

**MINUTES
REGULAR MEETING
ARCADIA CITY COUNCIL
OCTOBER 20, 2009
6:00 PM**

The meeting was called to order at approximately 6:00 PM with the following members and staff present:

Arcadia City Council

Mayor Roosevelt Johnson
Councilwoman Sharon Goodman

Deputy Mayor Robert Heine
Councilman Lorenzo Dixon

(Councilman Keith Keene was absent)

Arcadia City Staff

City Administrator Markae Rupp
Finance Director Rachelle Baumann
Capt. Matthew Anderson

City Recorder Dana Williams
City Attorney Jason Henbest

Deputy Mayor Heine gave the invocation which was then followed by the Pledge of Allegiance. Mayor Johnson called the roll with all Councilmembers being present except for Mr. Keene.

OLD BUSINESS

1. CONSIDERATION OF AIRPORT LEASE PROPOSAL

The City Administrator provided a brief background on the purchase of the airport lease proposal, adding she had included a balance sheet of sorts in the agenda package listing several pros and cons for consideration of purchasing the lease. She continued it was her strong recommendation for the City to purchase the lease or to authorize staff to negotiate the purchase.

The Deputy Mayor felt this should be a workshop item with our attorney and the Minnear's attorney also in attendance. The Mayor added he would like to have additional information provided, such as the number of employees required, grant opportunities, and operational costs, before making a decision.

The City Attorney stated this had been on-going for sometime and that both he and Mr. Galvano had attempted to set up a meeting with the Minnear's, the City Administrator and other appropriate staff to discuss the offer and its components for Council's consideration. He requested that in lieu of a workshop, a motion authorizing staff to proceed in that direction be entertained.

On motion of Councilwoman Goodman, with a second by Councilman Dixon, the Council voted unanimously, 4-0, to authorize staff to continue with discussions and

negotiations on the purchase of the Airport lease in order to gather information for the Council's future consideration.

CONSENT AGENDA

2. MINUTES OF THE REGULAR MEETING OF OCTOBER 6, 2009
3. GOLF COURSE REPORT FOR SEPTEMBER 2009
4. VETERAN'S DAY PARADE & MARCH RODEO PARADE
5. AIRPORT REPORT FOR SEPTEMBER 2009
6. STREET CLOSURE REQUEST IN SUPPORT OF THE CHAMBER OF COMMERCE CHRISTMAS PARADE
- 6B. ARCADIA MOBILE HOME PARK - OCTOBER 2009

The Mayor noted that one item was being added to the consent agenda, namely the report on the Mobile Home Park provided at the dais this evening. [That report is labeled as "6B" above.]

Councilwoman Goodman offered a motion to approve items 2-6B as listed above. The motion was seconded by Deputy Mayor Heine and a voice vote recorded unanimous, 4-0, approval.

(For informational purposes, the Veteran's Day Parade [#4 above] will be held on Wednesday, November 11, 2009, beginning at 10 AM and the March Rodeo Parade is scheduled for Saturday, March 13, 2010, at 10 AM. Also the Chamber of Commerce Christmas Parade [#6 above] will be held on December 5, 2009 at 6 PM with Oak Street being closed from Orange Avenue to Volusia Avenue beginning at 5:30 PM.)

RESOLUTIONS

7. RESOLUTION 2009-21

Councilmember Goodman made a motion to waive the rules and read Resolution 2009-21 by title only. The motion was seconded by Deputy Mayor Heine and passed unanimously, 4-0, upon voice vote.

The City Recorder read the following resolution by title only. She also explained it was the recommendation of the Planning and Zoning Board to issue a special approval to the Maassen family based on the Code sections cited in the agenda item #7 memo.

Mr. David Maassen of Maassen Oil explained that his family had owned the property in question and operated a business there since 1929; but in those many years, both the state and city have implemented regulatory and zoning changes which need to now be addressed. The City's zoning regulations, in existence since the 60's, lists the property as residential land even though the business use has been consistent since its inception. Further in order to pull a permit to make improvements, the family would be limited to 25% of the asset value, thereby not allowing sufficient improvements per regulatory mandate. Mr. Maassen also explained that rezoning the property was not a viable option since the use had not changed and therefore would merely be an incurred expense.

