

REGULAR MEETING  
DECEMBER 5, 2006

A Regular Meeting of the Arcadia City Council was held on December 5, 2006 at 6:00 p.m. in Room D of the Way Building at 23 N. Polk Avenue. Council members in attendance were: Johnson, Goodman, Fazzone, and Heine. Absent: Council member Whitlock due to illness in his family. Also in attendance were: Administrator Strube, City Attorney Holloman, Marshall Lee, Captain Anderson, Ms. Way and Recorder Baumann.

Mayor Johnson called the meeting to order.

Invocation was given by Council Member Goodman.

Pledge of Allegiance to the Flag.

The minutes of the Regular Meeting of November 21, 2006 were adopted on a motion by Heine; seconded by Goodman and carried.

Ordinance No. 933 was presented on third and final reading. Goodman moved to waive the rules and read the proposed ordinance by title only; seconded by Fazzone and carried.

## ORDINANCE NO. 933

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF ARCADIA, FLORIDA, TO REZONE THE FOLLOWING PROPERTY; BEGIN AT THE NE CORNER OF THE NW ¼ OF THE SW ¼ OF SECTION 30, TOWNSHIP 37 SOUTH, RANGE 25 EAST; THENCE S 89°45'29" W ALONG THE NORTH LINE OF SAID TRACT, 173.90 FEET TO THE CENTER LINE OF THE S.C.L.R.R. R/W FOR THE POINT OF BEGINNING; THENCE CONTINUE ON THE SAME LINE, 941.84 FEET TO THE NE CORNER OF THE ARCADIA LAND AND IMPROVEMENT COMPANY'S SUBDIVISION OF PART OF THE N ½ OF THE NW ¼ OF THE SW ¼ OF SECTION 30, TOWNSHIP 37 SOUTH, RANGE 25 EAST; THENCE SOUTH ALONG THE EAST LINE OF SAID SUBDIVISION, 625.75 FEET TO THE SE CORNER OF SAID SUBDIVISION; THENCE N 89°42'40"E, 699.18 FEET TO THE CENTER LINE OF SAID R.R.R/W; THENCE N 21°09'05"E ALONG SAID R,R, R/W CENTER LINE, 672.51 FEET TO THE POINT OF BEGINNING LESS A PARCEL AS DESCRIBED IN DEED BOOK 270, PAGE 220;AND LESS CITY OF ARCADIA PROPERTY AS DESCRIBED IN DEED BOOK 267, PAGE 50; AND LESS S.C.L.R.R. R/W. ALSO, LESS THE FOLLOWING DESCRIBED PARCEL;BEGIN AT THE NE CORNER OF THE NW ¼ OF THE SW ¼ OF SECTION 30, TOWNSHIP 37 SOUTH, RANGE 25 EAST; THENCE S 89° 45'29" W ALONG THE NORTH LINE OF SAID TRACT, 421.58 FEET; THENCE S 21° 15' 05" W, 398.17 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ON THE SAME LINE 137.51 FEET; THENCE NORTH 127.91 FEET; THENCE N 89° 42'40" FEET TO THE POINT

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Ordinance No. 933 Cont.

OF BEGINNING, AS RECORDED IN PUBLIC RECORDS OF DESOTO COUNTY FROM ONE-FAMILY DWELLING R-1A DISTRICT MULTIPLE DWELLING R-3 DISTRICT. PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Goodman then moved to adopt Ordinance No. 933 on third and final reading and that it become an ordinance of the City of Arcadia; seconded by Heine. Mayor Johnson called for comments from the public, there were none. The motion carried on a roll call vote. Ayes: Fazzino, Goodman, Heine, and Johnson. Nays: None. Council member Whitlock was absent.

