

**MINUTES
CITY COUNCIL
CITY OF ARCADIA
TUESDAY, AUGUST 7, 2012
6:00 PM**

CALL TO ORDER, INVOCATION PLEDGE OF ALLEGIANCE & ROLL CALL

The meeting was called to order at approximately 6:00 p.m.

Arcadia City Council

Deputy Mayor Alice Frierson
Councilman Robert R. Allen
Mayor Keith Keene

Councilman Joseph E. Fink
Councilman Robert Heine

Arcadia City Staff

City Administrator Judi Jankosky
City Attorney Thomas J. Wohl
Captain Matt Anderson
Carrie Taylor, Golf Course
AJ Berndt, WTP

City Recorder Virginia S. Haas
Marshal Charles Lee
Jerry Cordes, Public Works
Fred Lewis, Systems

Deputy Mayor Alice Frierson gave the invocation which was followed by the Pledge of Allegiance.

PRESENTATION

July Employee of the Month – Denise Musselwhite

Mayor Keene read and presented a plaque to Mrs. Denise Musselwhite for earning the July employee of the month.

CONSENT AGENDA

1. Minutes of July 10, 2012 Budget Workshop Meeting
2. Minutes of July 17, 2012 Regular Meeting
3. Minutes of July 19, 2012 Workshop Meeting
4. Minutes of July 24, 2012 Budget Workshop Meeting
5. Check warrants from 07/17/12, 07/19/12, 07/20/12, 07/25/12, 07/27/12, 07/31/12, 08/01/12 and 08/02/12

A motion was made by Councilman Heine and seconded by Councilman Fink to approve consent agenda items 1 – 5 as presented. The motion carried 5-0.

DISCUSSION ITEMS

6. Award CDBG Administrative Services

Mrs. Jankosky reported that staff reviewed five submittals and ranked each firm accordingly. She stated that the top ranked firm Guardian received a total of 485 points and recommended Guardian to be awarded the CDBG Administrative Services.

A motion was made by Councilman Heine and seconded by Councilman Fink to award Guardian the CDBG Program Administration Services for FFY 12/13. The motion carried 5-0.

7. Update on Discussion with Sheriff Wise regarding Law Enforcement Services

Mrs. Jankosky reported that she spoke with Sheriff Wise and a memo was provided in the packet for Council's review. Councilman Fink explained that according to global 5 of 97 the third paragraph of the minutes the Council asked for a specific cost analysis and an agreement and this information provided neither. He stated that this is not what the Council requested and he would like to go back and have a proposal put forward. He reiterated that this was not what the Council asked for unless we are now changing what we asked for. Mrs. Jankosky replied that they did discuss some numbers in general. She stated that Sheriff Wise said he could not touch the \$1.4 million as provided by the Arcadia Police Department. Staff alone, newer equipment and more training would be \$1 million to start and add 12 new vehicles and equipment to that number. Sheriff Wise said he could not do it for \$1.4 million. Mayor Keene reiterated that Councilman Fink wanted to see some numbers.

Deputy Mayor Frierson asked what purpose are the numbers if the Sheriff can't do it for \$1.4 million. Councilman Fink replied if we are asking to have service at the same level, the administration costs will go down considerably in a consolidation because the administrative staff is already in place. He added there are several people who do not work as Officers and their positions would be eliminated. He stated we don't have to do this and we can go back against what we asked originally. Councilman Allen inputted that he didn't think we needed to go any further at this time.

Councilman Heine said he didn't know the Deputies were making that kind of money and agreed that we didn't need to go any further. He then called for a motion to that effect. Councilman Allen seconded the motion. Mayor Keene thanked Mrs. Jankosky for the information. The motion carried 4-1 with Councilman Fink dissenting.

Mayor Keene stated this information would be useful in assisting the Council in the level of service since the budget is not yet completed.

8. Mobile Home Park RV Rate Schedule

Mrs. Jankosky reported that last year when the rates were raised we said we would analyze the expenses and they found that the Mobile Home Park did make money last year. As a good will gesture they would like to put forward a tiered rate to help those that were struggling at \$400 per month. Mrs. Carol Anderson responded to Deputy Mayor Frierson that there are 43 RV spaces. Mrs. Jankosky responded to Councilman Heine that the City's fees of \$400 per month were less than the average at other parks because the City pays the electric charges.

Mayor Keene confirmed that the request is rent decreasing as time goes on and leveling out at \$350 for the balance of the stay.

Councilman Heine made a motion to approve the tiered Mobile Home Park RV Rate Schedule as presented. The motion was seconded by Deputy Mayor Frierson and carried 5-0. Motion carried 5-0.

9. Property Insurance Schedule Review

Mrs. Jankosky reported this item does not require a motion only consideration. Mr. Ambler stated that this review pertains to the values that the buildings are insured as compared to the appraised values. He stated he has talked about this item a number of times and the policy renews October 1st. He requested that the Council appoint one member to sit on a committee with himself, Mrs. Jankosky and Ms. Haas to review the 92 items. Mrs. Jankosky stated she has been in touch with Department Heads regarding the list as well. Mr. Ambler explained that the caveat is that the City received FEMA money on some buildings following Hurricane Charlie and this requires the City to carry insurance at least for the amount that was received on those buildings however it has been eight years. The Insurance Company and FEMA had database access but that is now closed. If the City never receives FEMA money again then there is no worries. Deputy Mayor Frierson agreed to help staff review the buildings in question.

