

REGULAR MEETING

AUGUST 21, 2007

A Regular Meeting of the Arcadia City Council was held on August 21, 2007, at 6:00 p.m. in the Margaret Way Building at 23 North Polk Avenue. Council Members attending were Johnson, Whitlock, Fazzone, and Heine. Council Member Goodman was absent due to illness. Also in attendance were Administrator Strube, Attorney Holloman, Captain Matt Anderson, Special Projects Coordinator Hewett, Grant Coordinator Weeks, Ms Way, and Recorder Baumann.

Mayor Johnson called the meeting to order.

Invocation was given by Council Member Whitlock.

Pledge of Allegiance to the Flag.

The Minutes of the Regular Meeting of July 17, 2007 were adopted on a motion by Heine; seconded by Whitlock and carried.

Proposed Ordinance No. 937 repealing sections 18-4, 22-31, 22-32, 22-33, and 22-34 of the Code of Ordinances of the City of Arcadia, Florida was presented for a third and final reading. Whitlock moved to waive the rules and read the proposed ordinance by title only; seconded by Fazzone and carried.

ORDINANCE NO. 937

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA,
REPEALING SECTIONS 18-4, 22-31, 22-32, 22-33, AND 22-34 OF
THE CODE OF ORDINANCES OF THE CITY OF ARCADIA,
FLORIDA; MAKING FINDINGS; PROVIDING REPEAL OF
CONFLICTING ORDINANCES; PROVIDING SEVERABILITY;
PROVIDING FOR EFFECTIVE DATE.

Whitlock then moved to adopt Ordinance No. 937 on third and final reading and that it become an ordinance of the City of Arcadia; seconded by Fazzone. Mayor Johnson called for comments from the public, there were none. The motion carried on a roll call vote. Ayes: Whitlock, Fazzone, Heine and Johnson. Goodman was absent.

ORDINANCE NO 937

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF ARCADIA, FLORIDA, REPEALING SECTIONS 18-4, 22-
31, 22-32, 22-33, AND 22-34 OF THE CODE OF
ORDINANCES OF THE CITY OF ARCADIA, FLORIDA;

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(Ordinance No 937 continued)

MAKING FINDINGS; PROVIDING REPEAL OF
CONFLICTING ORDINANCES; PROVIDING
SEVERABILITY; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, ARTICLE VIII, Section 1 (f) of the constitution of the State of Florida, provides in part as follows: "The Board of County Commissioners of a County not operating under a charter may enact in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict"; and,

WHEREAS, the Board of County Commissioners of DeSoto County, Florida, is adopting ordinances regulating sexually oriented businesses in DeSoto County, Florida, including the incorporated area of the City of Arcadia, Florida; and

WHEREAS, the City Council of the City of Arcadia, Florida, has reviewed the County Ordinance and much of the material and Court decisions cited therein and deems it in the best interest of the citizens of Arcadia, Florida, that sexually oriented businesses be regulated by the County Ordinance and the purpose of this Ordinance is to insure that there be no conflict between the County Ordinance and any municipal ordinances.

NOW, THEREFORE , THE CITY OF ARCADIA, FLORIDA, HEREBY ORDAINS:

Section 1. The City Council of the City of Arcadia finds that it is in the best interests of the citizens of the City of Arcadia, Florida who are also citizens of DeSoto County, Florida, that any sexually oriented businesses be regulated on a county-wide basis.

Section 2. That sections 18-4, 22-31, 22-32, 22-33, and 22-34 of the Code of Ordinances of the City of Arcadia, Florida, are hereby repealed.

Section 3. Any Ordinance or provision in any Ordinance in conflict herewith is hereby repealed.

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(Ordinance No. 937 Continued)

Section 4. If any subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional in any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not effect the validity of the remainder of this Ordinance.

Section 5. This Ordinance shall take effect pursuant to Chapter 73-403 of the laws of the State of Florida.

UNANIMOUSLY PASSED BY THE CITY COUNCIL OF THE CITY OF
ARCADIA, FLORIDA, IN REGULAR SESSION AT THE COUNCIL
CHAMBERS, ARCADIA, FLORIDA, ON THIS 21st DAY OF
August, 2007.

ATTEST:

CITY OF ARCADIA, FLORIDA

BY: /s/ Rachele M. Baumann
RACHELLE M. BAUMANN
City Recorder

BY: /s/ Roosevelt Johnson
ROOSEVELT JOHNSON
Mayor

PASSED ON FIRST READING June 19, 2007.

