

REGULAR MEETING

APRIL 17, 2007

A Regular Meeting of the Arcadia City Council was held on April 17, 2007, at 6:00 p.m. in the Margaret Way Building at 23 North Polk Avenue. Council Members attending were Johnson, Goodman, Whitlock, and Fazzone. Council Member Heine was absent. Also in attendance were Administrator Strube, Attorney Holloman, City Marshall Lee, Special Projects Coordinator Hewitt, Ms. Way and Recorder Baumann.

Mayor Johnson called the meeting to order.

The Invocation was given by Council Member Whitlock.

Pledge Allegiance to the Flag.

The Minutes of the Regular Meeting of April 3, 2007 were adopted on a motion by Whitlock; seconded by Goodman and carried.

Attorney Holloman addressed Council regarding proposed Ordinance No. 936. This ordinance would suspend applications for Adult Entertainment permits until November 1, 2007. Attorney Holloman then requested a change to the verbiage of the fourth paragraph of the ordinance from the word "Draft" to the word "Ordinance" as the County now has an ordinance ready for review.

Proposed Ordinance No. 936 was presented on first reading. Each Councilmember had previously been given a copy for study. Fazzone moved to waive the rules and read the proposed ordinance by title only; seconded by Whitlock and carried.

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA
SUSPENDING PROCESSING OF APPLICATIONS FOR ADULT
ENTERTAINMENT ESTABLISHMENT PERMITS UNTIL
NOVEMBER 1, 2007; PROVIDING FOR APPLICATION AND
EXEMPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING
AN EFFECTIVE DATE.

Mayor Johnson then called for any discussion of the ordinance. Council Member Goodman asked if this ordinance would prohibit any adult business from coming into the City until November 1st to which Attorney Holloman responded yes. Applications will not be accepted for any Adult Entertainment license. Attorney Holloman then stated that he hopes that the County will adopt an ordinance that will work in the City. It was noted that a County ordinance can be effective in the City unless it is in conflict with a City ordinance. Attorney Holloman stated it would be in the best interest of the City to adopt

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the proposed ordinance which extends the current moratorium in order to have time to see if the County ordinance would work for the City since the City is very small and congested.

Council Member Goodman then asked what would happen if the County does not adopt an ordinance to which Attorney Holloman stated that if the County does not enact an ordinance before November 1, he will submit a City ordinance for the Council to consider. However, he noted that if the City enacts an ordinance regulating "Sexually Oriented Businesses"(SOB's), it must provide a place for them. Attorney Holloman then reported that since the last Council meeting additional information has been obtained and as a result, the previous area that had been suggested, the M-1 Manufacturing Zone, would no longer be considered, due to the fact that a State licensed Kindergarten through Twelve (K-12) school is next door to the Council Chambers. The school is located at the Heritage Baptist Church and would require a distance of 2, 500 feet from any SOB.

Council Member Goodman addressed the Council and members of the public in attendance. She reported that she has spoken with her private attorney, and has been informed that she has constitutional rights. Mrs. Goodman then presented written communication from several citizens stating that they are opposed to this type of business. She gave the correspondence to Administrator Strube and asked that they be placed in the records of this meeting. For the record the letters from concerned citizens urging the City Council to keep SOB's out of Arcadia are noted and are attached to the backup material for the City Council meeting of April 17, 2007.

Mayor Johnson noted that there is a Kindergarten at the corner of Highway 17 and Martin Luther King to which Attorney Holloman stated that this is a nursery school, and not considered by the State to be a regular school. Attorney Holloman then stated that the City can provide in any ordinance that the school be included with a distance requirement. Mayor Johnson requested that this become a part of any ordinance the City adopts. Attorney Holloman stated that this is a complex situation. These types of businesses are protected by the United States Constitution under the "freedom of speech". Attorney Holloman reported that the County has hired an attorney that specializes in this type of ordinance and he will be working very closely with County on this ordinance.

