

MINUTES  
CITY COUNCIL  
CITY OF ARCADIA  
TUESDAY, MARCH 15, 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 Martha Craven  
Councilmember Sharon Goodman

**Arcadia City Staff**

City Administrator Lawrence Miller  
City Attorney William Galvano

City Recorder Dana Williams

Councilmember Goodman gave the invocation, which was followed by the Pledge of Allegiance and roll call. The Mayor announced that Dr. Johnson's absence was pre-arranged and that he was out of town.

**SPECIAL PRESENTATIONS**

1. EMPLOYEE OF THE MONTH - CAROL JONES

The Mayor announced Carol Jones of the Administrative Office had been named employee of the month for March and presented her with a plaque commemorating the honor along with the thanks of the City for all her efforts.

**CONSENT AGENDA**

2. MINUTES OF THE FEBRUARY 1, 2011 REGULAR MEETING
3. MINUTES OF THE MARCH 1, 2011 REGULAR MEETING
4. CHECK WARRANT FROM FEBRUARY 18 - MARCH 10, 2011
5. MOBILE HOME PARK REPORT - FEBRUARY 2011
6. AIR-CADIA FLOWAGE AND HANGER RENT REPORT FOR FEBRUARY 2011

On motion of Councilmember Goodman and seconded by Deputy Mayor Keene, the Council voted unanimously, 4-0, to approve items #2 through #6 of the Consent Agenda printed above.

**DISCUSSION ITEMS**

7. BANQUET ROOM RENTAL AGREEMENT

The City Administrator spoke to this item, saying it had come before the Council in January for feedback and that since then, had been reviewed and approved by the City Attorney for legal sufficiency.

Councilmember Craven asked about the issue of serving alcohol and the requirement for security. Deputy Mayor Keene recalled that no outside alcohol could be brought in, but that the City would control beer and wine sales.

**On motion of Deputy Mayor Keene with a second by Councilmember Goodman, the Council voted unanimously, 4-0, to approve the Banquet Room Rental Agreement and fees as presented.**

**8. CONSIDERATION OF THE COMPREHENSIVE PLAN UPDATE (EAR BASED AMENDMENTS)**

Ms. Jennifer Codo-Salisbury of the Central Florida Regional Planning Council gave a PowerPoint presentation on the amendment schedule of the Comprehensive Plan Update and EAR amendments. She briefly covered the purpose of the EAR amendments, overview of the proposed future land use changes, changes to the adopted plan element by element, the requirement for public input and the next steps for action in review and approval by the DCA.

The Mayor opened a public hearing to receive comments from the audience. Mr. Ernest Hewett asked several questions regarding urban sprawl, mapping properties which receive city services of sewer and water; and those with a potential or pre-annexation agreement. Ms. Codo-Salisbury responded to each question according to the requirements as set forth. Hearing no others come forward, the Mayor closed the public hearing portion.

The Deputy Mayor complimented Ms. Codo-Salisbury and the CFRPC on making the EAR amendments a reality, adding he had attended some of the fall meetings during which there were several informative discussions on the various components.

**On motion of Deputy Mayor Keene with a second by Councilmember Goodman, the Council voted unanimously, 4-0, to approve the EAR based amendments as presented and transmit them to the Department of Community Affairs for review.**

**9. ARCADIA MUNICIPAL MOBILE HOME PARK**

The Assistant City Administrator spoke to the Council about the analysis of the vacant and converted mobile home lots within the Mobile Home Park; and the possibility of converting the 9 larger lots on the south side of the park from RV to mobile home as depicted in the agenda report. She continued that if the council wished to change the intent from recreational vehicle to mobile home, the park's prospectus will need to be amended and submitted to the Department of Business and Professional Regulations, at no cost other than staff and legal counsel time to prepare and review. The Assistant City Administrator also pointed out that once those lots are filled by mobile homes an increase in gross revenue of \$18,468 would be realized less average utility costs for a net amount of \$11,757.

