

## REGULAR MEETING

AUGUST 3, 2004

A Regular Meeting of the Arcadia City Council was held on August 3, 2004 at 6:00 p.m. in Room D of the Way Building at 23 N. Polk Avenue. Councilmembers attending were: Fazzone, Whitlock, Heine, Johnson and Goodman. Also in attendance were: Administrator Strube, City Attorney Holloman, City Fire Chief Rutherford, City Marshal Lee, Special Projects Coordinator Hewett, Ms. Way and Recorder Baumann.

Mayor Fazzone called the meeting to order.

The Invocation was given by Council Member Johnson.

Pledge of Allegiance to the Flag.

The minutes of the Regular meeting of July 6, 2004, and Budget Work Session of July 20, 2004, were adopted on motion of Whitlock; seconded by Johnson and carried.

*Mayor Fazzone called the Public Hearing to order* and stated that the purpose of the public hearing as advertised is to consider the request of Harold L. and Sheila J. Jackson to close the alley between Lots B, C, D and E, Brown and Way Resub of Lots 13 to 16 inclusive, Block 4, Original Survey. Recorder Baumann presented proof of publication of the public hearing. Recorder Baumann then reported that letters of no objection have been received from the City Administrator, City Attorney, City Fire Chief, City Public Works Supervisor, Sprint, Comcast Cable and FPL. Recorder Baumann noted that no property owners other than the petitioner are affected. Heine moved to grant the request to close the alley between Lots B, C, D and E, Brown and Way Resub of Lots 13 to 16 inclusive, Block 4, Original Survey by Resolution No. 2004-15; seconded by Whitlock and carried.

**RESOLUTION 2004-15**

WHEREAS, pursuant to the Provisions of Chapter 73-403 of the Laws of the State of Florida and City of Arcadia Ordinance No. 770, Petitioners Harold L. and Sheila J. Jackson have requested the City Council of the City of Arcadia to close and abandon that portion of the alleyway between Lots B,C,D and E, Brown and Way Resub of Lots 13 to 16 inclusive, Block 4, Original Survey, City of Arcadia, Florida, as recorded in the Public Records of DeSoto County, Florida, and

WHEREAS, the Planning and Zoning Board has recommended that the request to close and abandon that portion of the alleyway between Lots B,C,D and E, Brown and Way Resub of Lots 13 to 16 inclusive, Block 4, Original Survey, City of Arcadia, Florida, as recorded in the Public Records of DeSoto County, Florida, be granted, and

WHEREAS, the City Council of the City of Arcadia, Florida has determined that the closing and abandoning of that portion of the alleyway between Lots B,C,D and E, Brown and Way Resub of Lots 13 to 16 inclusive, Block 4, Original Survey, City of Arcadia, Florida, as recorded in the Public Records of DeSoto County, Florida, will not affect the ownership or right of convenient access of any person.

Regular Meeting  
August 3, 2004  
Continued

(Resolution 2004-15 continued)

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Arcadia, Florida that:

THAT PORTION OF THE ALLEYWAY BETWEEN LOTS B,C,D AND E, BROWN AND WAY RESUB OF LOTS 13 TO 16 INCLUSIVE, BLOCK 4, ORIGINAL SURVEY, CITY OF ARCADIA, FLORIDA, AS RECORDED IN THE PUBLIC RECORDS OF DESOTO COUNTY, FLORIDA, BE CLOSED AND ABANDONED.

BE IT FURTHER RESOLVED that notice of adoption of this Resolution be published one time within thirty (30) days following its adoption in a newspaper of general circulation in Arcadia, DeSoto County, Florida, and that following said publication that a certified copy of this Resolution be recorded in the Public Records of DeSoto County, Florida

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA IN REGULAR SESSION THIS 3<sup>RD</sup> DAY OF August, 2004.

/s/ RICHARD P. FAZZONE  
RICHARD P. FAZZONE, MAYOR

ATTEST:

/s/ RACHELLE M. BAUMANN  
RACHELLE M. BAUMANN  
CITY RECORDER

*The Public Hearing was closed.*

*Mayor Fazzone then reconvened the regular meeting.*

Administrator Strube addressed Council regarding Resolution No. 2004-16 noting that this is part of Ordinance No. 911 Special Master which required that the rules be set by resolution. Heine moved to adopt Resolution No. 2004-16 as presented; seconded by Whitlock and carried. Administrator Strube stated that the next step will be to select a Special Master, he will place an ad, and mail notices to all local attorneys.