10. Request for Special Event Permit and waiver of fees – Myakka City Church of God – Event - Jesus' Hands Extended, 2nd Saturday Each Month at the Tree of Knowledge

Mr. Harold McConnell explained that his Church would be reaching out to the homeless providing a hot meal and clothing and he is requesting a permit for the second Saturday of each month from 4 to 6 p.m. at the Tree of Knowledge. Councilman Heine asked if we were charging the churches. Councilman Fink replied that we are charging everyone so far. Mr. McConnell responded to Deputy Mayor Frierson that the event would be held the second Saturday of every month from 4 p.m. to 6 p.m. and is strictly for the homeless. He added that right now he is ministering to 8 or 9 homeless and hoping to increase by holding the event downtown however the concept is still in the pilot process. He hopes later they can provide a building for them to shower and meet. He responded to Deputy Mayor Frierson that the meals are cooked at the church or house then brought to the site. Deputy Mayor Frierson asked Councilman Fink how this would affect the Antique Fair. Councilman Fink responded that the Antique Fair is held the 4th Saturday however Arts and Humanities Council have an event on the 2nd Saturday of each month.

Councilman Fink asked Attorney Wohl how can we justifiably distinguish between non-profit and churches or did the Council set a precedent under the previous actions which means we would be picking and choosing. Attorney Wohl replied that the waiver of the fees are on a case by case basis for the Council to approve or disapprove, so perhaps you might be getting into hot water for those not approved. He noted that Council could pass a Resolution differentiating non-profits from churches however there is still a grey area but it is a choice of the Council. Councilman Fink questioned what if there is a church that was not a religious organization who asked for consideration we would have to address that as well. Attorney Wohl responded that you would have some first amendment issues that you would want to avoid. Mayor Keene responded that the Tree of Knowledge is a prominent place on Saturdays

and asked Mr. McConnell if he has networked with the existing organizations providing this service to which the response was no.

Mayor Keene noted that his biggest concern was the conflict with other events going on downtown and taking away a Saturday is a significant concern in his mind. Mr. McConnell responded that normally at 3 p.m. that event is already complete and the public is moved out of the area. Mrs. Jankosky reported that the Art Walk is seasonal and ends around 3 p.m. Attorney Wohl responded that with the new event form you would be approving a permit for the year however you could always request the applicant reduce the request to three months.

Councilman Fink suggested one of the parking lots east of the old three story drug store which is not public parking but maintained by the Churches and the Methodist Church deals in a homeless kitchen house. Councilman Heine stated there will be no shade out there. Mayor Keene suggested a shorter time frame. Deputy Mayor Frierson suggested reviewing how the event goes before approving an entire year. Attorney Wohl reminded that Council needs to address the waiver of the fee as well. Mr. McConnell replied that he was prepared to pay the fee tonight.

A motion was made by Councilman Fink to approve the event for the 2nd Saturday from 4 p.m. to 6 p.m. not waiving the fees and staff apprised on how the event goes. If Council is agreeable then the event could be held on a month by month basis then on to consent agenda if all goes well. The motion was clarified that the event approved will occur on September 8, 2012. The motion was seconded by Councilman Heine and passed 5-0.

11. Spot Landing Event requested by Aviation Day Committee

Mrs. Jankosky asked that this item be tabled until the September 4, 2012 meeting because this item requires review by the Advisory Committee.

12. Marine Corps Reserve Toys for Tots requested use of old Police Department (Robert Ginis)

Mrs. Jankosky explained this is a request from the Marine Corps Reserve Toys for Tots to utilize the old Police Department or the old Fire Department at 10th and Cypress. They are expecting a huge influx of toys this year and are looking to get started now. Councilman Heine suggested that the old Fire Station would serve better.

A motion was made by Councilman Heine and seconded by Councilman Fink. Councilman Fink added as long as they agree to pay the electric. Attorney Wohl added you may want to require insurance due to volunteers. The motion carried 5-0.

13. Proposed City Administrator Employment Agreement (City Attorney)

Attorney Wohl stated the proposed agreement is identical to the previous Administrator's contract however we reduced salary to \$70,000 because Mrs. Jankosky utilizes the City's health insurance. Attorney Wohl stated in speaking to Mayor Keene that the Council will need to come to a consensus in regards to the term of the agreement and the number of weeks of severance pay. He noted that there is a maximum of 20 weeks allowed by law to give a City Administrator in regards to severance. Mrs. Jankosky responded to Mayor Keene that typical

terms are three to four years but that would be up to the Council. She relayed since the State changed severance maximums to 20 weeks she has seen anywhere from 12 weeks to 20 weeks severance. Mayor Keene stated we do require a probationary period of 6 months and we also need a performance standard to show accountability. His suggestion was to implement an annual contract or possibly a two year contract. Mrs. Jankosky responded that it does take time to get things done and sometimes you just get started then you could be gone. Mayor Keene confirmed his recommendation when in discussion with Attorney Wohl and Mrs. Jankosky as a two year contract. Mayor Keene said it would be better to refer to the severance in weeks. Councilman Fink asked about relocation to the area in the contract. He believes that is an important negotiation and relocation should be included within a certain amount of time which was a point of contention last time. Deputy Mayor Frierson agreed that relocation never happened last time. Mayor Keene replied that he was not sure if he was present during that controversy however everyone will agree that in today's time that is quite a directive to put on someone.

Mayor Keene stated he likes Councilman Fink's idea about moving into the County within a certain period of time however he believes that if someone can do their job and still be available as this position requires, he does not believe it should be a directive. Mrs. Jankosky said it is not a problem because she can surely get a rental. Attorney Wohl inputted that City Code simply states that the position is filled by a citizen and qualified voter of the State however; Council has the authority to tighten that requirement in the contract. Councilman Heine stated he believes Mrs. Jankosky already has a place in the County and that issue was left out of the past contract. He concurs with the three year contract and noted Mrs. Jankosky has done a tremendous job in cooperation with all the Department Heads.

