove the infield clay, close off the open end of the fence, move the gate, and utilize the storage building and concession area.

The Mayor suggested that an agreement limiting the term of use in the future event the mobile home park required expansion and would need to encroach onto the ball fields. Councilmember Dixon confirmed with the DCYAA that any expenses incurred as a result of the transformation would be at the expense of the organization. Mr. Simsic agreed, adding that if in the future the City wanted to take back control, the DCYAA would restore the clay and baseball infield.

The City Administrator felt the terms of this agreement should be reduced to writing and that in the interim, signage be posted on the property to alert anyone else who may have an interest in using the fields. Councilmember Dixon felt there had been no recent sports activity on those fields in some time, noting the overgrown grass, but agreed that notice should be given to others.

The Mayor asked Mr. Simsic if the DCYAA covers their own insurance to which Mr. Simsic responded in the affirmative.

It was the consensus of Council to include this item on the next Council agenda having posted signage on the property inviting public comment and to have the terms of the agreement in writing before the Council.

5. STREET LEGAL GOLF CARTS - JUSTIN BYRD

Mr. Byrd stated he had come to the Council in May requesting clarification on the City's position regarding street legal golf carts. He added the State of Florida and National Transportation Safety Board have defined what constitutes street legal, he has complied with lights, seat belts, etc, but would like to be able to drive his cart from his house to his granddaughter's about ½ block away and to the downtown area for parades and special activities. Mr. Byrd added that according to Kathryn Hill, the only further requirement for him to have the golf cart tagged is an inspection by the Highway Patrol.

The City Attorney read from *Florida Statutes* Sec. 316.212, noting that according to paragraph (1), if the Council so chooses, certain streets can be designated for golf cart use, after which proper signage would be erected.

The City Marshal pointed out the City used to use golf carts for meter reading, but had to eventually stop using them because they were in violation of *Florida Statutes*.

Mr. Byrd pointed out that the laws have changed and that as long as the posted speed limits is 35 mph or less, golf carts are permitted on city streets and they can cross any state highway with the exception of an interstate highway. The City Attorney refuted that saying that until the City designates certain roads for golf cart use, they are not legal. The City Administrator asked about age restrictions for golf carts and the City Attorney referred to Sec. 316.212 (7) which designates any person age 15 and up. Councilmember Goodman did not want to see "kids" driving golf carts on public streets and further hesitated to take action this evening. She suggested the Marshal work with the City Administrator and City Attorney to designate streets and impose more restrictive parameters for driving golf carts in Arcadia.

On motion of Councilmember Goodman with a second by Councilmember Dixon, the Council voted unanimously, 3-0, to have the Marshal, City Administrator and City Attorney

work together and bring back a proposal for the Council to consider.

6. RFQ FOR AIRPORT CONSULTING SERVICES

The Assistant City Administrator reported on an RFQ for airport consulting services which was prepared in accordance with *Florida Statutes* Sec. 287.055 and the FAA Advisory Circular 150/5100/014D. She explained that many of the FAA grants were very long and labor intensive and included programs such as Autocad, which the City does not currently have. She also pointed out that funding for the consultant would be through the grant, whereby if the City did not receive grant funding, the consultant would be paid nothing.

Councilmember Dixon asked about matching requirements for these grant and the Assistant City Administrator stated they would primarily go after no match required grants, but that also if there were a small percentage match required, many times the DOT had funds available for that.

On motion of Councilmember Dixon and seconded by Councilmember Goodman, the Council voted unanimously, 3-0, to approve the recommendation of the Assistant City Administrator in submitting an RFP for Airport Consulting Services as outlined in her report.

ORDINANCES

7. SECOND READING OF ORDINANCE 961 – RENTAL HALLS

The City Recorder read Ordinance 961 by title and presented it on second reading. The City Attorney stated the only change had been to the security issue as was recommended by the City Marshal. The Marshal added it was not his intent to place an undue financial burden on any organization and so the change reached a middle ground while still providing effective coverage for the police department.

Councilmember Dixon asked if the ordinance still required non-profit organizations to pay a licensing fee; to which the City Attorney responded it would for a basic, annual licensing fee to cover the city's cost, but that Council has yet to determine that fee and can choose to create an exemption for non-profits.

Councilmember Goodman made a motion to approve on second reading Ordinance 961 related to Rental Halls. The motion died for lack of a second.

Further discussion followed on the clarification of registration fees. The City Attorney again explained that fee structures are typically done by resolution and that the Council has not prepared or considered what, if any, these fees will be. Councilmember Goodman then asked why the Council was just now receiving this information, and the City Administrator answered this ordinance is the mechanism in put into motion regulations related to special events held at rental locations. He added the Council could certainly include a provision to waive any fee for not-for-profit organizations.