RESOLUTIONS 2004-16

A RESOLUTION OF THE CITY OF ARCADIA, FLORIDA, PROSCRIBING NECESSARY FORMS, RULES, AND REGULATIONS GOVERNING THE NOTICE, INITIATION, AND PROCEDURAL CONDUCT OF SPECIAL MASTER HEARINGS.

Regular Meeting  
August 3, 2004  
Continued

(Resolution 2004-16 continued)

WHEREAS, the City Council of the City of Arcadia, Florida, has authority under Ordinance Number 911 and Section 162, Florida Statutes, to proscribe proper and necessary forms, rules, and regulations governing the notice, initiation and procedural conduct of Special Master hearings; and

WHEREAS, the City Council of the City of Arcadia, Florida, deems it necessary to adopt the forms and other directions for hearings and procedures for such hearings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Arcadia, Florida, as follows:

RULES AND REGULATIONS  
FOR SPECIAL MASTERS

I. Commencement of Code Enforcement Action.

All complaints shall be referred to the City Marshall.

II. Filing.

A filing for each case shall be kept by the City Marshal who shall assign a separate case number for each case. All documents filed with the City Marshal shall have the date received indicated thereon. All documents when filed with the City Marshal shall contain a case caption with the case number indicated thereon, and shall be delivered to the following address:

City Marshal  
City of Arcadia, Florida  
17 N. Polk Avenue  
Arcadia, Florida 34266

III. Notice of Hearing and Notice of Violation

A. Upon receipt of the notice of violation or complaint, the City Marshal shall mark on its face the date of its filing, assign to it a docket number and enter it upon a docket sheet.

B. After receiving notice of violation as set forth in Section 71-4.B. of Ordinance Number 911, a violator/respondent may file an answer denying the allegations of the complaint or the notice of violation or alleging substantial facts which would constitute an affirmative defense. Failure to answer shall constitute a denial of the allegations of the notice of violation.

Regular Meeting  
August 3, 2004  
Continued

(Resolution 2004-16 continued)

IV. Legal Representation

A. If respondent elects to be represented by legal counsel, an appearance of record must be filed with the City Marshal by the legal counsel no later than five (5) business days prior to the date of the hearing. If an appearance is not timely filed and legal counsel appears at the hearing, the City Marshal or his designee shall be granted a continuance upon request.

B. If anyone other than the respondent and the Code Enforcement Officer are to testify, each party shall provide the other with a list of witnesses and their addresses no later than three (3) business days prior to the hearing. Absent waiver of this provision by the opposing party, any witness who has not been timely identified shall not be permitted to testify at the hearing.

C. No later than three (3) business days prior to the hearing, the respondent or his legal counsel shall file any affirmative defenses with the City Marshal or his designee. If an affirmative defense is not timely filed or timely provided to the City Marshal or his designee, the City Marshall shall be granted a continuance.

V. Order of Proof

- A. The City's statement of the alleged violation.
- B. The City's case-in-chief, including direct, cross-examination and re-direct, if necessary of all witnesses.
- C. The Respondent's case-in-chief, including direct, cross-examination and re-direct, if necessary, of all witnesses.
- D. The City's rebuttal, if necessary.
- E. The Respondent's rebuttal, if necessary.
- F. Closing statement of City, if necessary.
- G. Closing statement of Respondent, if necessary.

VI. Conduct of Hearings

A. All testimony shall be under oath. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings. The City and alleged violator/respondent shall have the right to present evidence relevant to the issues, to cross examine opposing witnesses, to impeach any witness regardless of which party first called him to testify, and to rebut the evidence presented against him. Irrelevant and unduly repetitious evidence shall be excluded.

Regular Meeting  
August 3, 2004  
Continued

(Resolution 2004-16 continued)

B. The Special Master shall hear and dispose of motions, including but not limited to, motions for continuance, brought before it by any party. Motions for rehearing of any order of the Special Master must be filed within the time allowed for appeal from that order.

C. Upon the failure of the City to appear at the hearing, the action shall be dismissed. Upon failure of a violator/respondent to appear at the hearing, the Special Master shall hear evidence presented by the City and may thereupon proceed with the entry of an appropriate order.