Deputy Mayor Frierson stated that she did not know that the number of years was that important because termination and resigning is covered in the contract. Mayor Keene replied that it was no reflection on Mrs. Jankosky but he felt two years was a good number and setting the severance at 12 weeks. Councilman Allen replied that he didn't see anything wrong with the three year agreement as the contract is pretty tight and the length of the contract is immaterial. Mayor Keene responded that if that number is immaterial then why not a two year contract because he could make the same argument in the other direction. Attorney Wohl replied that the severance would not be there because if she survives past the six month probation and the Council decides to terminate or not renew her contract she would not be entitled to any severance. In essence, you are weighing time on whether you want to pay the severance.

A motion was made by Councilman Allen and seconded by Councilman Heine to approve the contract for three years with 12 weeks severance.

Councilman Fink stressed that he would prefer to have something in the contract that deals with living in the County because the last time it was omitted and was a bone of contention. Deputy Mayor Frierson responded that if anyone has looked at rentals in the County, decent rentals are few and far between and she was not sure that she could find anything. If Mrs. Jankosky has found something she's been fortunate.

Mrs. Lynne Kluytman, DeSoto County, stated she agreed with the two year contract, because if you hire someone they may not be doing a bad enough job to fire but then not doing a good job and you are stuck with the years. Limit the time so you have to work to do a good job and

not be lax. The people who work for the City are hired to serve in the best interest of the public and they should be a resident of the City.

Councilman Fink stated that he wants Mrs. Jankosky to succeed because if she doesn't succeed the Council will all look foolish and in the position where the City Council cannot do what it is suppose to do. He reiterated that he wants Mrs. Jankosky to succeed and he believes the two year term is sufficient. He noted that he has been involved in contract negotiations on several Administrators and has never seen anything but an annual renewal term. He added, secondly more than 75% of the communities require residency in the City or within the County they serve. He repeated that he wants Mrs. Jankosky to succeed and he is willing to work with her in every way possible but he could not support the motion.

Mayor Keene asked Mrs. Jankosky if the three year contract and twelve week severance was a deal breaker. Mrs. Jankosky replied no. Mayor Keene responded to Councilman Allen this is an important decision and it troubles me that we come in here with predicated decisions.

Mr. Tim Twohig, DeSoto County, asked Mrs. Jankosky's qualifications. Councilman Fink replied that this is not a qualifications debate by virtue of the vote of this Council. Mr. Twohig responded that there was nothing in the paper about her qualifications and he was just curious if she had a degree. Councilman Fink replied that was not what the Council was discussing that qualifications have been met and she has been hired as Administrator and whether she is qualified or not is based on the belief of the Council and is not a debatable issue at this time. Attorney Wohl agreed that the three issues on the table were: term of contract, number of severance and whether the contract will require her to reside within the City. Mr. Twohig withdrew his questions. He finalized that he hears all the time to buy locally but yet the Council is not requiring her to live in the county and questioned where she will be spending her money. Attorney Wohl explained that it does not have to be as black and white as to her residing in the City or not. Even though her permanent residence is elsewhere, she does spend the majority of her time in the city. He mentioned that the Council may choose a set number of nights she is required to be in the City. Mrs. Jankosky replied that she has no problem getting a rental here but not a permanent residence because she could be gone not having a place to live and looking for another job. Deputy Mayor Frierson asked what her answer would be to the Mayor's deal breaker question. Mrs. Jankosky replied no, not necessarily, as long as I'm not required to have a permanent residence here. She stated she is more than glad to have a rental property here and visit her family on the weekend. Councilman Heine called for the vote.

Mayor Keene corrected that Councilman Allen already called for the vote. Motion carried 3-2 with voting as follows: Councilman Heine, Yes; Deputy Mayor Frierson, Yes; Mayor Keene, No; Councilman Fink, No; Councilman Allen, Yes.

Councilman Fink requested that his reason for the vote be contained in the minutes because he wants Mrs. Jankosky to succeed but he wanted the residency a requirement. Attorney Wohl confirmed the motion as a three year contract with a twelve week severance and no requirement to live in the City or County.

14. Request from DeSoto County to Share City Office Space for Collaborative Efforts

Mrs. Jankosky reviewed a request from DeSoto County to share City space for their part time VA services and for collaborative efforts like business licenses, fire inspections and code enforcement. They requested possible use of the old Police Department as they need some offices because they deal in confidential matters. Mrs. Jankosky responded to Deputy Mayor Frierson that she was unsure of the daily usage however the City and County work together on codes because you are required to obtain a County license if your business is in the City. If we could have a collaborative office where we work together we can cover basis faster.

Councilman Fink stated that he can't vote for this if the County is not willing to provide the electric, water, phone and ADA compliance and according to this memo those items were left on the table. Mrs. Jankosky responded that the County is willing to talk about cost sharing should the Council be open to the idea. Mrs. Jankosky reported they are currently in the Administration building in small offices downstairs. Councilman Heine responded that they may have four offices. Marshal Lee explained the layout of the old Police Department offices which he thought might work. Deputy Mayor Frierson pointed out that she thought the Council wanted to rent that building. Mayor Keene stated he was hoping to have a meeting room there. Mrs. Jankosky responded to Attorney Wohl that the office lease would be a cost sharing and the County would pay the electric, phone, water and provide ADA compliance.

Mrs. Jankosky stated that another option would be the Speer Center and Ms. Carol Anderson will be moved out of there soon. The building is already ADA compliant. Council agreed to have Mrs. Jankosky speak to the County about potentially using the Speer Center. Attorney Wohl mentioned liability insurance should be supplied as well.

15. FDOT Grant Agreements for Airport Improvements

Mrs. Jankosky asked that this item be tabled to the next meeting.