Councilman Dixon questioned whether granting the special approval was the recommendation of the Planning and Zoning Board. The City Recorder confirmed that it was and the Finance Director (former City Recorder) affirmed it as well, citing the specific Code sections. She also explained that the adopted resolution would serve to allow the continued use of the business as well as permit the upgrade of the fuel storage and loading facility.

On motion of Councilmember Dixon with a second by Deputy Mayor Heine, the Council voted unanimously, 4-0, to approve Resolution 2009-21 as printed below.

RESOLUTION 2009-21

A RESOLUTION GRANTING A SPECIAL APPROVAL TO ALLOW FOR THE CONTINUED USE AS A PETROLEUM FUEL STORAGE AND LOADING FACILITY LOCATED AT 603 NORTH DESOTO AVENUE

WHEREAS, The Maassen family has owned the property located at the Northwest corner of the intersection of Gibson Street and North Brevard -US17, 603 North DeSoto Avenue since the 1930's, and

WHEREAS, on March 6, 1961 when the current zoning code was codified the property was zoned as One -Family Dwelling R-1B, and

WHEREAS, this property has been maintained as a petroleum fuel storage and loading facility by the Maassen family since the 1930's, and

WHEREAS, City Code Article III NONCONFORMING USES AND STRUCTURES* Section 110- 171 states "*Any lawful use of land or structure existing at the effective date of the ordinance codified in this chapter (March 6, 1961), and which by its terms has become a nonconforming use, is hereby declared not to be in violation at such effective date. Such a nonconforming use shall be subject to all of the provisions of this article pertaining to its continuance, change and discontinuance*", and

WHEREAS, City Code Section 110-173 Repair, alteration or enlargement of structure housing nonconforming uses states "*Nothing in this article shall prevent compliance with applicable laws or ordinances relative to the safety and sanitation of a building occupied by a nonconforming use*", and

WHEREAS, Mr. Maassen is required by the State of Florida to upgrade the storage tanks located on the property, and

WHEREAS, the Planning and Zoning Board after review has recommended that approval be granted based on City Code Section 110-171 and 110-173.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Arcadia that approval be granted to allow Mr. Maassen to upgrade the fuel storage and loading facility and

for the continued use of the business located at 603 North DeSoto Avenue based on City Code Section 110-171 and 110-173.

BE IT FURTHER RESOLVED that this approval is granted subject to all other City, County, and State regulations being met.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA in regular session this 20th day of October 2009.

/s/ ROOSEVELT JOHNSON, Ed. D.
MAYOR

ATTEST:

/s/ DANA WILLIAMS, CMC
CITY RECORDER

**8. RESOLUTION 2009-22
A RESOLUTION GRANTING A SPECIAL APPROVAL
FOR A WAIVER OF THE REQUIRED ACCESS POINTS
FOR PROPERTY LOCATED AT 603 EAST OAK STREET**

The Deputy Mayor made a motion to waive the rules and have Resolution 2009-22 read by title only. Councilmember Goodman provided a second to the motion, which passed unanimously, 4-0, following the vote.

The City Recorder read Resolution 2009-22 by title. The Finance Director then briefly explained the driveway configuration being requested by Mr. Cross and the Code provisions of §110-707(d) and §110-708(2) which permit additional access points (in this case on Pasco St) and safely address the ingress/egress of the property respectively. She added it was the recommendation of the Planning and Zoning Board to approve the request and grant a special approval via resolution of the Council.

On motion of Councilmember Goodman, seconded by Deputy Manager Heine, the Council voted unanimously, 4-0, to approve Resolution 2009-22 as printed below.

RESOLUTION NO. 2009-22

**A RESOLUTION GRANTING A SPECIAL APPROVAL
FOR A WAIVER OF THE REQUIRED ACCESS POINTS
FOR PROPERTY LOCATED AT 603 EAST OAK
STREET**

WHEREAS, Michael Cross applied for the re-zoning of property located at 603 East Oak Street, and

WHEREAS, this property is located along Oak Street and was re-zoned Residential-Professional and Business RPB District, and

WHEREAS, Mr. Cross has located his computer repair business in the home, and

WHEREAS, Mr. Cross desires to install a circular driveway on his property in order to provide low impact ingress and egress for his customers, and

WHEREAS, City Code Section 110-707 "Number and location of access points", section (d) states "The city council may permit additional access points when such access points are justified and necessary due to the length of street frontage serving the premises and provided that the additional access points will substantially reduce traffic hazards or congestion on adjacent streets serving the property", and

WHEREAS, City Code Section 110-708 Waivers states "the city council may, upon appeal, waive or reduce the required off-street parking space and/or access points provided the following determinations are made: (2) The required off-street parking space and/or access points cannot be reasonably provided off the premises in accordance with this chapter or within the principal building being proposed", and

WHEREAS, the Planning and Zoning Board after review has recommended that approval be granted based on City Code Section 110-707 (d) and 110-708 (2).