D. The City and a violator/respondent may make a joint stipulation to the Special Master providing for the existence of violations of the code, the steps necessary to bring any violations into compliance including the establishment of a time within which such steps must be completed, and the amount of the fine to be imposed in the event compliance is not achieved within the designated time; provided, however, that any fine stipulated shall not exceed \$50.00 per day for the days compliance is not achieved after the designated time. Any such stipulation shall contain a statement that the violator/respondent understands that the entry of an order by the Special Master constitutes a finding that the violator/respondent is or has been in violation of the Code and that failure to achieve compliance within the designated time may result in a fine against the violator/respondent's property, and that by signing such stipulation the violator/respondent waives his/her rights to a hearing before the Special Master. The Special Master may adopt any such stipulation as its order, without the necessity of a hearing or notice thereof. A violator/respondent's signature on a stipulation shall constitute a waiver of the violator/respondent's rights to a hearing before the Special Master and shall constitute prima facie evidence of a violator/respondent's waiver of such rights and consent to the Special Master's entry of an order without the necessity of a hearing, and such violator/respondent's presence before the Special Master shall not be required for the Special Master's entry of an order.

VII. Hearing Time Limits

A. Each party's case-in-chief shall be limited to one-half hour for each side, which may be extended by the Special Master for good cause.

B. Notices of Mandatory Hearing shall be served on the Respondent no less than ten (10) calendar days prior to hearing.

C. The Special Master shall file his Order within fifteen (15) days of the conclusion of a hearing, however, no order shall be rendered invalid for failure to file same within said time period.

Regular Meeting  
August 3, 2004  
Continued

(Resolution 2004-16 continued)

D. In computing any period of time the date of the event or act from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

VIII. Forms

A. The following forms are adopted for use with the rules of the City of Arcadia Special Master. These forms shall be used whenever the circumstances permit but are not mandatory.

ARCADIA POLICE DEPARTMENT, FLORIDA  
17 N. Polk Avenue Arcadia, Florida 34266

1. NOTICE OF VIOLATION

CITY CODE VIOLATION WARNING

Case Number: \_\_\_\_\_  
City Code Section: \_\_\_\_\_  
RESIDENT NAME: \_\_\_\_\_  
PROPERTY ADDRESS: \_\_\_\_\_

TYPE OF CODE VIOLATION

- \_\_\_ Improperly Parked Vehicle \_\_\_\_\_
- \_\_\_ Parking on Sidewalk \_\_\_\_\_
- \_\_\_ Overgrown Lot/High Grass \_\_\_\_\_
- \_\_\_ Trash/Garbage/other \_\_\_\_\_
- \_\_\_ Improper Fence/Other \_\_\_\_\_
- \_\_\_ Unsafe Structure \_\_\_\_\_
- \_\_\_ Abandoned Vehicles/Improperly Stored \_\_\_\_\_
- \_\_\_ Nuisance Type \_\_\_\_\_
- \_\_\_ No Occupational Licenses/Permits \_\_\_\_\_
- \_\_\_ Other \_\_\_\_\_

IS IN VIOLATION OF THE CODE OF ORDINANCES OF THE CITY OF ARCADIA, FLORIDA, AND MUST BE CORRECTED WITHIN FIVE (5) CALENDAR DAYS OF THE DATE OF THIS NOTICE. FAILURE TO COMPLY WILL RESULT IN LEGAL ACTION PURSUANT TO ORDINANCE NUMBER 911 OF THE CITY CODE OF THE CITY OF ARCADIA, FLORIDA.

Regular Meeting  
August 3, 2004  
Continued

(Resolution 2004-16 continued)

FOR ADDITIONAL INFORMATION, PLEASE PHONE (863)494-2222.

Additional Officer Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Code Enforcement Officer                      Resident Signature

2. BEFORE THE SPECIAL MASTER OF THE CITY OF ARCADIA

BEFORE THE SPECIAL MASTER OF THE CITY OF  
ARCADIA

CITY OF ARCADIA, a Municipality Corporation,

Petitioner,

Vs.

CASE NO. \_\_\_\_\_

Put in Respondent's name,

Respondent.

\_\_\_\_\_

A. Notice of Hearing

3. NOTICE OF HEARING

NOTICE OF HEARING

The City of Arcadia, Petitioner, to \_\_\_\_\_, Respondent.  
You are hereby notified that the Code Inspector has filed a Notice of Violation (copy  
attached) against you for violation of City of Arcadia Code, as shown on the Notice of  
Violation.

Regular Meeting  
August 3, 2004  
Continued

(Resolution 2004-16 continued)

The Special Master will hear this matter on \_\_\_\_\_, 20\_\_,  
at \_\_\_\_\_ M., or as soon thereafter as this case may be heard, in Room \_\_\_\_\_,  
at the Margaret Way Building, Polk Avenue, Arcadia, Florida.