PASSED ON SECOND READING July 17, 2007.

PASSED ON THIRD READING August 21, 2007.

APPROVED AS TO FORM
DAVID C. HOLLOMAN
CITY ATTORNEY

Paul Hoover a local businessman addressed the Council with a request that the City and County work to reduce issues of dual taxation. Mr. Hoover stated there was a huge disparity with the County at 7.4 mills and the City at 7.8 mills. Mr. Hoover noted that the citizens of the City were paying both County and City taxes; however, the citizens of the County only paid County taxes. The County says the City resident's use all of the County's resources, however Mr. Hoover stated; the County resident's also use the

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City's resources such as parks and roads. Mr. Hoover requests the City have a meeting with the County to resolve this issue. He believes that the City has not fought to reduce millage rates. He then stated he did not believe the Council was uncaring, but he did believe someone needed to start the researching of this issue. He again said that he realizes this is a complicated issue; however, it is not an issue that is going to disappear. Mr. Hoover does not believe anyone would want to move into the City or to be annexed knowing that they have to pay double taxes.

Mayor Johnson stated that he has often expressed concern that the City residents pay more taxes than the County residents. One example was with grants given by the State in favor of the County and not used for city residents as well. He noted that has now changed. Mayor Johnson stated he believes that a study should be done to see where the City is paying double taxes.

Attorney Holloman stated that he could not give a definite answer without looking at the statutes as to what could be done regarding double taxation.

Council Member Whitlock noted that Punta Gorda has looked into this problem in Charlotte County.

Paul Hoover stated that there are Counties all over the state that had solved this problem.

Council Member Heine feels that Administrator Strube and Attorney Holloman need to do a study so that the Council can see if legally something could be done. Mayor Johnson asked if Mr. Hoover has done any research, and if so if he would turn his information over to Administrator Strube to be used in a study.

Administrator Strube noted that each City and County are different and this issue requires a compromise at the local level. He reported that at a previous Council meeting, County Administrator Coffey said that for the FY 2007/2008 budget he was going to split out expenses and revenues as per Florida Statutes; however, he has not yet provided a copy of the proposed FY 07-08 budget to the City. Administrator Strube stated he does not feel that the best approach is one of demanding compliance through the courts, but one of trying to jointly resolve the problem utilizing the guidance and procedures contained in the State Constitution and Florida Statutes. He recommends a letter be sent the County to open communication regarding the issue. Heine moved for Administrator Strube to draft an appropriate letter and other documents as necessary; seconded by Whitlock and carried. Resolution 2007-8 as required by Florida Statutes was sent with the letter.

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RESOLUTION NO.2007-8

A RESOLUTION OF THE CITY OF ARCADIA, FLORIDA, RELATING TO THE ISSUE OF DOUBLE TAXATION IN DESOTO COUNTY, FLORIDA: ITEMIZING CERTAIN AREAS OF SERVICE PROVIDED BY DESOTO COUNTY FOR THE BENEFIT OF RESIDENTS OF THE UNINCORPORATED AREAS OF DESOTO COUNTY AND IN WHICH CITY RESDENTS RECEIVE NO REAL OR SUBSTANTIAL BENEFIT; REQUESTING RELIEF FOR THE RESIDENTS AND TAXPAYERS OF THE CITY OF ARCADIA; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 1 (h), Florida Constitution, prohibits the taxation of property situated within municipalities for services rendered by the County exclusively for the benefit of the property or residents in the unincorporated area of the County; and

WHEREAS, Section 125.01(6)(a), Florida Statutes provides procedures for the governing body of a municipality to petition the Board of County Commissioners for relief from action prohibited by Article VIII, Section 1 (h), of the Florida Constitution; and

WHEREAS, Section 125.01(6)(b), Florida Statutes provides that Boards of County Commissioners shall within 90 days, file a response to such petition, which response shall either reflect action to comply or reject such petition. A rejection shall state findings of fact demonstrating that the service does not specially benefit the property or residents of the unincorporated area; and

WHEREAS, Section 125.01(7), Florida Statutes, requires Boards of County Commissioners to expend all County revenues, excepting those obtained specially from or on behalf of a municipal service taxing unit, municipal service benefit unit, special district, unincorporated area, service area, or program area, for countywide services, programs and projects; and

WHEREAS, Section 129.01(2)(b), Florida Statutes, requires the County to develop an annual budget with receipts and appropriation divisions that reflect the approximate division of expenditures between county-wide expenditures and non-county-wide expenditures and the division of county revenues derived from or on behalf of the county as a whole and county revenues derived from or on behalf of a municipal service taxing unit, municipal service benefit unit, special district, unincorporated area, service

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(Resolution 2007-8 continued)

area, program area, or otherwise not received for or on behalf of the county as a whole;
and

WHEREAS, the Fiscal Year 2006-07 Budget of DeSoto County did not provide sufficient detail, as required by Section 129.01(2)(b), Florida Statutes, to permit, upon inspection, a determination that the prohibition against utilizing county-wide revenues as set forth in Article VIII, Section 1 (h), of the Florida Constitution, and the remedies provided in Section 125.01(6)(a) Florida Statutes, were being observed.