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Arcadia that Mr. Cross be allowed to construct a circular driveway at 603 East Oak Street, said driveway will be located on the Pasco Avenue side of his property and that this approval is granted as permitted by City Code Section 110-707 (d) and 110-708 (2).

BE IT FURTHER RESOLVED that this approval is granted subject to all other City, County, and State regulations being met.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA in Regular Session this 20th day of October 2009.

/s/ ROOSEVELT JOHNSON, Ed.D.
MAYOR

ATTEST:
/s/ DANA L.S. WILLIAMS, CMC
CITY RECORDER

The Mayor stated that another resolution would also be considered this evening, namely one at the request of the Historical Society requesting support for its grant application to complete the Ingraham House restoration.

Councilmember Dixon made a motion to waive the rules and have Resolution 2009-23 read by title only. The Vice Mayor provided a second and a voice vote recorded unanimous, 4-0, approval.

The City Recorder then read the resolution by title.

On motion of Councilmember Dixon and seconded by Vice Mayor Heine, the Council voted unanimously, 4-0, to approve Resolution 2009-23 as printed below.

RESOLUTION NO. 2009-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCADIA, FLOIRDA, URGING THE STATE DIVISION OF HISTORICAL RESOURCES TO SUPPORT THE APPLICATION OF THE DESOTO COUNTY HISTORICAL SOCIETY FOR THE COMPLETION OF THE JOHN MORGAN INGRAHAM HOUSE RESTORATION.

WHEREAS, the DeSoto County Historical Society is in the final stages of a restoration of the John Morgan Ingraham "Cracker House", and

WHEREAS, the John Morgan Ingraham house is a prime example of an unaltered turn of the century "Cracker House" within the city limits of the City of Arcadia, and

WHEREAS, the DeSoto County Historical Society envisions this Cracker House to be a memorial to the early pioneer families of Arcadia and DeSoto County, and

WHEREAS, Mr. John Morgan Ingraham represented DeSoto County in the State Legislature from 1945 through 1949 and during this time several important laws benefiting DeSoto County, the State of Florida and the nation were passed.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Arcadia, Florida that they fully support the DeSoto County Historical Society, Inc. 's application for a Historical Preservation Grant In Aid to finish the restoration of the John Morgan Ingraham House.

BE IT FURTHER RESOLVED, that a copy of this resolution of support be sent to the Director of the Division of Historical Resources, Bureau of Historic Preservation, Grants and Education Section, 500 South Bronough Street, Tallahassee, FL 32399-0250.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA IN REGULAR SESSION this 20th DAY OF OCTOBER 2009.

/s/ ROOSEVELT JOHNSON, Ed.D.
MAYOR

/s/ ROBERT W. HEINE
DEPUTY MAYOR

/s/ LORENZO L. DIXON, M.Psy.
COUNCILMAN

/s/ DR. SHARON T. GOODMAN
COUNCILWOMAN

/s/ KEITH KEENE
COUNCILMAN

/s/ MARKAE RUPP
CITY ADMINISTRATOR

ATTEST:

/s/ DANA L.S. WILLIAMS, CMC
CITY RECORDER

PRESENTATIONS

9. VITA PROGRAM – AMY PAULISHAK, UNITED WAY

Ms. Amy Paulishak of the United Way presented a slide show on the Volunteer Income Tax Assistance (VITA) program. Included with her presentation, she briefly covered statistical demographics of DeSoto County, corporate partnerships, the goals and framework of the program, qualification for the Earned Income Tax Credit, and measureable outcome in terms of refunds and refund anticipation loans. The program will begin January 19, 2010 and be available two nights per week.

Ms. Rae Dowling of Florida Power and Light and Ms. Melissa Sanders, Chair of the local DeSoto Steering Committee also offered their endorsement of and enthusiasm for this community oriented program.