IF YOU HAVE CLEARED, CURED OR CORRECTED THE VIOLATION BY THE TIME STATED in the Notice of Violation AND have received written notification from the Code Inspector that all the violations have been cleared, the hearing will be cancelled and you will not be required to appear.

IT IS YOUR RESPONSIBILITY TO CONTACT THE CITY MARSHAL OR HIS DESIGNEE AT THE CITY OF ARCADIA, 17 N. POLK AVENUE, ARCADIA, FLORIDA TO ARRANGE FOR A REINSPECTION OF THE PROPERTY IN ORDER TO VERIFY THAT THE VIOLATIONS HAVE BEEN CORRECTED AND THAT THE PROPERTY HAS BEEN BROUGHT INTO COMPLIANCE WITH THE APPLICABLE SECTIONS OF THE CITY OF ARCADIA CODE.

Otherwise, you must be present at this hearing to avoid an order being entered against you solely on the evidence to be presented by the petition AND A LIEN BEING RECORDED AGAINST YOUR PROPERTY. Violation may be fined at the rate of \$250.00 per day of first violation.

IF THE NOTICE OF VIOLATION CHARGES YOU WITH A REPEAT VIOLATION, THE MATTER MAY BE PRESENTED TO THE SPECIAL MASTER EVEN IF THE REPEAT VIOLATION HAS BEEN CORRECTED PRIOR TO THE HEARING. If a violation is found to be a repeat violation, the Special Master may increase the fine to \$500.00 for each day of the repeat violation.

You may retain at your own expense an attorney to represent you in this matter. The Attorney must file a Notice of Appearance at least three (3) days prior to the hearing date.

You must provide the City Marshal with the names and addresses of the witnesses, and the nature of the evidence at least three (3) days prior to the hearing date.

If you have witnesses or other evidence bearing on this matter, you should bring them with you at the time of the hearing.

If you wish to have witnesses subpoenaed, see the City Marshal or his designee at once in the office of the City Marshal, 17 N. Polk Avenue, Arcadia, Florida, for assistance.

If you wish, you may file an answer denying the allegations of the complaint or the notice of violation or alleging substantial facts which would constitute an affirmative defense. Failure to answer shall constitute a denial of the allegations of the complaint or the notice of violation but shall bar the presentation of evidence of an affirmative defense.

Regular Meeting  
August 3, 2004  
Continued

(Resolution 2004-16 continued)

If you decide to appeal any decision made by the Special Master, you will need a record of the proceedings, and, for such purpose, you may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

You may come with or without an attorney.

DATED at Arcadia, DeSoto County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Code Enforcement Officer

4. AFFIDAVIT OF SERVICE

AFFIDAVIT OF SERVICE

STATE OF FLORIDA )  
COUNTY OF DESOTO )

Before me, a notary public in and for said county and state, appeared \_\_\_\_\_, to me known to be \_\_\_\_\_ of the City of Arcadia, authorized to assure code compliance, who being duly sworn upon his oath deposes and says that he is served the annexed \_\_\_\_\_ by hand delivery on \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_.

\_\_\_\_\_  
Affiant

\_\_\_\_\_  
Notary Public

5. SUBPOENA

SUBPOENA

THE STATE OF FLORIDA

TO: \_\_\_\_\_

YOU ARE COMMANDED to appear before the City of Arcadia Special Master in Room \_\_\_\_\_, of the Margaret Way Building, Polk Avenue, Arcadia, Florida, on \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ M. to testify in this matter. DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
City Marshal or his designee

Regular Meeting  
August 3, 2004  
Continued

(Resolution 2004-16 continued)

6. SUBPOENA DUCES TECUM

SUBPOENA DUCES TECUM

THE STATE OF FLORIDA

TO: \_\_\_\_\_

YOU ARE COMMANDED to appear before the City of Arcadia Special Master in Room \_\_\_\_\_, Margaret Way Building, Polk Avenue, Arcadia, Florida, on \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ M. to testify in this matter and have with you, then and there, the following: \_\_\_\_\_

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
City Marshal or his designee

7. PETITION FOR ENFORCEMENT

PETITION FOR ENFORCEMENT

AFFIDAVIT OF NON-COMPLIANCE

The undersigned \_\_\_\_\_ hereby notifies the Special Master that the previous order of the Special Master (copy attached) has not been complied with by the time specified therein and requests that the Special Master enter an order assessing the violator with a fine in the amount of \$ \_\_\_\_\_ per day, as previously established by the Special Master, from \_\_\_\_\_, the date set for compliance [or the date of the most recent prior inspection] to \_\_\_\_\_, the date of my last inspection for a total fine of \$ \_\_\_\_\_, and costs incurred in prosecuting this case in the amount of \$ \_\_\_\_\_. Pursuant to Section 162.09(1) and (3), Florida Statutes, a hearing is not necessary for the issuance of this order, and a certified copy of the order imposing fines and costs may be recorded as a lien against the real and personal property owned by the violator.