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

SECTION 1. The City requests that the DeSoto County Board of Commissioners develop for the ensuing Fiscal Year appropriate mechanisms, as provided in Section 125.01(6)(a), Florida Statutes, to finance the programs and/or services identified in Section 2 of this Resolution that are: (1) provided by the County specially for the unincorporated areas; (2) financed from county-wide revenues, and; (3) of no real and substantial benefit to the property or residents of the City, and to remit the proportionate amount of the cost of said services to the City as prescribed by Sections 125.01(6)(a), Florida Statutes.

SECTION 2. The City believes the following services and/or programs are being rendered by the DeSoto County Board of Commissioners as having no real and substantial benefit accruing to the property or residents within the City, and are being funded at least in part from countywide revenues and not limited to funding from revenues derived specifically from or on behalf of municipal service taxing units, municipal service benefit units, special districts, unincorporated areas, service areas or program areas:

1. Internal Service Funds.
2. Water and Sewer Utilities operations and debt service.
3. All costs related to County Zoning, County Planning, Comprehensive Planning, and Subdivision Regulations.
4. Code Enforcement.
5. Public Works Administration and Engineering relating to subdivision review and inspection, and design, survey and inspection of both paved and unpaved local roads included in the County Road System.

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6. Animal Control.
7. Parks and Recreation.
8. Sheriff's Road Patrol, Investigations, Drug Task Force, including appropriate payroll, administrative, operating and capital costs.
9. Fire and Ambulance to the extent it is not being totally funded from Countywide Revenues.
10. Transportation expenditures relating to maintenance and/or construction of local roads included in the County Road System, including road rights of way and drainage.
11. Impact fees relating to Park, Library, Fire/Rescue, General Government, Road, Law Enforcement, and Administration Benefit Districts.
- 12 All above costs of services to include appropriate overhead, supervision, administration, capital, short and long term debt service, interfund transfers, Accounting, Purchasing, Building Maintenance, Personnel, insurance, and other similar direct and indirect costs of providing services.

SECTION 3. The DeSoto County Board of Commissioners is hereby requested to develop appropriate mechanisms and take appropriate actions under the provisions of Section 125.01(6)(a), Florida Statutes, to finance the aforesaid services, facilities and activities from revenues other than those derived from taxation, assessments, or service charges on property or residents within the City of Arcadia.

SECTION 4. The City requests that the DeSoto County Board of Commissioners maintain such appropriate mechanisms for the purposes set forth in Section 1, above, and that the County Commission evaluate on a continuing basis other County services which, from time to time, may only be of real and substantial benefit to the property or residents of the unincorporated areas of the County with the intent of affording further relief to the taxpayers of the City through the establishment of the aforementioned mechanisms

SECTION 5. The DeSoto County Board of Commissioners is requested to comply with Florida Statute 129.01(2)(b) and to utilize to the extent necessary, Florida Statutes 129.021.

SECTION 6. The DeSoto County Board of Commissioners is hereby petitioned to return to the City of Arcadia, within 6 (six) months of the adoption of the County Budget, the amount of taxes, service charges and /or other revenues paid by residents and taxpayers of the City of Arcadia as well as all other revenues excepting those revenues obtained specifically from or on behalf of a municipal service taxing unit, municipal service benefit unit, special district, unincorporated area, service area, or program area, as set

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(Resolution 2007-8 continued)

forth in Florida statute 125.01(7), to the extent utilized to finance services identified in Section 2 of this Resolution, for Fiscal Year 2007-08, and for each ensuing Fiscal Year, until such time as alternate financing mechanisms have been implemented and "double taxation" conditions have ceased to exist.

SECTION 7. The City Council remains ready to work cooperatively with the DeSoto County Board of Commissioners to resolve these issues, utilizing the provisions of the Florida State Constitution, Florida Statutes, Interlocal Agreements, or any other mechanisms that will reduce taxation inequities on the residents and taxpayers of the City of Arcadia.