16. Discuss Recommendation from Airport Advisory Committee

Mrs. Jankosky reported that this recommendation occurred last Thursday from the Airport Advisory Committee for the City to begin negotiations to buy out the Air-Cadia contract and the vote passed 6-0. Mrs. Jankosky responded to Mayor Keene that the contract is for 2.5 more years. Deputy Mayor Frierson asked why the Committee made this recommendation and what was the purpose. Mr. George Chase explained that over the past two years the Committee has discussed items to move the Airport forward. Four of the six members believe the biggest issue in the Airport's progress is the existing contract between the City and Air-Cadia and the City's interest would be better served if the City had complete control of the Airport as soon as possible. Therefore; a motion was made to advise the City to look into buying out the remaining contract and it passed 6-0. Deputy Mayor Frierson asked if the Committee had any suggestions. Mr. Chase responded that the Committee could certainly come up with some suggestions. Mrs. Becky Minnear, Air-Cadia, responded to Mayor Keene that this recommendation was a bit of a surprise but the Committee may be making assumptions based upon some wrong opinions and asked if the City was going to buy out the Air-Cadia contract. She continued that the Committee has the impression that Air-Cadia owes the City so much money that Air-Cadia would walk away.

Deputy Mayor Frierson asked Attorney Wohl to clarify the Butler Building in the contract. Attorney Wohl asked if we were discussing the unpaid insurance premiums and if so from what he sees those premiums have been unpaid for a number of years and that money is owed on the contract. He confirmed to Mrs. Minnear that there are some statutes of limitations. Deputy Mayor Frierson noted that the Finance Director at the July 24, 2012 meeting reference was made to misappropriation of funds and that Air-Cadia did not turn over revenue received from the Butler Building. Mrs. Minnear stated that the contract clearly states as part of the lease no money is given to the City for rental of the Butler Building. Attorney Wohl stated that he would sit down with the Finance Director and clarify the numbers. Mrs. Minnear responded to Attorney Wohl that Administration waived the fees because they had no way of defining the amounts. Attorney Wohl replied that he understood that she took the Administrator's word however a City Administrator cannot take action, had Council waived the fee, then it would be final. Attorney Wohl again stated that he would like to meet with Mr. Santana and Mrs. Jankosky to identify those numbers on the Butler Building. Mayor Keene reviewed the recommendation to buy out the Air-Cadia contract. He explained that the motion was unanimous by the Airport Committee and having served on the Council and previously tackling this issue there is a lot of misinformation. Mrs. Minnear responded to Mayor Keene that the fire code issues are a big bone of contention, and maybe it is in the City's interest however she believes that people do not understand the value Air-Cadia has in the contract.

Deputy Mayor Frierson asked if Mrs. Minnear could explain the question about paying sales tax. Mrs. Minnear responded that obviously they do pay sales tax and Mr. Santana is scheduled to meet with them on Tuesday the 14th to review that information. Mayor Keene returned back to the point of buying out the contract and asked if the Council was interested in the suggestion. Councilman Heine replied that the issue is not dying and we do need to deal with it.

Mr. Greg Smith, Airport Advisory Committee, explained that in recalling the discussion at the meeting the Committee reviewed that Air-Cadia doesn't perform certain work because it is not profitable for them. He suggested modifying the contract so Air-Cadia doesn't have to mow grass, supply fuel or provide flight service. Air-Cadia would just occupy the paint building for the remainder of the contract to conduct their business and the City would have the fuel, the Butler Building and terminal to operate which would increase income to the City. Deputy Mayor Frierson asked if we get the Airport back who would manage the fuel and the terminal. Mr. Smith replied that he was sure the City has someone who can handle those tasks better than how it is done now.

Councilman Fink responded that he felt he was getting a little maligned and that he did ask about the Airport sales tax while he was sitting at the dais and questioned if there was some other place he may have asked about the sales tax. Deputy Mayor Frierson responded that Councilman Fink did make a point as to whether Air-Cadia was paying sales tax. Councilman Fink replied because sales tax was not listed on the audit and that is a significant point. He continued that he didn't mention sales tax except for the rental of the Butler Building. He referred to the June 19th meeting when Councilman Heine asked about rental of the Butler Building and Mrs. Minnear said in an open meeting that the Butler Building was un-rentable. Councilman Heine asked at the last meeting how could that be because there is rent collected. He explained that Councilman Heine was not in error and heard exactly what the other Council heard so we can talk about varied stories however they are not coming from me. He suggested that being told for verification at a public meeting is considered in bad taste at best.

He stated that he didn't know if it is in the best interest of the City if and when the Air-Cadia is no longer affiliated with airport if it is best to have another FBO or staff to take over that particular job. He recommended if staff could return with a recommendation as to what is in the best interest of the City and at this time not make a unilateral suggestion at this point without having all the data.

Mayor Keene asked Mrs. Jankosky if the City has any funds to buy out the Airport contract. Mrs. Jankosky responded the City has no funds. Mayor Keene responded that answer affects our decision. He added that the Committee is doing great work and on their recommendation we should complete our due diligence. He noted that he was perplexed because he supported buying out the contract in the past however presently there is no money to buy out the contract. Councilman Allen inputted that he felt there was not enough information to make that kind of decision. Mayor Keene suggested having staff gather more information as to what the options might be and engage with Air-Cadia to see the willingness to do this. Mrs. Minnear responded to Mayor Keene that yes, Air-Cadia went through a lot last time this was approached. Deputy Mayor Frierson inputted that the City has no money to buy out Air-Cadia.

A motion was made by Deputy Mayor Frierson and seconded by Councilman Heine to drop the issue of buying out Air-Cadia due to lack of funds.

Councilman Fink added that considering the previous actions of the Council, Air-Cadia has not lived up to the contract and he doesn't see why the buyout is even in question. A buyout should not even be up for consideration because the City should not have to buy out something that is no longer contractually maintained.