\_\_\_\_\_  
Code Inspector

Regular Meeting  
August 3, 2004  
Continued

(Resolution 2004-16 continued)

STATE OF FLORIDA )  
COUNTY OF DESOTO )

Before me, a notary public in and for said County and state, appeared \_\_\_\_\_, personally known to me to be \_\_\_\_\_ of the City of Arcadia, authorized to assure code compliance, who being duly sworn upon his oath deposes and says that the statements above are true and correct.

Sworn to and signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

8. STIPULATION

STIPULATION

The City Marshal of the City of Arcadia, and the Respondent, \_\_\_\_\_, hereby stipulate and agree to the following matters.

1. That the persons signing this Stipulation have the authority to enter into the Stipulation and bind the respective parties to the terms contained herein.
2. That the violations that are more fully described in the Notice of Violation and the Code Enforcement Complaint which are filed in this case exist at the property located at \_\_\_\_\_, Florida.
3. That the Respondent is granted a period of \_\_\_\_ days or until \_\_\_\_\_, 20\_\_, to take the necessary remedial action as specified in the Notice of Violation and the Code Enforcement Complaint to correct the violations and bring the property into compliance with the application sections of the City Code which are more fully described in the Notice of Violation and Code Enforcement Complaint.
4. That if the Respondent does not correct the violations and bring the property into compliance with the applicable sections of the City Code within \_\_\_\_\_ days, or on or before \_\_\_\_\_, 20\_\_, a penalty of \$ \_\_\_\_\_ for each and every day the violations continue past that date will be assessed.

Regular Meeting  
August 3, 2004  
Continued

(Resolution 2004-16 continued)

- 5. That if the Respondent bears the burden of contacting the City Marshal to arrange for a re-inspection of the property in order to verify that the violations have been corrected and that the property has been brought into compliance with the applicable sections of the City Code.
- 6. That the following additional conditions/exceptions shall apply to the property:\_\_\_\_\_.
- 7. That the Respondent, by signing this Stipulation, understands that he/she waives his/her rights to a hearing on the violations referred to herein before the Special Master, and that the entry of an order by the Special Master pursuant to this Stipulation constitutes a finding that the Respondent is/has been in violation of the applicable sections of the City Code, and that failure to achieve compliance with the Code within the time designated herein may result in a fine against Respondent, which may constitute a lien against Respondent's property.

CITY OF ARCADIA

VIOLATOR/RESPONDENT

By: \_\_\_\_\_  
City Marshal

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

Date: \_\_\_\_\_, 20\_\_

PASSED AND DULY ADOPTED by the City Council of the City of Arcadia, Florida on this 3 rd day of AUGUST, 2004.

ATTEST:

CITY COUNCIL  
CITY OF ARCADIA, FLORIDA

By: /s/ RACHELLE M. BAUMANN  
RACHELLE M. BAUMANN  
CITY RECORDER

/s/RICHARD P. FAZZONE  
RICHARD P. FAZZONE  
MAYOR

Approved as to form:  
David C. Holloman  
City Attorney

Regular Meeting  
August 3, 2004  
Continued

Mayor Fazzone proclaimed the week of August 1<sup>st</sup> through 7<sup>th</sup>, 2004 as "Arcadia Firefighter Appreciation Week" and encouraged everyone to assist our Firefighters in their fundraising efforts on behalf of the Muscular Dystrophy Association. Goodman moved to endorse this action; seconded by Johnson and carried. Mayor Fazzone then presented the Proclamation to Ms. Maryann Clark representing the Muscular Dystrophy Association.

Mayor Fazzone proclaimed August 16<sup>th</sup> through 20<sup>th</sup>, 2004 as "Florida Water and Wastewater Systems Operators Week" and urged all residents to join in saluting these operators for their contributions to the health and welfare of our citizens. Johnson moved to endorse this action seconded by Goodman and carried.

Mayor Fazzone then presented the following "Memorian" to Ms. Wallace Daniel Seymour in recognition of her husbands contributions to the community. Heine moved to endorse this action; seconded by Whitlock and carried.