SECTION 8. This Resolution shall take effect immediately upon its adoption.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA,
on this 21st day of August, 2007.

CITY OF ARCADIA, FLORIDA

ATTEST:

/s/ Roosevelt Johnson
ROOSEVELT JOHNSON, ED.D.
MAYOR

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

The Fines and Forfeitures report for the month of July shows \$6,002.04 for fines.

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

Recorder Baumann addressed Council to request authorization to purchase a new server in order to move forward with the instillation of the most current version of MUNIS. Currently the City uses MUNIS software to run the general ledger, accounts payable, payroll, occupational license, and utility billing systems. Ms. Baumann noted that the City is currently on version 2003.3 and the current hardware will not allow updates to the 2007 version. It was noted that most of the program enhancements have been to the utility billing module. Ms. Baumann would like to purchase the server in the current budget year

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FY 2006/2007. The total cost for the server, software, and service is \$12,720.00. Heine moved to grant the request to allow for the purchase of a new server in FY 2006/2007 in the amount of \$12,720.00; seconded by Whitlock and carried. Mayor Johnson requested that funds be allocated in the budget for future computer system updates.

The Planning and Zoning Board at a meeting on August 14, 2007, recommended the following to the City Council:

1. That the request of the Hickory Street Church of Christ for a reduction in the side yard set backs be granted by a Special Resolution, subject to meeting all other set backs. This would allow the church to construct handicapped restrooms at the front of the building. Heine moved to grant the request by Resolution No. 2007-9 seconded by Fazzino and carried.

RESOLUTION NO. 2007-9

WHEREAS, Hickory Street Church of Christ has the need to expand their sanctuary to accommodate an entryway and handicapped restrooms, and

WHEREAS, their property is triangular in shape making some setbacks less than required, and

WHEREAS, the State Road Department has usurped some of the church property for State Road 70, however the Department has no problem with the location of the proposed addition, and

WHEREAS, no surrounding property will be effected in any way by the proposed addition, and

WHEREAS, The Planning and Zoning Board has reviewed the proposed addition and has recommended to the City Council that a special approval be granted allowing reduced setbacks to permit their addition.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Arcadia, Florida that a special approval be granted to the Hickory Street Church of Christ 710 W. Hickory St., allowing reduced setbacks as determined by survey after construction and placed in permit application file 07-33-Construction of Entrance addition to church.

BE IT FURTHER RESOLVED that this approval be granted subject to all other

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(Resolution No. 2007-9 continued)

city, county, and state laws, rules, and regulations being met.

PASSED BY THE CITY COUNCIL of the City of Arcadia, Florida in Regular Session in the City Council Chambers this 21st day of August 2007.

CITY OF ARCADIA, FLORIDA

By: /s/ Roosevelt Johnson
ROOSEVELT JOHNSON, MAYOR

ATTEST:

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

Planning and Zoning Continued.

2. That the request of Gordon T. Suleiman regarding his petition to rezone property at 119 North Volusia from One Family Dwelling R-1B To Business B-3 District, be scheduled for a joint Public Hearing with a possible date of October 16, 2007 at 6:00 p.m. or as soon thereafter as possible. Administrator Strube advised the Council that the application has been picked up, but not returned. There is a possibility the date might have to be changed. He also stated he does not believe that a B-3 is the best zoning for this property and he recommends that a better zoning for the property would be to a Professional Office P-1 District. When the application is returned, he will discuss this with Mr. Suleiman. Administrator Strube noted that if the application was not back by September 5, 2007, there would not be time to meet the legal requirements to advertise for a Public Hearing in order for this to be on the agenda at the October 16 meeting. Whitlock moved to grant the request to schedule a joint Public Hearing to be set for October 16, 2007 at 6:00 pm or as soon there after; however the date may be changed as needed in order to meet all requirements for legal notices; seconded by Fazzone and carried.
3. That the request of the Trinity United Methodist Church to allow for the installation of a columbarium in the church chapel be granted by Special Resolution, as the request complies with the requirements set forth in City Ordinance No. 903 of the City of Arcadia. Heine moved to grant the request by Special Resolution No. 2007-10; seconded by Whitlock and carried.

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RESOLUTION NO. 2007-10

WHEREAS, the Trinity United Methodist Church of Arcadia has requested approval to install a Columbarium in their chapel, and

WHEREAS, City of Arcadia Ordinance 903 provides for Columbarium in churches after a review by the Planning and Zoning Board and City Council, and

WHEREAS, the Planning and Zoning Board has reviewed their request and recommends that approval be granted.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Arcadia, Florida that the Trinity United Methodist Church be granted approval to install a Columbarium in the chapel of their church located at 304 W. Oak St., Arcadia, Florida.