Dr. Ernie Hewett, DeSoto County and Airport Committee member, stated he would like to address the insinuation that the contract was violated by Air-Cadia when in fact the City has violated the contract equally and also address the misappropriation of funds on insurance to which Councilman Fink and Mr. Santana alluded to for rental of the Butler Building. He stated that two of the Committee members tried to avoid this item coming forward as a motion so the Committee chose to entertain going into negotiations with Air-Cadia. He continued that they were hoping with the motion brought forward that the discussion would be squashed. He stated that there are allegations going back and forward that should not happen except through a court of law. He stated that he gave Attorney Wohl part of the contract and a verbatim from the workshop regarding the Butler Building. It is clear Air-Cadia owes nothing from the Butler Building, which is their building to do as they please as long as they mow and manage the Airport. Also the City does not always provide them with equipment required in the contract to do their job. This is a tit for tat which may not be settled except in a legal forum. He continued as for Councilman Fink's comment about the Butler Building not being rentable, yes Air-Cadia is renting it to the best they can at the moment however, the building does not meet fire code, nor does the Airport so they cannot rent that building commercially, which is their livelihood as Air-Cadia makes pittance off rentals of hangars and fuel, only \$1,000 per month. Their income is from their business that they cannot run properly because of the fire codes which apply to the Butler Building as well. He encouraged the Council to adhere to Deputy Mayor's motion and drop the subject and try to all get along.

Mr. Santana stated that he never accused anyone of misappropriation of funds. He asked Mrs. Jankosky following reading the Air-Cadia contract that 90 % of all rentals were paid to the City and he questioned the Butler Building. He encouraged that we enter a line item that if the Attorney determined rent was owed to the City however he never said there was any

misappropriation of funds. He was only asked to audit the financial aspects and now he is asked to audit the sales tax which he is more than happy to complete. He was also asked to audit the payroll taxes and he was told that was not going to happen by the Minnears. He finalized that he only did what was asked by the Council and he never said there was any misappropriation of funds.

Councilman Fink stated that he finds it offensive that Mr. Hewitt would say those things. There was an interaction from Dr. Hewett to Councilman Fink at this time that was inaudible; Councilman Fink replied "No that's Mr. Hewitt and it is not a debatable issue". Councilman Fink continued that never did he suggest that there was anything nefarious occurring out there. He stated however that he does find it curious that Mr. Hewett seems to be an advocate for the Minnears and he is one that is renting a space out there and he wondered if that was being disclosed on state forms.

Mr. George Chase stated that he didn't believe anyone from the Committee made any accusations; however this has been contention since the Committee was formed and the contract seems to be the stumbling block.

Mayor Keene stated that this is a discussion at every other Council Meeting and he is curious that no one is making any money and there should be some way we can collaborate to make some money. He continued that utilities are needed at the Airport then we could move forward which would open other opportunities. He asked Attorney Wohl to look in to the contract one more time see if the Minnears owe the City anything, what is our position and should we take the advice of the committee which was unanimous. Attorney Wohl confirmed what Dr. Hewitt said that the rent for the Butler Building is waived provided Air-Cadia is managing the Airport and mowing the grass. Then there are factual determinations to consider if they are not mowing the grass is it because they are not being provided the appropriate equipment and lastly, Air-Cadia must provide Airport lighting. We are looking at factual determinations whether those three items are occurring. Councilman Heine asked about the tractor. Mrs. Jankosky responded yes the tractor was down for a while and is not a new tractor but it is out there and working now.

Mayor Keene reconfirmed the motion from Deputy Mayor Frierson to not act on the recommendation of the Committee due to lack of funds. The motion was seconded by Councilman Heine and passed 4-1 with voting as follows: Councilman Heine, Yes; Deputy Mayor Frierson, Yes; Mayor Keene, Yes; Councilman Fink, No; Councilman Allen, Yes.

17. Roof Repair Quotes for the Way Building

Mrs. Jankosky reported on two estimates for roof repairs for the Way Building, one from Bowen and one from Stewart Construction. The quotes differ in price substantially. We did receive one from Summit Roofing however the description of services were questionable and there are questions whether two of the quotes are comparable. She stated that she could speak to Bowen and Stewart again to get additional details. Councilman Heine stated that both companies are highly qualified and have done work for the County. He did not believe they had complaints on either one but he doesn't understand the \$30,000 difference.

Mayor Keene asked Mrs. Jankosky to help him understand Bowen's two options. Mrs. Jankosky replied the two options are for a shingle roof and a metal roof. She gathers that on the East side of building where the parapets are located the roof slopes where drainage is not working properly. They are quoting sloping it to the back and building it up so it flows to rear of the building into the gutter. Both companies quote the 30 pound felt and firestone 160 membrane heat welded, other membranes and fiberglass duration 130 mph shingles. Both appear to be close. She added that it appears Stewart adds a little more work like high pressure cleaning the parapet walls. Councilman Fink asked Councilman Heine if this roof was repaired or replaced after Charlie and asked who conducted the work. Councilman Heine replied that he thinks the roof was replaced but he did not know who performed the work. Mrs. Jankosky added that the City did pay someone to repair the leaking for a substantial amount of money however the leaks are still there. Councilman Heine responded to Mayor Keene that Stewart did work on City Hall. Mrs. Jankosky verified that Mr. Underwood did take each Company on a tour of the roof and showed them the problem areas.

Mrs. Jankosky believes that Stewart is giving a little more work on the valley area where it is causing the leaks and creating a positive water flow, rebuilding the cricket and so on. Mayor Keene confirmed that the difference in amounts is a worthy question to ask. Councilman Fink stated that they should not wait until the next meeting the way the weather has been.

Councilman Fink moved to tentatively accept the Bowen bid with the understanding that Mrs. Jankosky discusses with both contractors the difference in amounts. If there is no satisfactory explanation then the contract stays with Bowen, if not we contract with Stewart. Councilman Heine seconded the motion.

Deputy Mayor Frierson stated that she didn't think it will take long for Mrs. Jankosky to gather the information and she didn't like the motion. Mayor Keene explained that this would give the Administrator the authority to move forward and make that decision. Councilman Allen suggested he would like to see some professional help for Mrs. Jankosky. Councilman Heine mentioned Roger Bassett. Councilman Fink mentioned Mr. Reece Welch who performs insurance inspections.