**IN MEMORIAM**

**WHEREAS**, Wallace Daniel Seymour was born on April 9, 1922 in Roanoke, Alabama, and

**WHEREAS**, "Wally" came to Arcadia, Florida in 1959 from LaGrange, Georgia with the Gulf Naval Store Stump Plant, and

**WHEREAS**, "Wally" was a U.S. Army Veteran and had served over twenty one and a half years in Law Enforcement with the Arcadia Police Department and the DeSoto County Sheriff's Department, including serving as City Marshal from 1977 to 1981, and

**WHEREAS**, on June 15, 2004, Almighty God, in His infinite wisdom saw fit to call "Wally" to his heavenly home, and

**WHEREAS**, his contributions and involvement in the Community will be missed but not forgotten.

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of Arcadia that by this memoriam the Mayor and Councilmembers express their sincere sympathy to Wallace's wife Tommie and their children on Arcadia's loss.

**BE IT FURTHER RESOLVED**, that this memoriam be made a part of the City Council official minutes in recognition of Wallace Daniel Seymour's contributions to our community so that all may know.

s/s Richard P. Fazzone  
Richard P. Fazzone, Mayor

s/s Paul P. Whitlock  
Paul P. Whitlock, Vice Mayor

Regular Meeting  
August 3, 2004  
Continued

s/s Sharon T. Goodman Ed. S.  
Sharon T. Goodman, Ed. S. Council Member

s/s Roosevelt Johnson, Ed.D  
Roosevelt Johnson, Ed.D. Council Member

Attest:

s/s Rachele M. Baumann  
Rachele M. Baumann, City Recorder

s/s Robert W. Heine  
Robert W. Heine, Council Member

Johnson moved that the following "Memoriam" for Reverend Robert E. Lee be made a part of the Council Minutes; seconded by Goodman and carried.

**IN MEMORIAM**

**WHEREAS**, Reverend Robert E. Lee, Sr. was born on March 16, 1930 in Arcadia, Florida making him a lifelong resident, and

**WHEREAS**, on July 20, 2004, Almighty God, in His infinite wisdom saw fit to call Robert to his heavenly home, and

**WHEREAS**, Reverend Lee served in the United States Air Force and was employed by CSX Railroad for 32 years, retiring as a bridge foreman in June of 1995, and

**WHEREAS**, Reverend Lee was a graduate of Florida Bible College in Lakeland, Florida and worked closely with the South Florida Progressive Association and Local Congress Number One. He also served as Deacon, Sunday School Superintendent, Trustee and Minister of Education at St. John and accepted the call into the ministry in 1983, and

**WHEREAS**, in 1985 Reverend Lee served as Assistant Pastor for ten years at Bible Baptist Church of Palmetto, Florida and since 1995 served as Pastor of Shiloh Missionary Baptist Church in his hometown of Arcadia, and

**WHEREAS**, Reverend Lee's leadership and guidance in his church, community, and family will be missed.

**NOW THEREFORE, BE IT RESOLVED**, by the City Council of Arcadia that by this memoriam the Mayor and Councilmembers express their sincere sympathy to Reverend Lee's wife Ophelia and their children on Arcadia's loss of one of its community leaders.

**BE IT FURTHER RESOLVED**, that this memoriam be made a part of the City Council minutes in recognition and appreciation of the leadership and spiritual guidance provided by Reverend Robert E. Lee, Sr., to our community so that all may know.

Regular Meeting  
August 3, 2004  
Continued

s/s Richard P. Fazzone  
Richard P. Fazzone, Mayor

s/s Paul P. Whitlock  
Paul P. Whitlock, Vice Mayor

s/s Sharon T. Goodman Ed. S.  
Sharon T. Goodman, Ed. S. Council Member

s/s Roosevelt Johnson, Ed.D  
Roosevelt Johnson, Ed.D. Council Member

Attest:

s/s Rachelle M. Baumann  
Rachelle M. Baumann, City Recorder

s/s Robert W. Heine  
Robert W. Heine, Council Member

A report of Police Fines and Forfeitures for the month of June 2004 indicates fines \$3,148.12, law enforcement \$18.00 and radios \$187.50.

The Police Activity Report for the month of July 2004 was presented.