Ms. Dorothea McCall, president of the Garden Club, briefly spoke to the ordinance and it's impact on her organization.

On motion of Councilmember Goodman, with a second by Councilmember Dixon, the Council voted unanimously, 3-0, to approve on second reading Ordinance 961 related to rental halls with the modification of Sec. 34.133 to exempt not-for-profit organizations

The ordinance in its entirety appears below:

ORDINANCE NO. 961

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA, A MUNICIPAL CORPORATION, RELATED TO RENTAL HALLS; ESTABLISHING ARTICLE III OF CHAPTER 34 OF THE CODE OF ORDINANCES, CITY OF ARCADIA, FLORIDA; PROVIDING FOR THE LICENSING AND REGULATION OF RENTAL HALLS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

THE CITY OF ARCADIA, FLORIDA, HEREBY ORDAINS as follows:

Section 1. Amendment of the Code of Ordinances. The Code of Ordinances of the City of Arcadia, Florida, is amended to establish a new Article III of Chapter 34 (Businesses) to read in its entirety as follows:

Article III. RENTAL HALLS

Sec. 34-131. Definitions.

Rental hall. A building, facility, room, or portion thereof, which is rented, leased or otherwise made available to any person or group for a private event or function whether or not a fee is charged. Also known as a reception hall, a meeting hall, a banquet hall, or any other similar such facility, regardless of name.

Sec. 34-132. License required.

No person shall operate a rental hall without first having obtained a rental hall license in accordance with this chapter. No rental hall license shall be required if:

- (a) The rental hall has a legal occupancy of fewer than fifty (50) persons, and maintains compliance with the occupancy limits;
- (b) The premises are on the campus or in the facilities of a bona fide elementary or secondary school, vocational or trade school, college or university, or any building under the control of the City of Arcadia or DeSoto County;
- (c) The rental hall facility is the subject of a current, valid Retail Consumption on Premises license issued by the Florida Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco.

Sec. 34-133. Fee.

The fee for a rental hall license shall be established, and from time to time changed, by Resolution of the City Council. No fee shall be imposed on any organization approved by the IRS as tax exempt under Section 501(c)(3) of the Internal Revenue Code

Sec. 34-134. When licenses expire.

All licenses issued under this chapter shall expire on the first regular business day (i.e., non-weekend, non-holiday) of October of each year.

Sec. 34-135. Application required/contents of application.

An applicant for a rental hall license shall make application on the forms furnished by the City and shall provide all other information deemed necessary by the City Administrator, including without implied limitation the following information/ documentation:

- (a) The full name of the applicant, date of birth, and current residential address.
- (b) The applicants' taxpayer identification number and State of Florida business identification number. For purposes of this requirement, "applicant" means an individual if the license is sought for or in the name of an individual or a corporation, partnership, limited liability company, or other business association if the license is sought for or in the name of such corporation, partnership, limited liability company, or other business association. "Applicant" also means an individual with an ownership or management position with such corporation, partnership, limited liability company, or other business association.
- (c) An affidavit evidencing ownership of the property, including the full name(s) and address(es) of all individuals with an ownership interest of at least ten percent (10%) of the property or of the corporation, partnership, limited liability company, or other business association which owns the property or with any management interest over the property or over the corporation, partnership, limited liability company, or other business association which owns the property.
- (d) A scaled diagram of the premises clearly showing the floor plan and the location of the building or buildings, and the part or portion thereof intended to be used in the conduct of the rental hall and under such license.
- (e) The name and address of any other rental hall owned or operated by the applicant during the preceding ten (10) years.
- (f) The nature of the business to be conducted.
- (g) Proof of general liability insurance coverage in the following amounts is in full force and effect: personal injury – two hundred thousand dollars (\$200,000.00) per claim/six hundred thousand dollars (\$600,000.00) aggregate; property damage – fifty thousand dollars (\$50,000.00).
- (h) A business plan that contains the following elements:
 - (1) Hours of operation for the licensed premises as allowed by zoning;
 - (2) A security plan that describes the security features, including personnel and equipment, that the applicant will employ and how they will be utilized;
 - (3) Description of how the applicant will maintain the orderly appearance and operation of the premises with respect to litter and noise;
 - (4) Such other reasonable and pertinent information as the city council may require;

(5) An applicant shall promptly notify the City Administrator, in writing, of any amendment to the submitted business plan.

Sec. 34-136. Public hearing required.