ORDINANCE NO 933

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF ARCADIA , FLORIDA, TO REZONE THE FOLLOWING PROPERTY: BEGIN AT THE NE CORNER OF THE NW ¼ OF THE SW ¼ OF SECTION 30, TOWNSHIP 37 SOUTH, RANGE 25 EAST; THENCE S 89°45'29" W ALONG THE NORTH LINE OF SAID TRACT, 173.90 FEET TO THE CENTER LINE OF THE S.C.L. R.R. R/W FOR THE POINT OF BEGINNING; THENCE CONTINUE ON THE SAME LINE, 941.84 FEET TO THE NE CORNER OF THE ARCADIA LAND AND IMPROVEMENT COMPANY'S SUBDIVISION OF PART OF THE N ½ OF THE NW ¼ OF THE SW ¼ OF SECTION 30, TOWNSHIP 37 SOUTH, RANGE 25 EAST; THENCE SOUTH ALONG THE EAST LINE OF SAID SUBDIVISION, 625.75 FEET TO THE SE CORNER OF SAID SUBDIVISION; THENCE N 89°42'40" E, 699.18 FEET TO THE CENTER LINE OF SAID R.R. R/W; THENCE N 21°09'05" E ALONG SAID R.R R/W CENTER LINE, 672.51 FEET TO THE POINT OF BEGINNING. LESS A PARCEL AS DESCRIBED IN DEED BOOK 270, PAGE 220; AND LESS CITYOF ARCADIA PROPERTY AS DESCRIBED IN DEED BOOK 267, PAGE 50; AND LESS S.C.L. R.R. R/W. ALSO, LESS THE FOLLOWING DESCRIBED PARCEL; BEGIN AT THE NE CORNER OF THE NW ¼ OF THE SW ¼ OF SECTION 30, TOWNSHIP 37 SOUTH, RANGE 25 EAST; THENCE S 89°45'29" W ALONG THE NORTH LINE OF SAID TRACT, 421.58 FEET; THENCE S 21°15'05" W, 398.17 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ON THE SAME LINE 137.51 FEET; THENCE NORTH 127.91 FEET; THENCE N 89°42'40" E, 49.84 FEET TO THE POINT OF BEGINNING, AS RECORDED IN PUBLIC RECORDS OF DESOTO COUNTY FROM ONE-FAMILY DWELLING R-1A DISTRICT TO MULTIPLE DWELLING R-3 DISTRICT. PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

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(Ordinance 933 Continued)

WHEREAS, the Planning and Zoning Board of the City of Arcadia, Florida, in joint session with the City Council of the City of Arcadia, on Tuesday November 7, 2006, held a Public Hearing, with proper notice of Public Hearing being given as required by law; and

WHEREAS, the Planning and Zoning Board of the City of Arcadia, Florida, recommended to the City Council of the City of Arcadia, Florida, that the following parcels of land be rezoned as follows:

BEGIN AT THE NE CORNER OF THE NW  $\frac{1}{4}$  OF THE SW  $\frac{1}{4}$  OF SECTION 30, TOWNSHIP 37 SOUTH, RANGE 25 EAST; THENCE S  $89^{\circ}45'29''$  W ALONG THE NORTH LINE OF SAID TRACT, 173.90 FEET TO THE CENTER LINE OF THE S.C.L. R.R. R/W FOR THE POINT OF BEGINNING; THENCE CONTINUE ON THE SAME LINE, 941.84 FEET TO THE NE CORNER OF THE ARCADIA LAND AND IMPROVEMENT COMPANY'S SUBDIVISION OF PART OF THE N  $\frac{1}{2}$  OF THE NW  $\frac{1}{4}$  OF THE SW  $\frac{1}{4}$  OF SECTION 30, TOWNSHIP 37 SOUTH, RANGE 25 EAST; THENCE SOUTH ALONG THE EAST LINE OF SAID SUBDIVISION, 625.75 FEET TO THE SE CORNER OF SAID SUBDIVISION; THENCE N  $89^{\circ}42'40''$  E, 699.18 FEET TO THE CENTER LINE OF SAID R.R. R/W; THENCE N  $21^{\circ}09'05''$  E ALONG SAID R.R. R/W CENTER LINE, 672.51 FEET TO THE POINT OF BEGINNING. LESS A PARCEL AS DESCRIBED IN DEED BOOK 270, PAGE 220; AND LESS CITY OF ARCADIA PROPERTY AS DESCRIBED IN DEED BOOK 267, PAGE 50; AND LESS S.C.L. R.R. R/W. ALSO, LESS THE FOLLOWING DESCRIBED PARCEL; BEGIN AT THE NE CORNER OF THE NW  $\frac{1}{4}$  OF THE SW  $\frac{1}{4}$  OF SECTION 30, TOWNSHIP 37 SOUTH, RANGE 25 EAST; THENCE S  $89^{\circ}45'29''$  W ALONG THE NORTH LINE OF SAID TRACT, 421.58 FEET; THENCE S  $21^{\circ}15'05''$  W, 398.17 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ON THE SAME LINE 137.51 FEET; THENCE NORTH 127.91 FEET; THENCE N  $89^{\circ}42'40''$  E, 49.84 FEET TO THE POINT OF BEGINNING, AS RECORDED IN PUBLIC RECORDS OF DESOTO COUNTY FROM ONE-FAMILY DWELLING R-1A DISTRICT TO MULTIPLE DWELLING R-3 DISTRICT.