Recorder Baumann addressed Council to recommend that the City enter into a contract with a collection agency to assist with the collection of past due utility and ambulance payments. The proposed contract with Gillum, Driskel & Associates, Inc. requires a contingency fee of 25% pre-legal and 45% legal. There are no fees if no revenue is collected and all accounts over \$50.00 will be reported to various credit reporting bureaus at no additional charge to the City. Heine moved to authorize Administrator Strube to sign a contract with Gillum, Driskel & Associates, Inc. for the collection of past due utility and ambulance payments; seconded by Whitlock and carried.

The Recorder's report of Revenues and Expenditures for the month of June 2004 was presented.

Recorder Baumann then addressed Council with the following recommendations from the Planning and Zoning Board meeting of July 13, 2004:

1. That the request of Ester Hand to continue to operate a child day care facility at 805 N. Roberts Avenue due to a change in ownership for no more than fifty-five (55) children be granted. Goodman moved to grant the request by non-transferable Resolution No. 2004-17 subject to all City, County and State codes being met; seconded by Whitlock and carried.

RESOLUTION NO. 2004-17

A RESOLUTION GRANTING A NON-TRANSFERABLE  
APPROVAL IN ZONING LAWS TO ESTER HAND TO OPERATE  
A CHILD DAY CARE FACILITY AT 805 N ROBERTS AVENUE  
AND SETTING FORTH CONDITIONS.

Regular Meeting  
August 3, 2004  
Continued

(Resolution 2004-17 continued)

WHEREAS, Ester Hand has requested approval in zoning laws to permit her to operate a Child Day Care Facility open Monday through Friday from 6:30 a.m. to 5:30 p.m., with no more than fifty-five (55) children at 805 N. Roberts Avenue and

WHEREAS, the Planning and Zoning Board has recommended that approval be granted based on the fact that a Nursery and Day Care Center has been permitted at this location, with Council approval since April 21, 1987,

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Arcadia, Florida, that Ester Hand be granted approval in zoning laws to permit her to operate a Child Day Care Facility known as Tender Care Child Center with no more than fifty-five (55) children approved by H.R.S. at 805 N. Roberts Avenue.

BE IT FURTHER RESOLVED that this approval is subject to the following:

1. All regulations and licensing required by the State, County and City, pertaining to child care be met.
2. The daily hours of operation shall be between 6:30 a.m. and 5:30 p.m.
3. The current plot use shall be in accordance with Section 110-281 (5) of the City Zoning Code.
4. This approval is non-transferable.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA  
in Regular Session this 3<sup>rd</sup> day of August, 2004.

/s/ RICHARD P. FAZZONE  
RICHARD P. FAZZONE  
MAYOR

ATTEST:

/s/ RACHELLE M. BAUMANN  
RACHELLE M. BAUMANN, CMC  
CITY RECORDER

2. That the request for annexation from the Church of Jesus Christ of Latter-day Saints located at 1760 NE Gibson Street be approved subject to F.S. 171.044. Whitlock moved to proceed with the annexation request from the Church of Jesus Christ of Later-day Saints; seconded by Johnson and carried.
3. That the request from Jamel and Christine Dahech to allow the residence at 102 Virginia Street to be converted into a duplex be approved as permitted by City Code Sec. 110-241 Uses Permitted 7-f. Goodman moved to grant the request to convert the residence at 102 Virginia Street into a duplex by Special Resolution No. 2004-18 subject to meeting all City, County and State codes being met; seconded by Johnson and carried.

Regular Meeting  
August 3, 2004  
Continued

RESOLUTION NO. 2004-18

A RESOLUTION GRANTING APPROVAL IN ZONING LAWS TO JAMEL AND CHRISTINE DAHECH TO CONVERT A SINGLE FAMILY RESIDENCE LOCATED AT 102 VIRGINIA STREET INTO A DUPLEX AND SETTING FORTH CONDITIONS.

WHEREAS, Jamel and Christine Dahech have requested approval in zoning laws to permit them to convert their single family residence at 102 Virginia Street into a duplex and,

WHEREAS, the Planning and Zoning Board has recommended that approval be granted after finding of their necessity and/or desirability for public convenience and/or welfare as allowed by City Code Sec. 110-241 Uses Permitted 7-f.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Arcadia, Florida, that Jamel and Christine Dahech be allowed to convert their single family residence at 102 Virginia Street into a duplex.

BE IT FURTHER RESOLVED that this approval is subject to the following:

1. All regulations required by the State, County and City be met.
2. The current plot use shall be in accordance with Section 110-241 (7-f) of the City Zoning Code.
3. A separate water meter will be installed in the new unit as per City Code Section 102-46.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA  
in Regular Session this 3<sup>RD</sup> day of August, 2004.