Upon the filing of the application, the City Administrator shall refer the application to the City Council for review at a public hearing thereon. The City Administrator shall schedule such hearing for a regular meeting of the Council and shall notify the applicant of the date and time of the meeting at which the application is to be heard. At least seven (7) days in advance of the scheduled hearing, the applicant shall mail via first class mail to all persons owning property within three hundred (300) feet of the proposed rental hall, as identified in the records of the DeSoto County Property Appraiser's Office, a notice of the time and place at which such hearing is scheduled to occur. Such notice shall follow a form approved from time to time by the City Administrator. The applicant shall be required to submit an affidavit to the City Administrator no later than four (4) business days in advance of the scheduled hearing evidencing that the notices were mailed and to whom the notices were mailed.

Sec. 34-137. Operating requirements, regulations.

Rental halls licensed under this chapter shall be operated in conformance with the following requirements:

- (a) A current certificate of occupancy;
- (b) Maintained in a clean and sanitary manner, well-ventilated and adequately lighted;
- (c) A written, signed lease is required for all events at a property licensed hereunder.

(1) All lease agreements shall be kept on file at the licensed rental hall for a period of one (1) year after the date of the event and made available upon request to a law enforcement officer, fire inspector, city official, code enforcement officer, or Florida ABT officer/official.

(2) All lease agreements shall be maintained along with and accompanied by the following information:

- a. The name(s), telephone number(s), and residential address(es) of the person(s) leasing the rental hall and of the contact person for the event;
- b. The nature of the event and the estimated number of attendees;
- c. The hours during which the lessee has use of the rental hall and the specific hours of the event;
- d. The type and amount of entertainment authorized by the lessor.

(d) The licensee shall have a designated manager who is an employee of the licensee on the premises at all times the hall is utilized or leased.

(e) The licensee shall provide adequate security for each event based upon the number of attendees and the nature of the event. At least one licensed security guard shall be present in and at the rental hall premises at all times during an event for every fifty (50) persons, or substantial

portion thereof, in attendance.

(f) All events must be conducted in strict compliance with all applicable federal, state, and local laws and ordinances including without implied limitation any law relating to zoning, building maintenance, fire prevention, liquor, health, or safety.

(g) The licensee shall take appropriate action to prevent violations of law by persons attending events for which a license is required. The licensee shall not allow persons engaging in disorderly or illegal behavior to enter or remain on the rental hall premises.

(h) The certificate of occupancy, occupant load certificate, hours of operation, and the license certificate issued under this chapter shall at all times be posted in a conspicuous place on the premises.

(i) Unless also licensed pursuant to this chapter, the lessee of a rental hall shall not sublease the premises to any other person nor shall the rental hall licensee allow such subletting.

(j) The licensee shall notify the City Police Department at least five (5) business days prior to any event involving dancing by guests, live or recorded music, or service of alcoholic beverages on premises.

(k) Alcohol is allowed to be present at a rental hall only if it is provided by the host of the event or function for the guests, it is not sold to guests or any other person, and it is provided pursuant to a license issued by the Florida Division of Alcoholic Beverages and Tobacco.

Sec. 34-138. Temporary license authorized.

Premises that are used as rental halls fewer than five (5) days per year are eligible for a temporary rental hall license. The applicant must submit a complete application at least fourteen (14) days prior to the event. The fee for each event shall be established, and from time to time changed, by Resolution of the City Council. The City Administrator, after consulting with the City Marshal, may issue the temporary license. An applicant for a temporary rental hall license must comply with all provisions of this article.

Sec. 34-139. Enforcement; penalties.

(a) Denial, revocation, suspension, or non-renewal of license application. An application for a license hereunder may be denied, revoked, suspended, or not renewed, after notice and opportunity for hearing thereon, for any of the following reasons:

(1) The application contains material omissions, or false, fraudulent, or deceptive statements.

(2) The applicant or licensee has violated one or more of the provisions of this article within the previous three (3) years.

(3) The proposed operation is in violation of any federal, state, or local laws or ordinances, including without implied limitation any law relating to zoning, building maintenance, fire prevention, liquor, health, or safety.

(4) The applicant or licensee has been convicted of a felony or two (2) misdemeanors relating to or arising from the operation of the business within the previous five (5) years.

(5) A complete application has not been filed within sixty (60) days of the submission of a partial application.

(6) The applicant or licensee, including any partners, directors, officers, identified shareholders or on-site manager, if applicable, has prior revocations of licenses or adverse license actions related to the rental hall industry within the previous five (5) years.

(7) For good other cause.

(b) Fines. In addition to the provisions of subsection (a) above, the City may issue a code enforcement citation and notice to the holder of a license hereunder for violation of any of the operating requirements and regulations contained in Section 34-137 above. The fine for such violation shall be \$50 for a first offense, \$250 for a second offense, and \$500 for a third or subsequent offense. The license holder may pay the fine within thirty (30) days following issuance of the notice and without hearing. If not paid within such time, the City shall schedule the matter for the next available code enforcement hearing date and shall send notice to the license holder of the date and time when the matter shall be heard. If a hearing is required, the costs of same shall be borne by the license holder.