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(Ordinance 933 Continued)

and,

WHEREAS, the City Council of the City of Arcadia, Florida deems it to be in the best interest of the citizens of the City of Arcadia, Florida that said recommendation be adopted and made a part of the Zoning Ordinances and zoning map of the City of Arcadia, Florida, and

WHEREAS, this zone change is in agreement with the City of Arcadia Comprehensive Plan, and the City of Arcadia Future Land Use Map.

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

Section 1. THAT THE ZONING CLASSIFICATION OF THE FOLLOWING DESCRIBED PROPERTY TO WIT: BEGIN AT THE NE CORNER OF THE NW ¼ OF THE SW ¼ OF SECTION 30, TOWNSHIP 37 SOUTH, RANGE 25 EAST; THENCE S 89°45'29" W ALONG THE NORTH LINE OF SAID TRACT, 173.90 FEET TO THE CENTER LINE OF THE S.C.L. R.R. R/W FOR THE POINT OF BEGINNING; THENCE CONTINUE ON THE SAME LINE, 941.84 FEET TO THE NE CORNER OF THE ARCADIA LAND AND IMPROVEMENT COMPANY'S SUBDIVISION OF PART OF THE N ½ OF THE NW ¼ OF THE SW ¼ OF SECTION 30, TOWNSHIP 37 SOUTH, RANGE 25 EAST; THENCE SOUTH ALONG THE EAST LINE OF SAID SUBDIVISION, 625.75 FEET TO THE SE CORNER OF SAID SUBDIVISION; THENCE N 89°42'40" E, 699.18 FEET TO THE CENTER LINE OF SAID R.R. R/W; THENCE N 21°09'05" E ALONG SAID R.R. R/W CENTER LINE, 672.51 FEET TO THE POINT OF BEGINNING. LESS A PARCEL AS DESCRIBED IN DEED BOOK 270, PAGE 220; AND LESS CITY OF ARCADIA PROPERTY AS DESCRIBED IN DEED BOOK 267, PAGE 50; AND LESS S.C.L. R.R. R/W. ALSO, LESS THE FOLLOWING DESCRIBED PARCEL; BEGIN AT THE NE CORNER OF THE NW ¼ OF THE SW ¼ OF SECTION 30, TOWNSHIP 37 SOUTH, RANGE 25 EAST; THENCE S 89°45'29" W ALONG THE NORTH LINE OF SAID TRACT, 421.58 FEET; THENCE S 21°15'05" W, 398.17 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ON THE SAME LINE 137.51 FEET; THENCE NORTH 127.91 FEET; THENCE N 89°42'40" E, 49.84 FEET TO THE POINT OF BEGINNING, AS RECORDED IN PUBLIC RECORDS OF DESOTO COUNTY BE CHANGED FROM ONE-FAMILY DWELLING R-1A DISTRICT TO MULTIPLE DWELLING R-3 DISTRICT; and the Zoning Map of the City of Arcadia is so amended.

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(Ordinance 933 Continued)

Section 2. If any subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional, the remainder of this Ordinance shall not be affected by such invalidity.

Section 3. That 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, on this 5<sup>th</sup> day of December, 2006.

ATTEST:

CITY OF ARCADIA, FLORIDA

/s/ ROOSEVELT JOHNSON  
ROOSEVELT JOHNSON  
MAYOR

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

PASSED ON FIRST READING November 7, 2006

PASSED ON SECOND READING November 21, 2006

PASSED ON THIRD READING December 5, 2006

APPROVED AS TO FORM:  
DAVID C. HOLLOMAN, CITY ATTORNEY

Ordinance No. 934 was presented on second reading. Heine moved to waive the rules and read the proposed ordinance by title only; seconded by Fazzone and carried.

ORDINANCE NO. 934

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA,  
ESTABLISHING THE PROPORTIONATE FAIR-SHARE  
TRANSPORTATION MITIGATION PROGRAM; PROVIDING  
FOR PURPOSE AND INTENT; PROVIDING FOR FINDINGS;  
PROVIDING FOR APPLICABILITY; ESTABLISHING  
GENERAL REQUIREMENTS; PROVIDING FOR  
MEMORANDUM OF UNDERSTANDING ON  
PROPORTIONATE FAIR-SHARE PROGRAM; ESTABLISHING  
AN APPLICATION PROCESS; PROVIDING FOR

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(Ordinance 934 Continued)

DETERMINATION OF PROPORTIONATE FAIR-SHARE OBLIGATION; PROVIDING FOR IMPACT FEE; PROVIDING FOR PROPORTIONATE FAIR-SHARE AGREEMENTS; PROVIDING FOR APPROPRIATION OF FAIR-SHARE REVENUES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Fazzone then moved to adopt Ordinance No. 934 on second reading; seconded by Goodman. Mayor Johnson called for comments from the public, there were none. The motion carried on a roll call vote. Ayes: Fazzone, Goodman, Heine, and Johnson. Nays: None. Council member Whitlock was absent.