**On motion of Deputy Mayor Keene with a second by Councilmember Goodman, the Council voted unanimously, 4-0, to approve the conversion of the 9 larger RV lots on the south side of the mobile home park back into mobile home lots and amend the prospectus accordingly.**

**10. REQUEST TO USE SMITH-BROWN GYM AND WAIVER OF RENTAL FEES FOR SPECIAL EVENTS MARCH 21-25 AND MARCH 26, 2011 BY THE DESOTO CO. HOMELESS COALITION**

Ms. Valerie Gilchrist, President of the DeSoto County Homeless Coalition covered her request for a special event permit for the Spring Break Camp to be held at the Smith-Brown Gym March 21 -25, 2011 and the Talent Show/Social to be held Saturday, March 26, 2011. She briefly covered the numerous planned activities to be held throughout each day and requested equipment rental of tables and chairs with the rental fee to be waived. Ms. Gilchrist also noted that Mark Stewart of Stewart Construction had donated much of the food to be served that week.

Councilmember Goodman expressed her excitement about the program and commended Ms. Gilchrist and the Coalition on their efforts. She then made a motion to approve the Spring Break Camp and Talent Show/Social to be held March 21 - 26, 2011 including a fee waiver for the table & chair rental. Deputy Mayor Keene provided a second to the motion, which passed unanimously, 4-0, upon voice vote of the Council.

**RESOLUTIONS**

**11. RESOLUTION 2011-04, AMENDING THE CDBG TRANSITION PLAN**

The Assistant City Administrator reported the ADA doors at the Golf Course were in need of repair and that according to the CDBG Administrator, if there were remaining funds at the end of the housing rehabs, this repair could be paid for through that grant. She estimated the cost of repair at \$8,000.

The City Recorder read Resolution 2011-04 by title. On motion of Deputy Mayor Keene with a second by Councilmember Craven, the Council voted unanimously, 4-0, to approve Resolution 2011-04 as it appears below.

**RESOLUTION NO 2011-04**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, AMENDING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) TRANSITION PLAN, AS PREVIOUSLY ADOPTED IN THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS AND PROJECTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*WHEREAS*, The City of Arcadia finds it in the best interests of the community to participate in the Community Development Block Grant (CDBG) program as a way to provide improvements needed for the benefit of everyone in the community; and

*WHEREAS*, the adoption of certain plans and policies are required for eligibility for CDBG funding;

*WHEREAS*, Resolution 2010-11, approved on October 19, 2010 was done for

that purpose; and

*WHEREAS*, from time to time during the course of business, modifications to the components of the plan are found to be needed; and

*WHEREAS*, the City Council desire to modify the Transition Plan as set forth herein.

*NOW THEREFORE, BE IT RESOLVED* BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA:

1. The Transition Plan for Section 504 Compliance, as adopted October 19, 2010 is hereby amended as noted in "Attachment A."

2. This Resolution shall take effect immediately upon its passage.

*PASSED AND ADOPTED* this 15<sup>TH</sup> day of MARCH 2011

By: /s/  
Robert W. Heine, Mayor

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

Approved as to form and correctness:  
/s/ William S. Galvano, City Attorney

"Attachment A"

**TRANSITION PLAN  
FOR SECTION 504 COMPLIANCE**

Facility	Modifications Needed	Currently In Compliance? Yes or No	Target Date for Compliance
Margaret Way Building		Yes	N/A
Speer Center	1) Front entry doors to be automated 2) Repairs needed to handicap ramp	No	6/30/11
Water Treatment Plant	None	Yes	N/A
Wastewater Treatment Plant	None	Yes	N/A
Airport	None	Yes	N/A
Garage	None	Yes	N/A
Golf Course	Maintenance of frame and hinges required to maintain compliance	Yes	6/30/2011
MHP Building	None	Yes	N/A

Smith Brown Gym	None	Yes	N/A
Fire Station #2	None	Yes	N/A
Chamber of Commerce	None	Yes	N/A

Ms. Candy Brooks, Guardian CRM, discussed a recent letter received from the DCA regarding the timeline on the existing projects. The City Administrator added that the letter to which Ms. Brooks was referring had been received by him with a copy to the Mayor making the City aware the DCA did not believe Arcadia could make the proposed deadline on their projects. He also stated that of the 10 homes slated for rehab, six had been awarded to various contractors and three have issues with the SHIP funding. Ms. Brooks added the project lost one applicant as of today, but that four have signed the contract for the demo/reconstruction with another expected to be signed on Friday. She continued there was some difficulty in finding applicants who qualify for the more stringent SHIP funds, as they were not used as leverage. She went on to say there may be a slight shift in focus but all indications are to have the remaining contracts completed within the next 30 days.