Section 2. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of this ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance shall be effective immediately upon final passage by the City Council.

PASSED AND ADOPTED this 2ND day of NOVEMBER 2010.

By: /s/ Robert W. Heine, Mayor

ATTEST:

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

8. FIRST READING OF ORDINANCE 962 – SIGNS

The City Recorder read Ordinance 962 "Signs" by title as stated below:

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.

The Planning Consultant briefly explained her work with the Planning & Zoning Board in implementing their individual and collective ideas for proposed changes. She also talked about the various types of signs within the City (tradition, digital, vehicular, etc) and having created a sign inventory to provide information regarding permitted and non-permitted signage. Ms. Kuche discussed signs in disrepair and the permit process as provided at the back of the ordinance items.

The City Attorney added he had worked with the consultant on this ordinance and that legally it is fairly solid with regard to regulating signs, particularly in light of some first amendment challenges. He also pointed out this ordinance will provide the City a stronger position than in year's past.

On motion of Councilmember Goodman, with a second by Councilmember Dixon, the Council voted unanimously, 3-0, to approve on first reading Ordinance 962 related to signs.

Councilmember Goodman requested the proposed ordinance be added to the website for anyone interested in reading and reviewing it prior to adoption.

COMMENTS FROM DEPARTMENTS

9. CITY MARSHAL
A) MONTHLY REPORT FOR OCTOBER 2010

The Marshal reported there had been a Special Master meeting earlier today on four actions where the City was successful in each; and that the \$2k payment for a lien discussed at the last meeting had been received.

10. ATTORNEY

The City Attorney had nothing further.

11. ADMINISTRATOR

The City Administrator spoke on several topics. The first report was that the street lights on Rt. 17 had been vandalized once again with approximately 12,000 feet of copper wiring having been removed. He stated the insurance company and FDOT have been contacted and that the Arcadia Police Department believe they have a suspect. The Administrator is working with the General Services Department to explore methods of combating the problem in the future.

The second topic was the airport, where the Administrator and Assistant Administrator attended an FAA conference recently regarding grant opportunities for addressing many of the issues at the Arcadia Airport such as painting of airport lines, security fencing, fire suppression and runway maintenance.

The Administrator then talked about building improvements to City Hall and the Way Building, with regard to the new roof and installation of ADA compliance doors respectively.

With regard to the WTP's consent order, the City Administrator stated an amended consent order requiring a final long term corrective action plan be implemented by December 31st had been delivered for signature but once signed, the City will be required to pay DEP \$1,000 for cost and expenses; and further the DEP will be taking daily readings of rainfall and duration of discharges to both the filter backwash and lime sludge ponds.

The Administrator also reported on having met with the DeSoto Coalition for the Homeless regarding the assistance of the City and the University of South Florida Small Business Development Center related to a \$300,000 grant to initiate a business incubator program. He added

the City can provide technical assistance to the start-up of the project, which works well alongside the buy-local initiative coordinated through the Chamber of Commerce.

The last item related to the City's health care cost and exploring other options through Public Risk Management or United Health Care. Once the City's current broker receives the results of having put health care out to bid, the Administrator will report back and he hopes to have an answer before the Thanksgiving holiday.

PUBLIC

Ms. Charlotte Carter thanked the Mayor, Council and Administrator for recognizing and honoring the Mural Society.

Ms. Mary White discussed the City's water supply saying it leaves white stains on her sink and dishes; and that her faucet is rusting from the inside. She questioned the chemicals used in the water and requested a copy of the most recent water quality report.

MAYOR AND COUNCIL MATTERS

The City Recorder asked how council would like to handle the applicant process for the vacant Council seat, inquiring if a one-hour workshop would be sufficient, would there be a set list of questions, whether all applicants could be in the room together, and in general what parameters would be set. It was the consensus of the council to have a workshop beginning at 5 PM immediately prior to the regular meeting of November 16th, that there were no specified questions and that all applicants could hear the responses of the others.

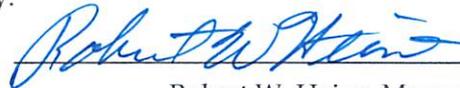
The City Administrator, City Attorney, Councilmember Goodman and the Mayor each offered Councilmember Dixon their best wishes and appreciation for his service.

ADJOURN

Having no further business at this time, the meeting was adjourned at 7:27 PM.

APPROVED THIS 16th DAY OF NOVEMBER 2010.

By:



Robert W. Heine, Mayor

ATTEST:



Dana L.S. Williams, CMC, City Recorder