

REGULAR MEETING
November 21 2006

A Regular Meeting of the Arcadia City Council was held on November 21, 2006 at 6:00 p.m. in Room D of the Way Building at 23 N. Polk Avenue. Council members in attendance were: Johnson, Whitlock, and Heine. Absent were Council Members Fazzino and Goodman. Also in attendance were: Administrator Strube, City Attorney Holloman, Captain Anderson, Ms. Way and Recorder Baumann.

Mayor Johnson called the meeting to order.

Invocation was given by Council Member Heine.

Pledge of Allegiance to the Flag.

The minutes of the Regular Meeting of November 7, 2006 were adopted on a motion by Whitlock; seconded by Heine and carried.

Ordinance No. 932 was presented on third and final reading. Whitlock moved to waive the rules and read the proposed ordinance by title only; seconded by Heine and carried.

ORDINANCE NO. 932

AN ORDINANCE OF THE CITY OF ARCADIA
SUSPENDING PROCESSING OF APPLICATIONS FOR
ADULT ENTERTAINMENT ESTABLISHMENT PERMITS
FOR ONE HINDERED EIGHTY (180) DAYS; PROVIDING
FOR APPLICATION AND EXEMPTIONS; PROVIDING FOR
SEVERABILITY; PROVIDING FOR A EFFECTIVE DATE.

Whitlock then moved to adopt Ordinance No. 932 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: Whitlock, Heine, and Johnson. Nays: None. Council Members Fazzino and Goodman were absent.

ORDINANCE NO 932

AN ORDINANCE OF THE CITY OF ARCADIA
SUSPENDING PROCESSING OF APPLICATIONS FOR ADULT
ENTERTAINMENT ESTABLISHMENT PERMITS FOR ONE
HUNDRED EIGHTY (180) DAYS; PROVIDING FOR APPLICATION
AND EXEMPTIONS PROVIDING FOR SEVERABILITY;
PROVIDING FOR AN EFFECTIVE DATE.

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(Ordinance 932 Continued)

WHEREAS, DESOTO COUNTY is experiencing increasing applications for Permits to conduct Adult Entertainment Land Use, and has recently enacted an Ordinance providing that no applications for adult entertainment establishments will be accepted, processed, considered or granted for a period of one hundred eighty days. This Ordinance is enacted to give DeSoto County time in which to make necessary revisions to its land development regulations; and

WHEREAS, such revisions may affect the lands within the incorporated limits of the City of Arcadia, Florida; and,

WHEREAS, the zoning regulations, land development regulations and Section 22 of the City Code of this City do not presently allow sufficient conditioning and oversight of such uses and activities such that it may be necessary to revise the zoning regulations, land development regulations and Section 22 of the City Code; and

WHEREAS, such revisions requires time to conduct public hearings by the Arcadia Planning and Zoning Board and by the City Council of the City of Arcadia; and

WHEREAS, the City Council did on October 3, 2006 enact an emergency ordinance imposing moratorium for sixty (60) days, but now believe more time will be required to properly consider this land use; and

WHEREAS, a moratorium will not cause inordinate hardship upon adult entertainment establishments; and

WHEREAS, the City Council of the City of Arcadia has determined that the proposed moratorium is in the public interest.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, AS FOLLOWS:

SECTION 1.

Moratorium Imposed. No applications for Adult Entertainment Establishments pursuant to the definition contained in Section 22-31 of the City Code of the City of Arcadia, Florida, will be accepted, processed, considered or granted for a period of 180 days from the effective date of this Ordinance.

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(Ordinance 932 Continued)

SECTION 2. APPLICATION.

This moratorium will not apply to any application for which the fee has been paid and the application deemed complete by the City prior to the effective date of this Ordinance.

SECTION 3. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will be considered a separate provision and will not affect the remaining provisions of this Ordinance.

SECTION 4. EFFECTIVE DATE.

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 CITY COUNCIL CHAMBERS, ARCADIA, FLORIDA ON THIS 21st day of November, 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 October 17, 2006

PASSED ON SECOND READING November 7, 2006

PASSED ON THIRD READING November 21, 2006

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

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Ordinance No. 933 was presented on second reading. Whitlock moved to waive the rules and read the proposed ordinance by title only; seconded by Heine 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 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.

Whitlock then moved to adopt Ordinance No. 933 on second reading; seconded by Heine. Mayor Johnson called for comments from the public, there were none. The motion carried on a roll call vote. Ayes: Whitlock, Heine, and Johnson. Nays: None. Council Members Goodman and Fazzino were absent.

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Ordinance No. 934 was presented on first reading. Each Council Member had previously been given a copy for study. Administrator Strube noted that DeSoto County will be adopting a companion ordinance to ours and that this ordinance is required by the state. Whitlock moved to waive the rules and read the proposed ordinance by title only; seconded by Heine 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 DETERMINATION OF PROPORTIONATE
FAIR-SHARE OBLIGATION; PROVIDING FOR IMPACT FEE
CREDIT FOR PROPORTIONATE FAIR-SHARE MITIGATION;
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.

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

Administrator Strube stated that Resolution No. 2006-20 is required by Aetna in order to increase the retirement benefit for the general employees retirement plan from 1.5% to 2% of the employees Final Average Earnings. Heine moved to adopt Resolution No. 2006-20; seconded by Whitlock and carried.