Ms. Brooks also stated that currently the city's housing assistance plan only allows for \$30,000 per home and that while many of the projects in the grant program are going to be demolition and reconstruction rather than rehabbed, she would be asking for an allowance by the Council to spend more than \$30,000 per home. In addition, there is only \$50,000 allotted for temporary relocation during the construction, so four of the applicants may be asked to handle the relocation costs on their own. Ms. Brooks stated that although they will try to utilize SHIP funding if possible, it is not feasible to lose \$700,000 so that \$200,000 can be used.

Deputy Mayor Keene made a motion to increase the ceiling on CDBG funds from \$30,000 per home not to exceed \$65,000 per home if the SHIP funds are not available. Councilmember Goodman provided a second to the motion, which passed unanimously, 4-0, upon voice vote of the Council.

## ORDINANCES

### 12. PUBLIC HEARING AND SECOND READING OF ORDINANCE 964 RELATED TO NUISANCES

The City Recorder read Ordinance 964 by title. The Mayor opened a public hearing to receive comments, but with no one coming forward to speak, he closed the public hearing and turned the matter over to Council for their consideration.

On motion of Councilmember Goodman, with a second by Deputy Mayor Keene, the Council voted unanimously, 4-0, to adopt Ordinance 964 on second reading. The Ordinance in its entirety reads as follows:

#### ORDINANCE NO. 964

#### AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA, A

**MUNICIPAL CORPORATION, RELATED TO NUISANCES;  
AMENDING AND RESTATING ARTICLE IV OF CHAPTER 50 OF  
THE CODE OF ORDINANCES, CITY OF ARCADIA, FLORIDA;  
PROVIDING FOR THE REGULATION OF NUISANCES WITHIN  
THE CITY; 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 amend and restate in its entirety Article IV of Chapter 50 (Environment) to read as follows:

**Article IV. NUISANCES**

**Sec. 50-101. Definition, enumeration of unlawful conditions or acts.**

Every condition, substance, or activity within the city which exists or occurs in such manner and to such extent as to threaten or endanger the public health, safety, or welfare, or adversely affect and impair the economic welfare of adjacent property, is hereby declared to be a nuisance. Without in any way limiting the foregoing definition, the following conditions, substances, and activities are hereby specifically declared to be a nuisance within the intent and meaning of this section:

- (a) Low places upon any lot, tract or parcel of land, improved or unimproved, within one hundred (100) feet of the boundary line of any improved property within the city to the extent and in the manner that such lot, tract or parcel of land is or may reasonably become a breeding place for mosquitoes, or may reasonably cause disease, or otherwise threatens or endangers the public health, safety or welfare, or is likely to adversely affect and impair the economic welfare of adjacent property.
- (b) The accumulation or maintenance of trash, filth, rubbish, garbage, dead animals or fish, improperly treated sewage or other materials in such manner and to the extent as to cause infestation by rodents and other wild animals, the breeding of mosquitoes and vermin, or that threatens or endangers the public health, safety or welfare, or is likely to adversely affect and impair the economic welfare of adjacent property.
- (c) The existence of excessive accumulation or untended growth of weeds, undergrowth or other dead or living plant life upon any body of water, lot, tract or parcel of land, improved or unimproved, within one hundred (100) feet of the boundary line of any improved property within the city to the extent and in the manner that such lot, tract or parcel of land is or may reasonably become infested or inhabited by rodents, vermin or wild animals, or may furnish a breeding place for mosquitoes, or threatens or endangers the public health, safety or welfare, or may reasonably cause disease, or is likely to adversely affect and impair the economic welfare of adjacent property.
- (d) Partition fences, buildings or other structures which have fallen into such a poor state of repair to the extent and in the manner that they may reasonably become infested or inhabited by rodents, vermin or wild animals, or may threaten or endanger the public health, safety or welfare, or is likely to adversely affect and

impair the economic welfare of adjacent property.

(e) The unauthorized accumulation or maintenance of lumber, stone, concrete, sand or any other building or construction material on a lot, tract or parcel when construction activity is not actively taking place on the property, in such manner and to the extent as to threaten or endanger the public health, safety or welfare.

(f) Landscaping or other obstacles located in or protruding into a public right of way so as to create a traffic or pedestrian hazard, or otherwise threaten or endanger the public health, safety and welfare.

(g) Any foul, offensive or unlawful emissions, odors or stench and the causes thereof which threatens or endangers the public health, safety and welfare, or which is likely to adversely affect and impair the economic welfare of adjacent properties.

(h) The pollution of any well, water body or drainage system by sewage, dead animals, industrial waste, debris or any other substance so as to threaten or endanger the public health, safety and welfare.