/s/ RICHARD P. FAZZONE  
RICHARD P. FAZZONE  
MAYOR

ATTEST:

/s/ RACHELLE M. BAUMANN  
RACHELLE M. BAUMANN, CMC  
CITY RECORDER

Regular Meeting  
August 3, 2004  
Continued

Administrator Strube addressed Council to present a proposed contract for administrative services of the City's Community Development Block Grant (CDBG) #04DB-IQ-07-24-02-H18 with Government Funding Specialist, Inc. Administrator Strube noted that the grant allows for up to 15% or \$105,000.00 to be allocated for administrative services, however Government Funding Specialist have agreed to a fee of 13% which equals \$91,000.00. Goodman moved to award a contract to Government Funding Specialist, Inc. in the amount of \$91,000.00 for administrative services of the CDBG Grant #04DB-IQ-07-24-02-H18; seconded by Johnson and carried.

Attorney Holloman addressed Council and presented a proposed ordinance concerning vehicle parking limitations in residential areas. Attorney Holloman reported that only two (2) towns in Florida have an ordinance regulating residential parking, they are the City of Gainesville and Palm Beach. He also noted that St. Augustine is currently working on one. Attorney Holloman recommends that this be referred to the Planning and Zoning Board for review, he would also like input from the community. It was noted that it took the City of Gainesville eighteen (18) months to adopt their ordinance. Attorney Holloman stated that section 7 of the proposed ordinance applies to future parking, the ordinance would allow current residences which are non-conforming to continue as they are. Goodman asked for clarification of the two (2) cars and was informed that current code states that 800 sq. ft. is needed for two (2) cars, each space requires 400 sq. ft.. Mayor Fazzone asked if they would also require that all vehicles be licensed and insured and was informed that those requirements are already in a separate ordinance currently in effect. Heine moved to recommend that the Planning and Zoning Board study the proposed ordinance and report back to Council with their recommendations; seconded by Whitlock and carried.

Administrator Strube reported that the joint City/County Fire Merger Committee has received several request for proposals which they will review and rank at their meeting next Tuesday.

The June 2004 Public Works report was presented.

The Fire Department report of ambulance runs and collections for the month of June 2004 was presented showing mutual aid given was 9, and mutual aid received was 0.

Mr. Baldy of Peace River Cab addressed Council to give a status report concerning the off street parking compliance at 106 Dickhaut Street. Mr. Baldy stated that he will be using the building as his residence only and will not operate his cab business from that location. He is in the process of moving his cab company into an office located at Pursells Wrecker and Towing Company. Lewis Wells with the Fire Department stated that Mr. Baldy will still need an occupational license for his company and a fire inspection of the entire building that Pursells operates out of, not just the office that Mr. Blady will occupy. Mr. Baldy will get with Mr. Pursell to see if he will still move into the office area.

Regular Meeting  
August 3, 2004  
Continued

Ms. Waldron addressed Council to complain that a trailer was allowed to be located in the City at the corner of Mills and Cypress. She was informed that it is not a trailer it is a modular home and meets all code requirements. Ms. Waldron then addressed the parking of junk cars and that dogs are allowed to run free in neighborhoods. No action was taken.

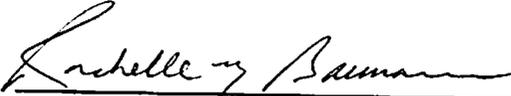
Pastor Lorenzo Dixon addressed Council to comment on the proposed parking ordinance to request that public notice be given so that he and others can attend. He was then informed that the Planning and Zoning Board meeting will be held on August 10, 2004 at 4:00 P.M. at which time the Board will discuss the proposed ordinance.

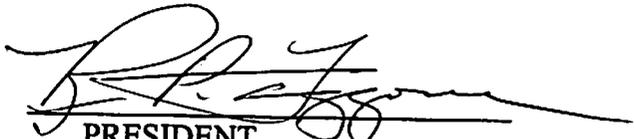
Fire Chief Rutherford announced that a Golf Tournament will be held on September 16, 2004 at the Longboat Key Club.

Ms. Adrienne Daly asked if there was an ordinance regarding junk cars and was informed that an ordinance is in effect and that the Marshal has recently tagged several junk cars.

Council Member Goodman thanked Marshal Lee and Fire Chief Rutherford for their staffs responsiveness regarding her daughters car accident last week.

There being no further business the meeting was adjourned.

  
CITY RECORDER

  
PRESIDENT