Mayor Keene restated the original motion to move forward with Bowen after Mrs. Jankosky has the opportunity to investigate the difference in amounts and seek out a professional opinion. The motion carried 5-0.

COMMENTS FROM DEPARTMENTS

18. City Marshal – July 2012 report included

Marshal Lee explained that he brought forward the draft contract for the Special Master to Mrs. Jankosky and the City Attorney to review. He explained there will be meetings coming forward on some properties for the Special Master to hear.

Marshal Lee reported that Tremron is making progress and currently 75% complete in what the City has asked them to do. There was a citizen complaint that they had their doors open between 8 a.m. and 6 p.m. however the machine was off and they are allowed to have the doors open as long as the machine is off.

19. Attorney**a. Options to Legislate Internet Cafes**

Attorney Wohl reviewed that most local governments are doing nothing right now in regards to Internet Cafes. He explained that essentially whether they constitute illegal gambling is not a City decision it is a State and Sheriff Office decision. Some Sheriff Departments are enforcing and they are being prosecuted but it is still in the air because the Cafes are operating through a loop hole. In the 2012 legislative session it was discussed and some bills were issued but nothing has passed. There will be additional legislature in 2013. He added that Seminole County banned the Internet Cafes completely and now that case is at the District Court of Appeals in Atlanta which will be heard in January 2013. Many agree that case will give us an idea where this issue sits and along with legislative session we will have a better understanding. He noted that a handful of Counties and Cities have passed moratoriums and referenced that case. He suggested that right now you can do nothing and wait for legislation or a judicial decision or you can pass a moratorium. He was not sure if the City wanted to make a call by zoning regulation or land use as you may run into issues because Internet Cafes are commercial just like a restaurant or bar. His recommendation is to do nothing right now and we will have a clearer understanding in another six months.

b. Part III – Sunshine Law and Public Records

Attorney Wohl reviewed Part III of the Public Records law.

20. City Administrator

Mrs. Jankosky reported she would be meeting with Mr. Womack on garbage services and costs. Mayor Keene asked if we decided to privatize this service is Womack the only one. Mrs. Jankosky mentioned there was Waste Management out of Port Charlotte. Mayor Keene remembered back when they had the recycling presentation and suggested those presenters might be interested. Mrs. Jankosky confirmed she would follow up with those presenters.

Mrs. Jankosky updated Council on the FLC telecommunications audit with an estimated savings of \$2,500 per month. She added that they are going to negotiate a credit for overpayments as well as changing cell phones to State Verizon contract saving \$500 per month.

Mrs. Jankosky reported that City Hall will be closed Friday August 31, 2012 for termite treatment.

Mrs. Jankosky reported that Mr. Ken Small, FLC will be speaking to revenue options for the City on August 14, 2012 at 5:30 p.m.

Mrs. Jankosky reported that she spoke with Hazen and Sawyer who noticed that our facility use plan relied on the City making the annual utility rate adjustments based upon the Public Service Commission index. Those adjustments were never made in 2010 and 2011 so the City lost close to \$60,000. In order to figure out exactly where we sit now the company who completed the study can conduct an updated rate study for \$5,000. Also she noted that the City is not meeting bond covenants right now. The revised study would give the City backing to the number if it is decided to raise those rates and become legal with our bond covenants.

The study will take approximately a week so she should have the numbers for the second meeting in August.

Mrs. Jankosky stated she has been combing through the budget and information on Health Insurance which could be a savings of \$120,000. She could balance the budget with that type savings along with cutting some expenditures resulting in saving all staff positions. The City purchasing manual allows for Council to authorize the City Administrator to negotiate the City's Health Insurance. She stated she would like to negotiate with the Company because if we don't do anything by October 1, 2012 it will cost an extra \$21,000 that we don't have.

Councilman Fink asked in balancing the budget would that be the institution of the 20% water and sewer increases. Mrs. Jankosky responded that is the water and sewer fund however the general fund can be balanced with the health insurance savings and reducing expenditures.

Deputy Mayor Frierson asked for clarification on the previous discussion on water rates and was the rates supposed to go into effect as they were recommended by the Council. Mrs. Jankosky responded that those rate increases were to go into effect per the Resolution and that did not occur. Deputy Mayor Frierson stated that this is important information for public to know which is why we are looking at a 20% increase. Mrs. Jankosky summarized that the rate study recommended a total of 50% increase over the two year period. There was a 20% and another 20% implemented which left 10% never enacted which has compounded over the years plus the adjustments from the Public Service Commission that never occurred. Mayor Keene responded that particular Resolution was adopted in 2009. Mayor Keene confirmed that the same consultant will update the rate study again which will provide the Council with additional information.

Councilman Heine made a motion to authorize Mrs. Jankosky to negotiate the City Health Insurance and return to Council for review. Mrs. Jankosky clarified that she would like to implement the change so employees can go into open enrollment in October. Councilman Allen seconded the motion.

Deputy Mayor Frierson asked if she checked with local companies to see if they could match that rate. Mrs. Jankosky responded no, that the other companies would require an agent of record letter and this company has an open record with BCBS. Mrs. Jankosky responded to Mayor Keene that the company is PRM. Councilman Fink asked if the City was going to become a member of PRM because it is less if you become a member rather than just buy insurance. Mrs. Jankosky responded yes the City would obtain a membership and PRM's commission is 1.67%.