(i) The partial or total blockage of any drainage inlets, outfalls, pipes, ditches, swales, canals, channels, culverts or streams so as to threaten or endanger the public health, safety and welfare.

(j) Tampering or interference with any public facilities maintained for the purpose of furnishing sewer, potable water, reclaimed water or telecommunication services to the public, so as to threaten or endanger the public health, safety and welfare.

(k) Any condition constituting a flood or fire hazard so as to threaten or endanger the public health, safety and welfare.

(l) Any activity or condition that is declared elsewhere in this Code of Ordinances or other applicable law to be a nuisance.

(m) Any trees, shrubs, or other landscaping material, or parts thereof, that threaten or endanger the public health, safety or welfare, or adversely affect and impair the economic welfare of adjacent properties, as a result of either of the following conditions:

(1) A contagious disease or infestation is found on a tree, shrub or other landscaping material; or

(2) Disease, vines, insects, age or other defect has caused a tree, shrub or other landscaping material, or part thereof, to be unstable such that there exists a reasonable likelihood that it will fall upon any sidewalk, street or building, or result in injury to person or property.

(n) Any unauthorized disturbance of land where a permit for such activity is required, including but not limited to alteration of the grade or contour of land, or the removal of vegetation from land, that may increase surface water runoff onto neighboring properties or otherwise threaten the public health, safety or welfare.

(o) Any activity or condition which is manifestly injurious to the morals or manners of the public, as described in F.S. § 823.01.

(p) Any noise or vibration which unreasonably and substantially interferes with the comfort, health, repose, or safety of the general public, giving consideration to factors such as the time of day, the nature of the noise or vibration, the existence of background noises and vibrations, and the locality from which the noise or vibration is emanating.

**Sec. 50-102. Prohibition and enforcement.**

(a) Nuisances are hereby prohibited. It shall be unlawful for any person to cause such nuisance to come into existence anywhere within the city, or to permit the same to exist on property owned, leased, occupied or otherwise under the control of such person.

(b) This article may be enforced against any violator, which may include the owner of the premises on which a nuisance exists, or the person or persons generating the nuisance.

(c) This article shall be enforced as provided for by Florida law, including referral or citation to the city's code enforcement board, issuance of a citation as may be provided for by city ordinance, the entering onto the property and the abatement of the nuisance by the city, or the filing of an action in a court of competent jurisdiction to obtain civil remedies, including a restraining order, injunction and damages. Any enumeration of enforcement mechanisms set forth herein is supplemental and not exclusive.

**Sec. 50-103. Sanitary nuisance.**

(a) A sanitary nuisance is the commission of any act, by an individual, municipality, organization, or corporation, or the keeping, maintaining, propagation, existence, or permission of anything, by an individual, municipality, organization, or corporation, by which the health or life of an individual, or the health or lives of individuals, may be threatened or impaired, or by which or through which, directly or indirectly, disease may be caused. Not all nuisances are sanitary nuisances.

(b) Abatement of sanitary nuisances shall occur in the same manner as provided for all other nuisances pursuant to this article, except that the city is required to give only ten (10) days' notice to abate the sanitary nuisance or request a hearing.

**Sec. 50-104. Notice.**

(a) If the city administrator, city marshal, or any designee of either finds and determines that a nuisance exists, he shall so notify the record owner or owners of the property on which the nuisance exists in writing and demand that the owner cause the condition to be remedied. All notices required by this section shall be provided to the alleged violator either by:

(1) Certified mail, return receipt requested, sent to a property owner at the address listed in the county tax collector's records for tax notices. Mailed notice to a person who is not owner of the property where the violation is located shall be to

the street address of the property where the violation is located; or

(2) Regular mail sent to a property owner at the address listed in the county tax collector's records for tax notices, and posting for at least ten (10) days in at least two (2) locations, one (1) of which shall be the property upon which the violation is alleged to exist and the other of which shall be at city hall. Mailed notice to a person who is not owner of the property where the violation is located shall be to the street address of the property where the violation is located. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(b) The notice shall be sufficient if in substantially the following form:

NOTICE OF NUISANCE

[Date: \_\_]

[Name of Owner]

[Address of Owner]

Our records indicate that you are the owner(s) of the following property in the City of Arcadia, DeSoto County, Florida:

[Description of property]