RESOLUTIONS 2006-20

**FOURTH AMENDMENT
TO THE
RETIREMENT PLAN FOR EMPLOYEES OF
THE CITY OF ARCADIA**

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(Resolution 2006-20 continued)

WHEREAS, the City of Arcadia, (the "Employer") heretofore established a defined benefit pension plan known as the Retirement Plan for Employees of the City of Arcadia (the "Plan"); and

WHEREAS, under the terms of the Plan, the Employer has the ability to amend the Plan; and

WHEREAS, the Employer desires to amend the Plan to provide for an increased level of retirement benefit for those Participants retiring under the Plan on and after January 1, 2007;

NOW, THEREFORE, effective as of January 1, 2007, the Employer hereby amends the Plan to provide as follows:

1. Paragraph (a) of Section 5.1, Article V, is amended by deleting such paragraph in its entirety, replacing it with the following two new paragraphs, and re-letter the previously designated paragraphs "(b)" and "(c)" as paragraphs "(c)" and "(d)", respectively:

"(a)" With respect to a Participant who commences his retirement benefit on his Normal Retirement Date, and who retires on and after January 1, 2007, the yearly amount of retirement benefit payable in the Normal Form shall equal (i) multiplied by (ii), as follows:

- (i) 2.0 percent of his Final Average Earnings
 - (ii) the number of his years of Credited Service
- (b) With respect to a Participant who commences his retirement benefit on his Normal Retirement Date, and who retires on and after October 1, 2000 but prior to January 1, 2007, the yearly amount of retirement benefit payable in the Normal Form shall equal (i) multiplied by (ii), as follows:
- (i) 1.5 percent of his Final Average Earnings
 - (ii) the number of his years of Credited Service.

**PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA,
FLORIDA, IN REGULAR SESSION this 21st day of November, 2006.**

IN WITNESS WHEREOF, the Employer has caused this Fourth Amendment to be executed by a duly authorized person this 21st day of November, 2006.

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(Resolution 2006-20 continued)

CITY OF ARCADIA

/s/ ROOSEVELT JOHNSON
ROOSEVELT JOHNSON
MAYOR

WITNESS/ATTEST:

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

Christine Engels introduced Jim North of the EARS Animal Rescue Sanctuary. Mr. North presented each Council Member with a packet of information on the Society which included detail drawings of the proposed facility and buildings to be constructed. The Society has purchased twenty-five (25) acres near the intersection of US 75 and Kings Highway in Charlotte County. The Society is not a "shelter" but creates a place for adoptable animals to live. They are a "no kill" facility. Mr. North estimates that over 10,000 dogs and cats are put down in DeSoto and Charlotte County each year. When the Society takes in a dog or cat they will keep it for life or until they can find a home for them. The Society anticipates being open in the spring of 2007 and they will create about thirty (30) new jobs for the area.

The Public Works report for the month of October 2006 was presented. Heine asked that the Street Department sweep the downtown area on Monday and Friday. He asked that they begin before 5:00 am noting that after 5:00 am the parking spaces begin to fill up in front of Wheelers Café.

The Flowage and Hanger report for September, 2006 for the airport was presented.

Bill Minnear of Air-Cadia, Inc. addressed the Council regarding several of the hangers at the airport that the City rents out noting that they are leaking. Administrator Strube stated that the City is attempting to get bids for the three (3) hangers that are still missing doors from Hurricane Charley. They are part of a FEMA project worksheet, however FEMA is now requiring that the doors meet higher wind loads than what had previously been installed. Administrator Strube will check out the hangers reporting leaks.

Administrator Strube addressed the Council noting that the two meetings scheduled for December will be necessary in order to complete the ordinance process as advertised. City offices are scheduled to be closed for the Christmas Holidays on Friday, December 22, 2006 and Monday, December 25, 2006. They will be closed again for New Years Day on Monday January 1, 2007. Due to the holidays creating short work weeks Administrator Strube suggests that the first meeting in January, normally scheduled for

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January 2, 2007 be cancelled. Heine moved to cancel the meeting of January 2, 2007 and to hold only one Council Meeting in January that being on Tuesday, January 16, 2007; seconded by Whitlock and carried.

Administrator Strube then addressed the Council to discuss several issues concerning the City and County. He reported that he has sent letters to County Administrator Coffee regarding the need to renew Interlocal Agreements for Solid Waste Leachate, for Animal Control and for Building Inspections. The Animal Control and Building Inspection agreements were last renewed in 2003, the County has continued to perform the services; however no actual agreements have been signed.

Administrator Strube then reported that Mr. Coffee has sent a response regarding the Fire Merger agreement and the fact that the debt service payment for the Ambulance was omitted from the final document. Mr. Coffee did state in his letter to Administrator Strube and the City Council that this was an error and that the County has assumed responsibility for the ambulance as evidenced by the recent debt service payment and the transfer of title to the County. As to the other items that the County is requesting the City contribute payment for such as the doors to Fire Station 2 and radios, Administrator Strube reported that he is working with Mr. Coffee to resolve these issues.

Council Member Heine asked that Administrator Strube contact the company that owns the property on Gibson to see when they anticipate beginning construction. It was noted that the previous apartments were destroyed in August 2004 by Hurricane Charley.

Mayor Johnson asked if the last home to be demolished with CDBG funds had been done yet and was informed that the homeowner has recently found a new place to live and the old home should be removed very soon.

There being no further business, the meeting was adjourned.


CITY RECORDER


PRESIDENT