10. H1N1 VIRUS – KIRBY HOLLINGSWORTH, DESOTO HEALTH DEPARTMENT

Ms. Mary Kay Burns and Ms. Penny Kurtz of the DeSoto Health Department also made a presentation on the signs and symptoms of the H1N1 (Swine Flu) virus and precautionary measures one can take to avoid getting sick. They discussed the availability and location of the vaccine, high risk groups, symptoms and warning signs, prevention and treatments, and the pro-active approach being taken with the schools.

The City Administrator added she has made arrangements with the Health Department to provide H1N1 virus vaccines to any city employee desiring the shot and that the Council will be invited to participate as well. More information will be distributed when the final arrangements are made.

11. CODE ENFORCEMENT ISSUES, DENNIS & BRUCE (TEA ROOM)

Mr. Bruce Neveau, on behalf of the Beautification Committee and Main Street Association displayed several dozen slides showing the overgrown and under-maintained conditions in and around the City. A number of concerns were mentioned such as mold growing on the sides of buildings, potholes, trash and debris, weeds, broken sidewalks, peeling paint and careless painting, hornet's nests and fire ants. Mr. Neveau appealed to Code Enforcement to attend a meeting with the committees to devise a course of action in resolving these issues.

Councilmember Dixon thanked Mr. Neveau and agreed that he had expressed some very valid concerns. Capt. Matthew Anderson was in attendance and agreed to meet with Mr. Neveau and others on these issues.

DISCUSSION ITEMS

The City Administrator read a letter received from a citizen praising City employee, Bettye Coone on assistance she had provided. The writer described Ms. Coone as "professional" and an "asset to the City". The City Administrator agreed with that assessment adding the City has a wonderful staff who are all conscientious and courteous.

COMMENTS FROM DEPARTMENTS

**12. CITY MARSHALL
-FINE & ESTREASURES REPORT FOR SEPTEMBER 2009**

There was no action or discussion on the above report. However, Capt. Anderson again stated his willingness to work with Mr. Neveau and the Beautification Committee regarding the concerns mentioned above and asked Mr. Neveau to stop by the office anytime the following day to schedule a time to meet and implement corrective measures.

13. ATTORNEY

The City Attorney had two items of interest. First, he reiterated that he had been working with the Administrator and others to address the issue of the airport lease and bring that to an acceptable closure.

Secondly, he reported on a recent meeting with the Administrator, County Administrator, County Attorney and Fire Chief regarding the Interlocal Agreement (ILA) governing Station #1. The Attorney explained the County had provided an amendment to the ILA and upon its review; it was his recommendation to proceed with the amendment in order to clarify exactly what the "use" of Fire Station #1 entails. He continued the two rooms in question, currently being used by West Coast Southern Medical Service on the second floor, would be immediately vacated in exchange for removal of the reverter clause on the CocaCola property. The Attorney explained the original agreement had stated the City would deed that ("CocaCola")property to the County who would assume the debt, with the stipulation that if after ten years, the County had not constructed a fire station there, the property would then revert back to the City. Although the County has every intention of developing that property, they are requesting removal of the reverter clause in order to not force a timeline which may be adversely affected by a hurricane or similar type storm event.

The Mayor stated he had heard it was the County's intention to build a station outside of the City limits. The County Administrator, Jan Brewer, reported that at the last (County) budget hearing, the board had directed construction of a substation on SR 72 and has already submitted a grant request to construct a main station on the CocaCola property, which once complete, all county personnel would vacate the current station on Hickory Street. She again reiterated it was the full intention of the Board of County Commissioners to proceed as planned.

The Mayor asked about the terms and timeline of the original agreement to which the Attorney responded it was originally adopted in May 2006. The Mayor, as a matter of personal opinion, stated he was but one vote however didn't feel it would be wise to remove the

requested clause, adding a lot can happen in six years. The City Attorney expressed significant doubt the County would pay down the mortgage on a piece of property they weren't going to build on, although the Mayor countered that removal of the reverter clause would provide free reign for whatever/whenever whereas retaining it imposes some parameters for the property's development.

Discussion among the Council, the City Attorney and the County Administrator followed. Councilmember Dixon agreed that it would be unwise for the City Council to remove the clause. He added that the parties had tried to reach an agreement, but that he doesn't like to be "strong armed" which is what he feels happens when working with the County. The Mayor added that he could better live with West Coast Southern Medical Service occupying the two rooms in question than he could to remove the reverter clause. The Deputy Mayor felt it was wrong to allow private enterprise to occupy a public building at no cost.