An inspection of this property discloses, and I have found and determined, that a nuisance exists thereon so as to constitute a violation of the City of Arcadia Nuisance Law (Chapter 50, Article IV of the City of Arcadia Code of Ordinances) by virtue of the following condition or activity:

[Description of condition which places the property in violation]

You are hereby notified that you must remedy the above described condition so as to bring it into compliance with the City of Arcadia Code of Ordinances or request a hearing pursuant to the City of Arcadia Code of Ordinances, section 50-105, within twenty (20) days from the date hereof, or within such time as the city administrator, city marshal, or the designee of either shall determine to be reasonable. Failure to remedy the nuisance or request a hearing within the specified time period will be deemed a waiver of your right to a hearing and the city may proceed thereafter to remedy this condition. The cost of the work, including abatement and/or removal costs, noticing costs and other expenses, will be imposed as a lien on the property if said costs are not paid within thirty (30) days after receipt of billing by the city.

The City estimates the total cost of abatement and/or removal to be approximately \$\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ but in no way represents or guarantees that actual costs will not exceed this amount.

City of Arcadia

By: [Name & title]

[Address & phone number]

(c) If the city administrator, city marshal, or the designee of either finds and determines that a nuisance exists which presents an immediate danger or threat to the health or life of an individual, he shall provide the record owner or owners of the

property on which the nuisance exists with written notice personally served by a law enforcement officer upon the owner or owners of the property or upon an occupant of the property that is fifteen (15) years of age or older, and demand that the owner cause the condition to be immediately remedied. If the condition or activity constituting a nuisance which presents an immediate danger or threat to the health or life of an individual is not remedied within twenty-four (24) hours of the provision of notice hereunder, or within such other time period deemed reasonable by the city administrator, city marshal, or the designee of either, the city may cause the condition or activity to be remedied by the city at the expense of the property owner.

(d) If the city administrator, city marshal, or the designee of either is unable to locate within twenty-four (24) hours the owner or owners of the property upon which there exists a nuisance which presents an immediate danger or threat to the health or life of an individual, the city administrator, city marshal, or the designee of either may cause the condition or activity to be remedied by the city at the expense of the property owner, and provide the property owner with notice thereof subsequent to such action. The failure of the city administrator, city marshal, or the designee of either to provide prior or subsequent notice to a property owner, after reasonable efforts to locate such owner have been unsuccessful, shall not cause remedial action taken pursuant to this subsection to be invalid or unlawful.

(e) If the cost of abating the nuisance, and the subsequent filing of a city lien in accordance with section 50-106, would act to severely and drastically diminish the interest of a lien holder on the property, the city shall notify, in the same manner as the owner of the property, the lien holders whose interest in the property is properly recorded with the clerk of the circuit court.

#### **Sec. 50-105. Hearing.**

Within such time period as indicated in the provision of notice to abate, as required by sections 50-103 and 50-104 herein, the owner of the property may make written request to the city recorder for a hearing before the code enforcement hearing officer, on a form provided by the city, to show that the condition or activity alleged in the notice does not exist or that such condition or activity does not constitute a nuisance. At the hearing, the city administrator, city marshal, or the designee of either and the property owner may introduce such evidence as is deemed necessary. The property owner shall have the right to be represented by counsel. The hearing shall be open to the public and may be held at any regular or special meeting of the code enforcement hearing officer. Following a review by the code enforcement hearing officer, the owner will have exhausted his administrative remedies.

#### **Sec. 50-106. Abatement by city; expenses; lien.**

(a) If a hearing has not been requested within the timeframes set forth in sections 50-103 and 50-104 herein, and the condition or activity described in the notice has not been remedied, the city administrator, city marshal, or the designee of either may cause the condition or activity to be remedied by the city at the expense of the property owner. If the hearing has been held and concluded adversely to the property owner, the city administrator, city marshal, or the designee of either may cause the condition or activity to be remedied by the city at the expense of the property owner.

(b) After causing the condition or activity to be remedied, the city administrator, city marshal, or the designee of either shall certify to the city recorder the expense incurred in remedying the condition or activity and shall include a copy of the notice above described, and a copy of the decision of the code enforcement hearing officer, if any, whereupon such expense shall become payable within thirty (30) days after the date of such certification, after which a special assessment lien and charge will be made upon the property, which shall be payable with interest from the date of such certification until paid.