By Letter, Christine Engels, Executive Director of the Arcadia Housing Authority, requests that Rev. Theodore Hanus to be appointed for another term as an Arcadia Housing Authority Board Commissioner. Goodman moved to grant the request to re-appoint Rev. Theodore Hanus to the Arcadia Housing Authority Board; seconded by Heine and carried. Recorder Baumann stated this term would be for four (4) years and would expire in 2010.

Marshall Lee addressed the Council and reported that due to a computer breakdown, the monthly Police Report was not available.

Marshall Lee then asked the Council for clarification regarding Code 18.1, which regulates the hours for the sale and consummation of alcoholic beverages for restaurants. Marshall Lee asked if a restaurant could remain open after midnight as long as they were no longer selling alcoholic beverages. Attorney Holloman stated he would like to review the information regarding this ordinance and any status the business might have in regards to this ruling. Administrator Strube stated the ordinance was modified in 2001 to include opening from 12 midnight until 2:00 a.m. on December 31 and January 1. Administrator Strube also stated that he and Attorney Holloman would need to review the Florida Statutes regarding the sale of alcoholic beverages.

City Recorder Baumann addressed the Council to request a change of the capitalization threshold for fixed assets from \$500.00 to \$2,500.00. She stated that all items would continue to be tagged for inventory purposes; however depreciation would no longer be taken on items less than \$2,500.00. It was noted that this change is consistent with accounting industry standards. Heine moved to grant the request to change the capitalization threshold for fixed assets from \$500.00 to \$2,500.00 and that this change is retroactive to October 1, 2006 which is the beginning of the Fiscal Year; seconded by Goodman and carried.

Administrator Strube addressed Council to report that three (3) bids were received for the repair of the William Tyson Waste Water Treatment Plant and were as follows; 1) Wright Construction \$4,559,519.72, Wharton-Smith Inc. \$3,687,000.00, and 3) Censtate Contractor Inc \$3,644,000.00. Administrator Strube recommends that a contract be awarded to the lowest bidder Censtate Contractors, Inc. Fazzone moved to award a contract to Censtate

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Contractor, Inc in the amount of \$3,644,000.00 for repair work at the William Tyson Waste Water Treatment Plant as outlined in the City's Community Development Block Grant Funding Application; seconded by Heine and carried.

The November 2006 report of Arcadia Golf Course receipts and number of play was presented.

Ms. Valerie Gilchrist, President of the DeSoto County Homeless Coalition, addressed the Council with an update of activities of the Coalition noting that they are now recognized by the Internal Revenue as a 501C (3) organization. She then reported that they are looking for funds to build a transition emergency shelter. The Coalition is working with a consultant who will only charge a fee if they are able to secure grant funds. The consultant has recommended that the Coalition seek a loan. Ms. Gilchrist is requesting permission to use One Hundred Dollars (\$100.00) of the donation from the City for a loan application fee. The City had requested that funds donated would be used for administrative costs. Administrator Strube stated that the City's agreement with the Coalition requires accountability for the donation. He then stated that this request is not a departure of that agreement as a loan fee is considered an administrative fee. Heine moved to authorize the use of \$100.00 for a loan application fee; seconded by Goodman and carried.

Mr. Leonard Higley representing the DeSoto County Historical Society addressed the Council to seek Council support of the Historical Society's application for additional grant funds to continue the restoration of the John Morgan Ingraham House. Mr. Higley reported that in June 2006 the Historical Society with the help of Steve Weeks was successful in receiving grant funds to prevent further deterioration of the home, which had been damaged by Hurricane Charley in August 2004. The Historical Society is now seeking a second grant in order to complete the stabilization of the house. The Council acknowledged that the home is historically significant due to the age of the home and the many accomplishments of Mr. John Morgan Ingraham. Council Member Fazzone moved to publicly acknowledge the Council's continued support of the DeSoto County Historical Society in their efforts to seek a Historic Preservation Small Matching Grant-In-Aid for the John Morgan Ingraham House Project at 300 North Monroe Avenue, Arcadia, Florida; seconded by Council Member Heine and carried by unanimous vote.