BE IT FURTHER RESOLVED that this approval be granted subject to all other city, county, and state laws, rules, and regulations being met.

PASSED BY THE CITY COUNCIL of the City of Arcadia, Florida in Regular Session in the City Council Chambers this 21st day of August 2007.

CITY OF ARCADIA, FLORIDA

By: /s/ Roosevelt Johnson
ROOSEVELT JOHNSON, MAYOR

ATTEST:

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

The Golf Course Report for the month of July, 2007 was presented. Council Members Whitlock, Heine, and Fazzone commented on how nice the grounds and the golf course looked.

Administrator Strube addressed the Council regarding procedures that are in place when staff receives questions regarding the availability of City water and sewer services for properties located within the City and outside the City. Administrator Strube requests that Council continue to endorse the efforts of staff to work with all potential developers

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and property owners in extending the corporate limits of the City. Staff in turn will continue to advise developers that the final authority to do so rests with the City Council. Administrator Strube stated he felt the City should have the right to serve the area adjacent to the City, however in the past the County has refused to allow developers to work with the City. He stated annexation is something that should be addressed and could co exist with the County in expanding the City limits.

Council Member Fazzone asked if the City was still providing water to the Super Wal-Mart to which Administrator Strube stated that the City is not. Administrator Strube believes that the pre-annexation agreement with Wal Mart should still be in the works.

Fazzone then asked where the City was in completing the Comprehensive Plan. Steve Weeks, Grants Coordinator stated that another EARS report would be done in 2008, but the Comprehensive Plan was completed.

Administrator Strube addressed Council for approval of Specific Authorization No. 54 with Boyle Engineering Corporation to provide professional engineering services necessary to develop a water and wastewater master plan. Whitlock asked if the City would still be using Boyle Engineering since one of the main employees that the City worked with had left the company to which Administrator Strube stated that the City would still continue to use Boyle as they know our system. Whitlock moved to authorize the mayor to sign Specific Authorization No. 54 with Boyle Engineering in the amount of \$88,900.00; seconded by Fazzone and carried.

Airport report for the month of May, 2007, was presented.

Special Coordinator Hewitt presented the Council was correspondence he received from the Department of Transportation (DOT) regarding the Council's request for a restudy of the intersection at US 17 and Pine Street and MLK Jr. Street. The study is scheduled to be done in the September/October time frame.

Valerie Gilchrist, representing Tidwell & Palliative Care, presented the Council with brochures of the new facility in Arcadia. Mrs. Gilchrist invited the Members to attend a meeting at the Family Service Center on Wednesday, August 29, 2007 at 11:30 for lunch and to learn about Tidwell & Palliative Care.

Mrs. Gilchrist then addressed the Council as a member of the DeSoto County Community Development Corporation. She thanked the Council for their partnership with the Corporation and for the renovations at Louis Anderson Park. Mrs. Gilchrist reported that a ground breaking for the new restroom facilities commissioned by the Council was held at 4:00 p.m. today.

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Mrs. Gilchrist addressed the Council for the Homeless Coalition. She stated the grant for the 17 bed facility had been completed and if they receive the grant the facility would be completely paid for when it was completed. Mrs. Gilchrist request \$2,000.00 from the City Council to aid in this project. Monies for the Pilot Program (Payment In Lieu Of Taxes) are forthcoming, and Mr. John Seitz would be involved in the administration of these funds. It was noted that the City has allocated \$2,000.00 to the Center for the Homeless in the FY 2007/2008 budget.

Mayor Johnson advised the Council he had been elected, by the Florida League of Cities, to serve an additional term on the Executive Board.

Mayor Johnson then reported that he had received a letter from Gwen Nesmith which she had received from the Housing Authority. Mayor Johnson inquired if all other members had read the letter and as to their response. Council Member Fazzone, being a past employee of the Housing Authority, stated it was not a letter he would have sent to any resident. Mayor Johnson stated if he was a resident, he would have been offended by the letter. It was agreed by all members that the letter had not been written in the form that represented the City in an appropriate manner. Valerie Gilchrist reported that she is on the Board of the Housing Authority and will research the issue. Mayor Johnson thanked Mrs. Gilchrist and requested she report back to the City Council at the next meeting.

There being no further business, the meeting was adjourned.


CITY RECORDER


PRESIDENT