(c) Upon receipt of the certification of expense, the city recorder shall notify the record owner or owners of the property in writing of the amount of such expense. The notice shall be given in like manner as provided in section 50-104, except that if the notice is returned by postal authorities, no further notice shall be required. Such notice shall advise the owner or owners of the amount of expense, the date of certification to the city recorder, the date by which the expense is due and payable, and a statement that the expense shall become a lien after said date. The property owner may, at any time prior to the date on which the expense becomes a lien, make written request to the city recorder for a hearing before the code enforcement hearing officer to contest the amount of the expense. Upon filing of such request, the expense shall not become a lien until a final decision is made by the code enforcement hearing officer. The hearing on the amount of the expense shall be conducted substantially as provided for in section 50-105. At the hearing, the property owner and the city administrator, city marshal, or the designee of either may present evidence only as to the reasonableness of the expense amount under the circumstances. Provided, however, that if the expense resulted from the city performing abatement measures pursuant to subsection 50-104(d) of this division, the parties also may present evidence showing that the condition or activity alleged in the notice did or did not exist, or that such condition or activity did or did not constitute a nuisance. Following review by the code enforcement hearing officer, the owner will have exhausted his administrative remedies. The code enforcement hearing officer shall enter a written order either affirming the certified expenses or reducing them, or, where city action was taken pursuant to subsection 50-104(d) and no violation is found to have occurred, declaring that there is no basis for imposition of expenses. Upon entry of such order, the amount of charges approved therein shall become a lien and bear interest as provided in subsection (b) of this section.

(d) All liens created by action of this division shall be a first lien equal to a lien for nonpayment of property taxes, on any property against which an assessment for costs to abate the nuisance has been filed, and shall continue in full force from the date of recording until discharged by satisfaction. The lien shall be enforceable in the same manner as a special assessment lien in favor of the city as provided in F.S. ch. 173, and may be satisfied at any time by payment thereof, including accrued interest. Upon payment of the lien, including accrued interest, the city recorder shall, by appropriate means, evidence the satisfaction and cancellation of the lien upon the record thereof. Notice of the lien shall be filed in the office of the clerk of the circuit court and recorded among the public records of DeSoto County within five (5) days of the charges under this section becoming a lien.

(e) Administrative costs and applicable attorney's fees for abating the nuisance shall be included in the total cost for abating the nuisance and such total costs shall comprise the lien which may be imposed upon the property by action of this division.

**Sec. 50-107. Notification of owner and other interested parties upon removal of property by city.**

(a) *Notice.* Upon taking possession of the nuisance, if an object or thing, the city shall furnish notice in accordance with this section by regular mail to the owner of the property upon which such nuisance was located and to the owner of the object or thing, if known to be different, at the last known address, within ten (10) days of the date when possession of the object or thing was taken.

(b) *Notice by publication.* If there is inability to identify the current owner of the object or thing constituting nuisance, it shall be sufficient notice under this section to publish the notice described above once in a newspaper of general circulation in the city. Such notice by publication may include multiple listings of objects and things.

**Sec. 50-108. Immunity of city personnel.**

The city administrator, city marshal, or the designee of either shall be immune from prosecution, civil or criminal, for trespass upon real property while discharging his duties pursuant to this chapter.

**Sec. 50-109. Remedies cumulative.**

Any action taken pursuant to this chapter, in regard to the disposal, abatement or removal of the conditions declared nuisances shall be considered cumulative and in addition to penalties and other remedies provided elsewhere in this article, in other ordinances of the city, and under the laws of the state and the United States of America.

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.

SO DONE this 15<sup>th</sup> day of MARCH 2011.

By: /s/ Robert W. Heine, Mayor

ATTEST:

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

Approved as to form:  
/s/ William S. Galvano  
City Attorney

First Reading: 3/1/11  
Second Reading: 3/15/11

**13. FIRST READING OF ORDINANCE 965, AMENDING THE SIGN CODE**

The City Recorder read Ordinance 965 by title as follows:

**ORDINANCE NO. 965**

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

Councilmember Craven, in opposition to this proposed ordinance, distributed copies of an informal survey designed to gauge the public's interest in an electronic sign at the corner of Highways 17 and 70; the results of which showed 72-15 opposed. Mrs. Craven expressed that she did not believe the proposed sign fit into the historic character of Arcadia and that the Planning & Zoning Board, with the assistance of a professional planner, had worked very hard in the recent months to rewrite the Sign Code. Councilmember Craven added that while she is not opposed to a new sign for the Chamber, she is not in favor of this type of sign.