City Attorney Holloman addressed the Council regarding an ordinance on Sexual Oriented Businesses in the City. Attorney Holloman advised the Council of a document from Manatee County that would be forthcoming for them to study and then make a finding for the City. The documents findings include Federal decisions and various studies concerning adverse effects of Sexual Oriented Business. The time limit for study and completion of an ordinance to govern this type of business is 180 days. The City must have a permanent ordinance ready for first reading by April 17, 2007. Mayor Johnson suggested a workshop regarding the study, no date was set. County Administrator Coffey requested a copy of the document from Manatee County. Mr. Coffey suggested that the County and City work together in order to develop an ordinance. Mr. Coffey would like to see a joint ordinance and that it be "county wide" noting that due to the size of the City it may be possible to limit the location of

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Sexually Oriented Businesses to the County. The County's moratorium will expire before the City's. Goodman then moved that the City work with the County to develop an ordinance addressing Sexual Oriented Businesses; seconded by Heine and carried. Attorney Holloman stated the moratorium now in effect will expire on June 1, 2007, and he did not want time to run out before this ordinance was in place. Coffey stated the County moratorium will expire before the City's. He informed the Council that the County would be using a special outside attorney hired to guide them on this ordinance. Attorney Holloman will have a copy of the information from Manatee County for each Council Member and County Administrator Coffey.

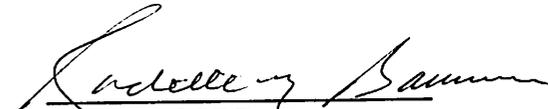
Administrator Strube addressed Council to report that he has spoken with Mr. Manasa of Wood Park Point. Mr. Manasa advised Administrator Strube that there are a few financial loose ends to be tied up with USDA and he anticipates construction will begin after the first of the year upon receiving final approval from USDA.

Council Member Heine addressed the Council regarding continuing problems concerning the management of the Arcadia Golf Course by Council Member Fazzone since the retirement of the former manager. Heine stated that Special Projects Manager Hewett was to over see it, however he became ill, and Council Member Fazzone is now overseeing the daily operations. Council Member Fazzone stated that he is tired of this coming up at Council meetings. He reported that on May 3, 2006 staff met with PGA Officials to develop an ad to hire a new manager. Fazzone believes that the ad should have been placed before Mr. Hewett became ill in June. Fazzone then voiced his displeasure of Mr. Hewitt stating that Mr. Hewitt did not follow through on finding a manager and has made derogatory remarks about him. Fazzone stated that Mr. Hewitt has been negligent in his position and a manager should have been hired before the beginning of the season, now at the start of the season is not the time to hire a manager. Administrator Strube reported that he had placed Mr. Hewitt at the golf course to oversee the restoration of the clubhouse due to damage caused by Hurricane Charley in August of 2004. Administrator Strube stated that an ad was placed in the Florida League of Cities four (4) times; however no response was received. Administrator Strube noted that Fazzone is not working for the City but for Lee Drugs as are two other co-managers, Valerie Bonett and Steve Canter. Administrator Strube stated that technically he is the manager. Council Member Goodman asked if Administrator Strube is ok with the management as it is to which Administrator Strube replied that he is. Administrator Strube then stated that the innuendoes and negative feelings need to stop. Goodman agreed that the negativity needs to stop. Goodman stated that her concerns are not with the golf course but with personal innuendo, and racial and sexual comments. She reported that she has been informed in writing of very negative and slanderous statements being made in the City offices. She is very upset and requests that all forms of derogatory conversations be stopped. Council Member Heine reported that he has talked with the Administrator several times about different things in the past that he feels should have been taken care of and were not. Heine again stated he does not think that Fazzone should be working at the golf course. City Attorney Holloman recommended that all conversation be halted in regards to Mr. Hewitt due to the fact Mr. Hewitt is not in attendance at this meeting. Council Member Fazzone stated that he will resign from the golf course which should take care of the problem. Mayor

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Johnson noted that he met with Administrator Strube and Attorney Holloman to review the policy and procedures for the management of the golf course. He also met with City Recorder Baumann to review financial information. He felt that the policy was in order and that the problem was resolved, however, the talk continues. Fazzone stated that he will fight to keep Ernie out of the golf course.

There being no further business, the meeting was adjourned.

  
CITY RECORDER

  
PRESIDENT