Mr. Samuel Morgan, DeSoto County NAACP president, asked when the ordinance would be available to the public for review. Mr. Morgan stated if the adult entertainment business could not be prohibited, he wanted assurance the whole city would be considered in providing locations for them and not in one section of the city, with one group of people as opposed to another group. Attorney Holloman reported that within six (6) months the County ordinance will be ready and they will be holding public hearings

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on the ordinance. Mr. Morgan stated he was against any adult entertainment businesses coming in at all. Attorney Holloman stated that he does not want them to come in either, however, if after all moratoriums have expired an adult entertainment business wants to locate in DeSoto County, it has that right under the Constitution of the United States. If the City adopts its own ordinance regulating this type of business then by law the City must provide a location somewhere within the city limits for the business to locate.

It was noted that all of the Council are opposed to this type of business.

Mrs. Tomasenna Morgan addressed the Council and stated she always understood it to be a constitutional right to have a wholesome city and county in which to raise families. She also reported that she had spoken with the Center for Law and Justice and they told her that the County could keep this type of business out. Attorney Holloman replied that this was not true. Mrs. Morgan then stated the City and County needs to work to make sure this does not happen. She believes that this type of business would only result in trouble for everyone and she believes that something can be done to prevent it. Attorney Holloman stated the majority of the Supreme Court did vote for protection of these businesses under the Constitution.

Mrs. Marsh addressed the Council stating that she is against the adult entertainment business.

Mrs. Betty Green addressed the Council asking who suggested that the business be located in the area of town previously discussed. Attorney Holloman stated that when reviewing the map they were going by where the schools and churches would not be affected. He then stated that there does not seem to be any place in the city that would meet the distance requirement from churches, schools or residential.

Administrator Strube stated that U.S. 17 and State Road 70 are zoned for business. The proposed map was created to place a business within a business type zone. He noted that we were looking at a distance of 300 feet from churches, schools, and playgrounds which would match the City's liquor law. Administrator Strube then stated that other towns usually locate this type of businesses within the industrial sections of their city or counties as it has the least impact to residential communities. However, the State distance requirement of 2,500 feet from schools excludes most of the City and now that Heritage Baptist Church School meets the State definition of a "school" it pushes the beginning of the circle 2,500 feet further to the south. Administrator Strube again stated that the City believes that a "county wide" ordinance would be the City's best option.

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Council Member Goodman asked if the County adopts an ordinance that includes the City would it also protect the city residents to which Attorney Holloman stated that yes City residents would be protected. She then asked what would be the worse case scenario if we were to say no to which Attorney Holloman stated that a lawsuit could be brought in Federal court against the City. Goodman then stated that she feels strongly enough about this that she would be willing to go to court to fight this.

A member of the public asked Attorney Holloman if there is anything he could do or the citizens could do to stop this type of business from entering the City to which Attorney Holloman replied no. Attorney Holloman stated that you can not stop them; however the City can regulate them. The ordinance can regulate hours of operation, lighting, type of building, location, and many other things. Mayor Johnson stated that unity brings strength and we all need to pull together and stand up for the fact we do not want this type of business in town.

Council Member Goodman then asked that anyone standing or sitting in the hall come into the meeting room. It was noted that the Council Chambers were packed with people who are opposed to adult entertainment businesses coming into the City and County.

Mayor Johnson expressed appreciation to those who were in attendance and their support of the Council to keep this type of business out of the City.

Council Member Goodman stated she wanted it clearly understood that tonight the Council would vote to keep the mortem in effect through November 1, 2007.

Fazzone then moved to approve Ordinance No. 936 suspending processing of applications for adult entertainment permits until November 1, 2007; seconded by Whitlock. The motion carried on roll call vote. Ayes: Goodman, Whitlock, Fazzone, and Johnson. Nays: None. Council Member Heine was absent.

Mayor Johnson proclaimed April, 2007 as National Child Abuse Prevention month in Arcadia and presented the proclamation to Sandee Wood, Director of Guardian ad Litem. Goodman moved to endorse this action; seconded by Fazzone and carried.