The City Administrator challenged the validity of the survey, saying it was not scientific and doesn't equate to even 1% of the voters. He felt that a more scientific survey available to all who live in the City would carry more weight so that an informed decision could be made. Mrs. Craven acknowledged the survey was not scientific, but added she had done it on her own simply to get a sense of the public's position.

The Deputy Mayor stated the concept of the electronic sign came from him as a project for the Leadership DeSoto class; but that it was not his intention to cause controversy. He distributed a few photographs of the existing signage and a proposed rendering for a new sign; adding that McSwain Park is under utilized and could be a hub of activity for the City. He would like to see the area enhanced to a destination, rather than as a pass through and believes there is "tons of opportunity" available with this being a "noble and timely" window to do so.

On motion of Councilmember Goodman, with a second by Deputy Mayor Keene, the Council voted 3-1 to approve Ordinance 965 on first reading. Councilmember Craven cast the dissenting vote.

**COMMENTS FROM DEPARTMENTS**

**14. CITY MARSHAL**

The City Marshal had no report.

**15. ATTORNEY**

**A) FIRST AMENDMENT TO THE CITY ADMINISTRATOR CONTRACT**

The City Attorney stated that he had reviewed a previous meeting's minutes and that there had been a substantive vote to extend the Administrator's contract. He continued that this item on the agenda is perfunctory and that unless the Administrator objects to the terms, the

first amendment conforms as directed by Council.

The City Attorney briefly mentioned the plan the Marshal had recommended regarding demolition of dilapidated structures, saying there was no problem with the easement and that the City will be able to utilize the plan.

The City Attorney also reported that he has a meeting scheduled for the following day regarding the Craig A. Smith case and hopes for progress in that regard.

#### 16. ADMINISTRATOR

The City Administrator stated the deadline for the City Recorder advertisement was coming to an end and that resumes have been slow to come in. He thought perhaps one reason was that the City of St. Pete Beach is also advertising for a City Clerk and offering a salary range higher than Arcadia. Councilmember Craven asked if any of the applicants thus far were qualified, to which the City Administrator answered several were qualified though not to a certified standard.

The Administrator then reported that he had attended a Small Business Conference sponsored by Congressman Vern Buchanan, which was very insightful and informative. He added he had met different representatives from both non-profit and governmental organizations designed to assist in economic development; and that he had discussed the possibility of doing the same type of program in Arcadia for the benefit of its citizens. Congressman Buchanan was receptive to the idea and will be working with the Administrator to coordinate the event.

The Administrator informed the Council he had met with Louise Tyner and Eva Lowe regarding the use of the softball fields on Arcadia Avenue and that they will be working with DCYAA to maintain the fields and schedule softball activities.

The City Administrator stated he had received a letter from Attorney Paul Seusy regarding installation of brick pavers at Monroe and Oak Streets. Mr. Seusy is willing to pay for the bricks although he does not have all the money at this time and would like to have the bricks installed then repay the City with a promise to do so on or before June 10, 2011. Dr. Miller estimated the cost to be approximately \$925.

**On motion of Deputy Mayor Keene and seconded by Councilmember Craven, the Council voted unanimously, 4-0, to front the payment for brick pavers on the sidewalk of Monroe and Oak Streets in front of Attorney Paul Seusy's office with the condition the money will be repaid on or before June 10, 2011.**

The City Administrator mentioned a couple of quick items. First that he had received two nice letters concerning employees, the first Tim Boone from the cemetery and the second, Valerie Bonett at the Pro Shop. He also distributed a letter received from the DeSoto County Historical Society regarding the Way Building renovations, and in responding to them, noted he was trying to strike a fine balance between the past and the future; namely by being respectful of the past but looking towards the future. He continued that in his letter he addressed certain

compliance issues such as ADA and that the recent stucco wasn't the first time the building had been done. And finally, in that regard, there was no issue surrounding the stucco project other than having followed the guidelines and direction of council. The Administrator read from the minutes from the May 2, 1995 meeting where procurement policies for CDBG funds were addressed. He went on to say that as far as advertising and bids were concerned, the administrator was allowed to go out and award contracts, which is consistent with what was established policy prior to his arrival in Arcadia.