Mayor Keene asked about PRM's track record. Mrs. Jankosky and Attorney Wohl agreed that PRM has much experience and that is what they do. Councilman Fink relayed when the Turner Center was blown down during Charlie it was listed as a Category 3 facility however the insurance did not reflect that although the County had been paying for the Category 3 building. The insurance paid off and made the building better than it was previously. Deputy Mayor Frierson asked Mrs. Jankosky if we were getting quotes for property insurance also. Mrs. Jankosky responded no, not as of yet. Mayor Keene asked because the health insurance was on a calendar year he thought they did not have to make the decision right now. Mrs. Jankosky replied that you could wait until January and if we get the \$120,000 savings that's great but through October, November and December you will be spending the \$21,000 that we could be

saving now. Deputy Mayor Frierson explained that if we switch now we will save in the premiums. Mrs. Jankosky confirmed yes, that she would love to switch now, save and move to the fiscal year enabling us to better adjust the budget.

Mrs. Jennifer Backer, Albritton Insurance, explained that if you choose the open plan you are eliminating other markets like United, Humana, and Aetna that may have networks in Desoto County. She gave an example of switching the City of Wauchula to United allowing them to receive better in network benefits and saving more than \$120,000. She explained that she is not promising anything however if you limit yourself to BCBS you are doing a disservice to the City especially considering your budget crunch. She continued that Mrs. Jankosky is correct about needing an agent of record however you can revoke an agent of record just as quickly. The agent of record allows them to pull the City's census data, submit to the carrier and receive accurate rates. She explained that the employees have an annual deductible and if you switch the renewal dates the deductible will roll to zero in October. Mrs. Jankosky responded that PRM agreed to roll over the employee deductibles.

Mr. Lew Ambler stated that PRM is a multiple employer trust and they have been around for some time. He noted that the County just moved their health insurance in the middle of the year because they were not happy with the services provided. He stated that PRM is going to have to have the agent of record and the only way there will be a cost difference as to whether they provide or he provides a quote is the cost to provide the service. He confirmed that he would match any price for example if PRM says they will do it for 1.5% I will do it for less or for a flat fee. Mrs. Backer, Albritton Insurance, replied that you have to charge the normal or flat fee per statutes. Mr. Ambler stated that jumping to PRM at this point will do your employees a disservice and encouraged Council to stay on the calendar year. Deputy Mayor Frierson stated that if the local people can give us a quote we owe it to the locals to give them an opportunity. Mrs. Jankosky responded that you could pick one and give an agent of record and you are canceling Gehring. Mayor Keene stated that all the presentations were excellent and they all should have an opportunity to quote the City's Insurance. Mrs. Jankosky reported that people have reported they are unhappy with United prescription coverage.

Mr. Santana explained that the deductible is important and the City should continue to January even if we are paying more, we have already been paying over the last 6 years. He explained that when you get a new policy you always get a huge discount, then the next year it goes up 20% to 30% and that is important to negotiate. He questioned that he didn't understand how the deficit is balanced by the savings of \$120,000 and he would love to be included in that to see how we did that.

Mrs. Backer stated that if you go with PRM and you decide to leave the pool individual BCBS won't be able to quote for the first year. The loss ratio has to do with the day to day service so that is why you should go with someone local who can manage your loss ratios daily. Mrs. Jankosky responded that the loss ratios are 54% which is very low. She noted that the average increases for PRM are typically 9% to 14%.

Mayor Keene believes that we still need to give all parties a fair chance. Deputy Mayor Frierson agreed and stated that it would not be fair to the employees since they may have already met their deductibles. Mrs. Jankosky responded that if we contracted with PRM the employees would not lose their deductible and it would roll over. Councilman Fink stated that the Council asked the insured whether they wanted to remain with the current or switch to

PRM which was significantly lower. This body legislated as to what they wanted as insurance, and he didn't know if that is good government or not however we need to think about the people who came in and gave their time and effort to present.

Vote on the motion failed 5-0.

Mrs. Jankosky then asked what the pleasure of the Council is. She could get a quote from the current agent and pay the additional 30%. Councilman Fink stated the Council has had significant input from those who made presentations and he prefers if we want people to use local we should negotiate local. He asked that this item be placed on the agenda and give PRM the option of coming presenting and if they don't want to come, do we really want to deal with them.

Mayor Keene stated that Mrs. Jankosky should get some information from Ghering since they are the City's current agent of record and let them know we are shopping around. Mayor Keene stated that he likes the idea that they are local but we need to look at the level of service you can get also and we are covered through this calendar year anyway. Mrs. Jankosky replied that she can ask Ghering and explained that there is a trust factor associated with them which is why we are looking. We have a 54% loss ratio and there is no reason why we were quoted a 21% increase.

PUBLIC (PLEASE LIMIT PRESENTATIONS TO FIVE MINUTES)

Mr. Charles Conklin thanked Marshal Lee following the food distribution for coming to the Way Building. He stated he has requests from the people that work at the food distribution and from Mrs. Valerie Gilchrist to have Council visit on the 1st and 3rd Wednesday of the month and talk to the volunteers. He explained that Mrs. Gilchrist does not make anything from the distribution and asked how someone can survive on \$800 per year. He stated they feel that they have no one to come over and be with them. Mayor Keene asked what Mrs. Gilchrist would like the Council to do. He responded that she just wants to talk and there are people there that donate time, he donates his time and they feel they are left out. They want to see participation from the City. Mayor Keene stated that he works however when they start doing distribution on a Saturday or Sunday he could attend. Mr. Conklin explained that the people that volunteer their time would like to see the City, they don't want recognition just that you respect them. Mayor Keene responded that he does respect them very much. Mr. Conklin stated that he called Deputy Mayor Frierson over one time and he was sorry he called her over for what she recommended him as and he called her over to talk to the volunteers. Deputy Mayor Frierson responded that she didn't think we should go into this because the public doesn't want to hear it and Mr. Conklin was very untrue.