The Attorney requested consensus on a direction to proceed, adding he does not feel the original ILA is clear on the definition of Fire Station #1 and that there are no maps or floor plans associated with the agreement.

On motion of Deputy Mayor Heine, with a second by Councilmember Goodman, the Council voted unanimously, 4-0, to not execute an amendment to the original Interlocal Agreement with the County regarding the development of the CocaCola property and to not dispute the use of two rooms in the upstairs of City Hall by the private company, West Coast Southern Medical Service.

The City Attorney quickly reported that Attorney Galvano had anticipated being in attendance this evening but was tied up in Hollywood, Florida at a meeting with the Assistant Secretary of the Interior.

14. CITY RECORDER

The City Recorder had no comments.

**15. ADMINISTRATOR
-SCRAP PROCEEDS**

The City Administrator presented a report showing proceeds accumulated from the sale of scrap materials stored at the City garage and Livestock Market. She added the vehicles sold were inoperable and uninsurable and that to-date, the sale of scrap material has resulted in slightly more than \$10,000 which will be returned to the General Fund.

-2010 NRPA ACHIEVE COMMUNITY PARTNERSHIP

The City Administrator then mentioned information included in the agenda package on the 2010 National Recreation & Parks Association ACHIEVE Community Grant application. She noted this was included for informational purposes and that should the Council wish to pursue this opportunity, she would look into it further. Councilmember Goodman stated the program was worth looking into and requested more information be provided at the next

meeting. The Administrator then introduced Ms. Kathleen Fox, the new Parks and Recreation Director and gave a brief overview of some of the programs and activities she'll be overseeing.

-ARCADIA MAIN STREET 5TH ANNUAL OLD FASHIONED FALL FESTIVAL

The City Administrator also presented a flyer publicizing the 5th Annual Old Fashioned Fall Festival hosted by the Arcadia Main Street Program, Inc. She indicated booths at the festival were available for \$20 and asked the Council if it was their desire to have the City purchase one. Councilmember Goodman thought was a "great idea" to have a booth at the festival and suggested that anything informational on behalf of the City be displayed/provided there.

16. OTHER DEPARTMENTS

MISCELLANEOUS/NOTED ITEMS

PUBLIC

Mr. Rex Alquist spoke on behalf of the Arcadia Airport calling it "fantastic" and having "unlimited potential". He briefly discussed other options for private pilots such as Sarasota, Bradenton, Venice and Wachula; however noted their crowded conditions and lack of hanger space. He suggested the Council be "thankful for" their airport and to consider any proposal for continued use thoughtfully.

Mr. Marion Goodman, Jr. spoke in follow-up to the last meeting's election stating that as elected officials, it was the responsibility of each member to govern themselves accordingly. He cited a specific incident where Councilmember Dixon, seemingly upset by the outcome of a vote, had approached two members his wife's congregation as to why Dr. Goodman had not seconded a motion for him to be Mayor. Mr. Goodman pointed out it was Dr. Goodman's right, as it is with all Councilmembers, to second a motion or to not second a motion. Mr. Goodman then suggested that outside of the Council Chambers, Mr. Dixon not speak to his wife. Councilmember Dixon provided no response.

Mr. John Saffer felt the individual Councilmembers should be more visible in and around town. He stated that aside from Councilmember Dixon, he rarely sees any of the Council downtown or at City functions, adding the people want to see the Council out more.

MAYOR AND COUNCIL MATTERS

Councilmember Dixon mentioned his son's and his birthday's, saying his family will be celebrating both this weekend and welcomed others to join in. He also stated he will not be in attendance at the next meeting as he is required to be on campus for coursework to complete his PhD finals in philosophy.

The Mayor talked about the Ridge League of Cities meeting in Frostproof last week and how for the second time, the City of Arcadia had tied for the most in attendance. He also mentioned his plan for Arcadia to host the league meeting in June 2010.

ADJOURN

Having no further business at this time, the meeting was adjourned at 7:25 PM.

APPROVED THIS 3rd DAY OF NOVEMBER 2009.

By:



Dr. Roosevelt Johnson, Mayor

ATTEST:



Dana L.S. Williams, CMC, City Recorder