Mayor Johnson then proclaimed April 28, 2007 as Guardian ad Litem Volunteer Recognition Day in Arcadia and presented the proclamation to Sandee Wood, Director of Guardian ad Litem. Goodman moved to endorse this action; seconded by Whitlock and carried.

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Leonard Higley representing the Historical Society addressed Council requesting a donation in order to assist the Society with the purchase of Mr. Howard Melton's Historical Library of DeSoto County. The Society has a contract to purchase Mr. Melton's Historical Library in the amount of \$20,000.00. Mr. Melton will maintain the collection as long as his health permits. Mr. Paul Hoover, owner of the Arbor, asked that the Council donate \$1, 600.00 dollars to the Historical Society in lieu of payment for an ad placed in a program for the Arbor. Council Member Goodman stated that she has a problem with the manner in which the ad was handled and does not want to discuss the ad. She stated that if the Historical Society wants a donation they should just ask for a donation. Mr. Higley stated that he was not there regarding the ad; he was there on behalf of the Historical Society to request a donation from the City Council. Council Member Goodman then stated that she does not have a problem with Mr. Melton or the Historical Society; however she does have a problem with benefiting an individual. Council Member Goodman then noted that historical documents must be a full picture of the County of "all residents". She then stated that she knows an individual with extensive historical information and would like to see their collection included in the Historical Society's library. She wants the Council to remember all of the people.

Council Member Whitlock asked if the Historical Library would be located at the old Brownville School to which Mr. Higley stated that had not yet been decided. The Historical Society has a lease for twenty-five (25) years at the Brownville School. Council Member Whitlock stated he would like to know where it is going to be housed before he approves anything.

Mayor Johnson asked if the Historical Society would be willing to contact another person with regards to purchasing additional historical information. Mr. Higley stated that at this time he was addressing the Council only on behalf of the Historical Society in regards to Howard Melton's collection. If the Society has the money, it would be interested in purchasing other available information at a later date.

Council Member Goodman stated she would not support certain items being a part of the Historical Society's Library. Mr. Higley assured Council Member Goodman that only those items of significant historical value would be included.

Council Member Fazzone believes that the Historical Society should renegotiate their lease with the School District of DeSoto County noting that a twenty -five (25) years is not a sufficient lease.

Fazzone moved to table the request for a donation to the Historical Society until more information could be provide as to the location of the library; seconded by Whitlock and carried.

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Mr. Ron Collins addressed the Council representing Nathan & Patricia Primus who are requesting a reduction of the side yard set back at 102 West Washington Avenue. Administrator Strube noted that the intent was to "mirror" a front yard set back on a street side yard. It was noted that Bonaparte Street is an unpaved street and that it is unlikely that it will ever be used as a "frontage street". Administrator Strube feels that there is no need to maintain a 15' side yard set back. Council can grant the request by special approval; however Attorney Holloman reminded the Council that City Code specifically states that a request for a "special approval" must go before the Planning and Zoning Board. Goodman moved to refer this request to the Planning and Zoning Board; seconded by Fazzone and carried. Mr. Primus asked for special consideration due to the length of time it has already taken to get his project underway and the fact that he is disabled. Council stated that they must follow the Code and this item will be review at the Planning and Zoning Board meeting on May 8, 2007 at 4:00 p.m. in the Council Chambers.

Marshall Lee presented the Fines and Forfeitures report for the month of March, 2007 reporting \$3,107.39 for fines.

Marshall Lee then reported that area business had been targeted for selling liquor to minors noting that the Police Department was assisted in their sting operation by the Federal Beverage Bureau.

Mr. Richard Bowers, President, DeSoto County Community Development Corporation addressed the Council regarding the project at Louis Anderson Park. Mr. Bowers reported that some businesses in the community have donated park benches, and more were expected. Administrator Strube reported that the bids for construction of restrooms are due on April 27, 2007. At this time five (5) companies looking to bid the project. Mr. Bowers then requested that the Council not to be afraid to go against the grain to make this the "Best Small Town in Florida" and keep the SOB's out of Arcadia.