Mr. Conklin asked again if someone would go over there to see them and added that there are some Council that do not work. Deputy Mayor Frierson replied that she went when he called and he had nothing to say but to trash her. Mr. Conklin replied that he did not trash her. Deputy Mayor Frierson responded that he did and would he like for her to tell the public. Mr. Conklin replied that she could go ahead and tell as they have already heard it over there.

Mr. Jorge Santana stated that he attempted to request information from the Personnel Director and has not received anything. He didn't think this was the correct forum so he asked if the Council could meet with him at City Hall on some issues. Councilman Heine stated he thought

Mr. Santana wanted to meet with the whole council. Mr. Santana questioned if this was the only forum he could present in. Attorney Wohl replied that he could meet with each Councilmember individually but not share information or share what each said to the other. Mr. Santana said he would address the Council at that time. He passed around a packet of information to each Council Member. He added this was a personnel issue that he tried to address however he would have to address it now. He continued On July 6th he received an email sent to Mrs. Jankosky from Deputy Mayor Frierson asking him to resign and stating that she has had a problem with him since he was hired. He continued that he was hired on August 23, 2010 and from that day to October 3, 2011 she was part of the public. He stated Deputy Mayor Frierson was sworn in on October 4, 2011 and from that point she was clearly bias towards him and her bias in her email led to him being accused of being a thief and negligent in performing his duties on Thursday, August 2, 2012 Mrs. Jankosky as witnessed by Ms. Haas and Officer Quinn Jones, Arcadia Police Department. He added that no proof has been given to him of these accusations and still none has been provided as of this day. He stated he is being questioned for over 25 minutes that he lied on his timesheet when within August 23, 2010, and March 5, 2012 he attended dozens of workshops and dozens of meetings which he was not compensated that equates to over 2,000 hours given to the City and he is being questioned for 25 minutes. He continued that the information goes onto discuss issues about Dr. Miller that the Council can read. He stated he is here because of those accusations and haven't been provided any proof. He was stopped by someone at Walmart on Monday telling him that she heard rumors that he was going to be out of here. He stated that he gave the Council all the details and support with two staff attesting on page two. Mr. Santana finalized that his reputation has been sullied saying that he was negligent and a thief.

Mrs. Lynne Kluytman, DeSoto County, met with Habitat for Humanity and other charity organizations and was thinking about having a community garden, something to bring the community together and involve the youth. She was wondering who would be the appropriate channels to work through. Mayor Keene asked if there are opportunities to collaborate with the 4H club and the extension office. Mayor Keene noted that here in the City he was not sure about the zoning regulations. He mentioned a spot near his house and plenty of property where there could be a community garden. He asked if she had a plan and if so he would be interested in hearing because many communities have those gardens which could be a real plus. Attorney Wohl noted that the first requirement is the land would have to be zoned agriculture. Mayor Keene responded to Mrs. Kluytman that the proper contact would be Mrs. Jankosky the City Administrator. Attorney Wohl also encouraged her to speak with the Extension Agency. Mayor Keene agreed and when they arrive at a plan they could discuss the legal barriers to make a program like that available in the community.

Mrs. Kluytman asked who she should speak with if a business wanted to expand their restaurant and add a new grease trap that is above ground. Attorney Wohl replied that she should contact Mr. Lester Hornbake at the County Building Department.

Mrs. Kluytman stated that it does seem to her that people in most communities have the same feeling that their government is looking down at the people and the gentleman previously may be just looking for recognition or a handshake.

MAYOR AND COUNCIL MATTERS

Councilman Heine reported that the restrooms at the Tree of Knowledge bathrooms were locked during an event. Mrs. Jankosky reported that the City has an on-call person however they are looking at making that a new process such as a part time person on the weekends.

Councilman Fink asked if the City Attorney received a copy of Mr. Santana's documents. Councilman Fink stated that he talks to the City Administrator concerning staff and never suggests that any staff resign and he is astonished. Deputy Mayor Frierson replied that she never called him a thief she didn't think it warranted a discussion. Councilman Fink replied he believes it does warrant a discussion if this is her email that says "it is my firm belief that this City would be well served if the Finance Director were to resign". Deputy Mayor Frierson replied that she does believe that statement. Councilman Fink asked for the floor while he was still speaking. He stated that the Council is the hire and fire of the Administrator and the Administrator has free reign to have employees and it is not our say as to who those people should be. He continued that we hamstringing this person as Administrator by suggesting that this City would be better served if they were to resign. He stated that portrays lack of confidence in the Administrator and their abilities by having that person in the position and he believes according to the Charter that Council is not supposed to do that.

Councilman Heine responded that he believes the Administrator at that time did the hiring and that is his job. Mayor Keene confirmed. Deputy Mayor Frierson replied that unless Councilman Fink knows all the background she feels he is speaking out of turn. Councilman Fink replied he does not believe so and he read again from the e-mail, "the City would be well served if the Finance Director were to resign". Mayor Keene replied that he believes this position is the responsibility of the City Administrator which puts it back in Mrs. Jankosky's court. Attorney Wohl replied that according to the phrase he heard "I suggest" that is an opinion just like the public has an opinion. Attorney Wohl understands Councilman Fink's position and that is Mr. Santana's decision if he resigns however he believes there are no legal implications.

Mayor Keene congratulated Mrs. Jankosky however he still thinks three years was too much but that is here nor there. He believes his charge to Council is that we hold our integrity high and our accountability is there. He stated that if we don't come up with some performance standards we are doing a huge injustice. He continued that the evaluation previously used was too vague and unless we have measurable accountability it will be difficult to see the job the Administrator is doing.

Mayor Keene asked Marshal Lee about the email investigation. Marshal Lee replied that they have issued subpoenas to the internet service provider and he will keep the Council advised.

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ADJOURN

There being no further business, the meeting was adjourned at 8:30 p.m.

APPROVED THIS 4th DAY OF Sept., 2012.

By:



Keith Keene, Mayor

ATTEST:



Virginia S. Haas, City Recorder