### PUBLIC

Ernest Hewett, 3587 NW Poultry Street, expressed agreement with Councilmember Craven's position regarding the sign ordinance. He stated the City Attorney's partner had issued at least three warnings at the last meeting about creating a "slippery slope" by amending the Code to accommodate a single request and also that it was a "slap in the face" to the Planning & Zoning Board to not have their recommendation prior to ordinance consideration. Dr. Hewett also pointed out that the idea for the sign was Mr. Keene's but that his employer was currently President of the Chamber. Further, Dr. Hewett stated it was "unconscionable" for the Administrator to have berated a Councilmember for having taken a survey; and that if an electronic messaging sign is allowed at Highways 17 & 70, there will be at least four other businesses at those intersections requesting the same consideration.

Mr. Ernest Morgan spoke about the Florida sign law that allows for placement of a sign anywhere one wants it and saying anything one wants to.

Ms. Genie Martin belatedly thanked the Council for having proclaimed Genie Martin Day some months ago. Ms. Martin also felt Councilmember Craven has done more to improve the City, through her own resources and because of her caring for Arcadia. She expressed appreciation to Mrs. Craven for gathering the survey list; adding that she doesn't object to a sign in the park, but does object to the electronic part calling it distracting and comparing it to one which would be in Las Vegas. She felt the money being raised should be used to beautify the park instead.

Ms. Janie Watson agreed with making McSwain Park more of a destination, but felt Leadership DeSoto should start with the basics by installing the amenities first.

Ms. Sadie Woods, of the Guardian Ad Litem Program, noted that April was Child Abuse Prevention Month and requested permission to "Paint the Town Blue" as has been done in the past by placing blue ribbons on the lampposts between Monroe Street and Rte. 17 South. She assured the Council she would have all ribbons removed by the 5<sup>th</sup> of May. Ms. Woods also mentioned the program needs child advocates and foster homes.

**On motion of Councilmember Goodman with a second by Deputy Mayor Keene, the Council voted unanimously, 4-0, to support Child Abuse Prevention Month and permit the "Paint the Town Blue" campaign.**

Mr. Greg Smith pointed out that not only does the Turner Agri-Center have an electronic sign, but also the former Best Western Motel has one, and that he doesn't see any

problem with the placement of an electronic messaging sign as proposed therefore he is in support of it.

Ms. Adrian Daly questioned whether the Administrator was planning to raise the salary of the City Recorder's position so as to be competitive with St. Pete Beach. The Administrator answered he was not proposing that, but had mentioned it as an explanation of why the city hasn't received as many resumes as expected.

### MAYOR AND COUNCIL MATTERS

Councilmember Craven asked the Administrator if he would consider asking the current City Recorder to stay until she found another position or until a qualified applicant was found. The Administrator responded that staff was his responsibility and would like to have the opportunity to speak with staff before discussing these things publicly. Councilmember Goodman agreed with Mrs. Craven, saying she appreciated the job Ms. Williams has done. She also encouraged the Administrator to speak with the Recorder and not wait for a specified timeframe.

Deputy Mayor Keene reported the organizational meeting of Team Arcadia occurred last week and that the concept will help carry Arcadia in a direction it needs to go. He continued that the City needs to thank those that have helped initiate the process; and requested the City Administrator to compose a letter of appreciation to the DeSoto County Health Department and Arcadia Main Street for co-sponsoring the Downtown Improvement Concept and serving as a foundation for where [we] are today.

Deputy Mayor Keene also expressed that his hope with the electronic sign was that the message could be changed easily but not to have some scrolling or blinking distraction. He also suggested focusing on the positive and leaving the negative behind by making things happen rather than staying stuck in the "why can't we" by determining how "we can."

Councilmember Goodman agreed, saying it was a shame to not concentrate more on the positive.

The City Recorder reminded everyone of a workshop on airport issues to be held Tuesday, March 22<sup>nd</sup> at 5 PM and Aviation Day this Saturday, March 18<sup>th</sup>, 2011.

The City Administrator added that in the spirit of what Mr. Keene spoke about, he wanted to publicly state he was not berating Councilmember Craven, but actually looking forward to working with her on the Economic Development Small Business Conference. He continued it was not personal but rather about getting the job done; and that he respects her in terms of what she has done for the community.

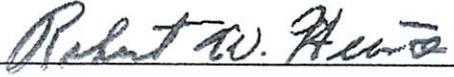
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ADJOURN

Having no further business at this time, the meeting was adjourned at 7:55 PM.

APPROVED THIS 5<sup>th</sup> DAY OF APRIL 2011.

By:

  
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Robert W. Heine, Mayor

ATTEST:

  
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Dana L.S. Williams, CMC, City Recorder