The Flowage and Hanger Rent report for the month of February 2007 was presented.

Special Coordinator Hewitt reported that all of the new hangers are rented. Only the three (3) hangers without doors are not rented; however the doors are being installed.

The Public Works report for the month of February 2007 and March, 2007 were presented. February reported nine hundred ten and one half (910.50) man hours and March reported one thousand fifty-seven and one half (1,057.50) man hours.

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Mr. Samuel Morgan addressed the Council regarding a concern at the intersection of Martin Luther King Street and U.S. Highway 17. He reported that he waited for over twenty (20) minutes trying to get out onto Highway 17. He also noted that the sign advertising the fruit stand blocks the view of traffic. It was noted that the Police Department did get the sign moved; however the owners of the fruit stand again put it back at the corner. Mr. Morgan voiced a concern that someone might be run over because of the heavy traffic. He presented a petition with over two hundred (200) signatures requesting the installation of a traffic signal at the corner. He stated the City and County needed to get together and tell the State a traffic signal is needed. Administrator Strube reported that the City has looked at this intersection with the Department of Transportation (DOT) many times. He noted that DOT has plans to work on this area; however not for several more years. Administrator Strube will ask DOT to do a study of the area to see if a signal could be installed. He also stated that if anyone knows anyone with DOT or at the legislature, it would help if they were contacted. Fazzone moved that Administrator Strube draft a letter in support of a traffic signal at the intersection of Martin Luther King and U.S. 17 to the Department of Transportation and the local Legislator to be signed by the Mayor; seconded by Goodman and carried. Mr. Morgan asked the Council, City Administrator, and Attorney to sign the petition.

Tim Backer, Chief of the Arcadia Volunteer Fire Department addressed the Council to request a waiver of green fees at the City Golf Course for on May 18, 2007 for the annual Volunteer Fire Department fund raiser. Fazzone moved to waive the green fees only noting that there will still be a charge for carts; seconded by Whitlock and carried.

Kedesch Altidor, PACE Coordinator for DeSoto County presented the Council with an update of the first project in Southwest Arcadia. She has applied for three (3) grants, and has received one grant in the amount of \$20,000. A meeting of the committee will be held at Smith Brown on Monday, April 23, 2007 at 5:30 p.m. to conduct a survey regarding the project. Mr. Richard Bowers complemented Ms. Altidor and endorsed her continued work.

Council Member Goodman addressed the Council regarding a letter from Mr. Robert Harrison requesting to purchase City property located across the street from to his property on Bond Street. It was noted that Mr. Harrison has been mowing and trimming the property for a number of years. Council Member Goodman asked the status of Mr. Harrison's request to which Administrator Strube stated that this property had been a garbage dump at one time, and he thought Mr. Harrison was aware of this as he had inquired about the property before. Attorney Holloman stated that if it was an old garbage dump the City would need a study to find out what is there. Council Member Fazzone inquired what Mr. Harrison intended to do with the property and was informed that he plans to build apartments.

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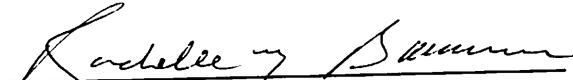
Goodman asked if this might be something that Kedesch could do a study on under the PACE Program.

Administrator Strube feels that the property should be left in its natural state noting that at this time it is in protective custody.

Mayor Johnson noted that the cost to do a study of the property could exceed the value of the lot. He also stated that if the City intends to keep the property then they need maintain it. The main concern is that a fire could start from the wheels of a train that passed the property.

Goodman moved that the City maintain the property and develop a maintenance schedule for the property to be presented at the next council meeting; seconded by Fazzone and carried.

There being no further business, the meeting was adjourned.


CITY RECORDER


PRESIDENT