

**MINUTES**  
**CITY COUNCIL**  
**CITY OF ARCADIA**  
**TUESDAY, SEPTEMBER 21, 2010**  
**6:00 PM**

The meeting was called to order at approximately 6:02 PM with the following members and staff present:

**Arcadia City Council**

Mayor Roosevelt Johnson  
 Councilmember Sharon Goodman  
 Councilman Lorenzo Dixon

Deputy Mayor Robert Heine  
 Councilmember Keith Keene

**Arcadia City Staff**

City Administrator Lawrence Miller  
 City Attorney Jason Henbest  
 Finance Director Jorge Santana

City Recorder Dana Williams  
 City Marshal Charles Lee

**CALL TO ORDER, INVOCATION, PLEDGE OF ALLEGIANCE & ROLL CALL**

Councilmember Goodman gave the invocation, which was followed by the Pledge of Allegiance and roll call.

**SPECIAL PRESENTATIONS**

**1. EMPLOYEE OF THE MONTH**

The City Recorder read a certificate designating Ms. Cherrie Green as the Employee of the Month for September 2010. Ms. Green was unable to be in attendance.

**2. WEEK OF THE FAMILY DESIGNATION**

The City Recorder read a proclamation designating October 30 through November 6, 2010 as Week of the Family. Although not in attendance, Ms. Cindy Siegel will receive the plaque prior the Family Education Day celebration on November 1<sup>st</sup>.

**CONSENT AGENDA**

- 3. MINUTES OF THE SEPTEMBER 7, 2010 REGULAR MEETING**
- 4. CITY FINES & ESTREATURES REPORT**
- 5. AIR-CADIA FLOWAGE AND HANGER RENT REPORT**
- 6. MOBILE HOME PARK REPORT FOR AUGUST 2010**
- 7. ARCADIA GOLF COURSE REPORTS FOR JUNE, JULY AND AUGUST 2010**
- 8. CHECK WARRANT REPORT FOR THE PERIOD SEPT. 8 THROUGH 15, 2010**
- 9. REQUEST FROM THE DESOTO COUNTY MURAL SOCIETY TO CLOSE POLK AVENUE FROM MAGNOLIA TO PINE ON OCTOBER 15<sup>TH</sup> FROM 4 - 7 PM FOR MURAL DEDICATION CEREMONY**

On motion of Councilmember Goodman with a second by Councilmember Keene, the Council voted unanimously, 5-0, to approve items #3 through #9 of the Consent Agenda printed

above.

### DISCUSSION ITEMS

#### 10. SECTION 50.68 OF ORDINANCE 960 "NOISE"

The City Attorney spoke about the noise ordinance, saying the portion brought up at the last meeting speaks to a standard and stems from a case in Lee County. He went on that while similar, the wording is different from the City of Arcadia's in certain aspects and that the court which took exception only did so on one phrase, calling it too subjective of a standard. The Attorney continued that Arcadia's noise ordinance included objectivity based on city code, code enforcement, law enforcement, etc., which provides layers; but that Lee County's was based on the complainants' interpretation of 'disturbing'. He added that the decision of Lee County as based on a 1<sup>st</sup> Amendment challenge and the subjectivity of whether the noise was disturbing enough to be overbroad and vague, but that no court in Florida has reviewed this type of ordinance since the Lee County one and that Arcadia's has withstood scrutiny.

Ms. Anne Pepper, 1540 N Arcadia Avenue, asked if anything would be given to the officers so they know what they are enforcing and how to proceed, particularly with regard to industrial noise. The Marshal responded that his department is enforcing the ordinance, although there is some language included (e.g. inhumane), he does not like. The Attorney added there are private remedies Ms. Pepper can pursue such as nuisance laws, but in reality, a "reasonable persons" description of what is a problem differs, hence the layers of objectivity that were included.

#### 11. PUBLIC HEARING FOR FY-11 MILLAGE RATE

The City Administrator noted the millage rate for Fiscal Year 2011 is 8.0899 in keeping with what was previously discussed and that this will be the final public hearing on the issue. He also noted the notice of public hearing was published in the newspaper on September 16<sup>th</sup> as well as on the City's website.

The Mayor opened a public hearing to received comments on the millage rate, but with no one coming forward, he then closed the public hearing.

#### 12. PUBLIC HEARING FOR FY-11 BUDGET

The City Administrator presented the Fiscal Year 2011 budget which was the same as previously provided to Council and stated the ad listing the budget summary was published on September 16<sup>th</sup>.

The Mayor opened a public hearing for anyone wishing to speak to the budget, but with no one desiring to do so, he closed the public hearing.

### RESOLUTIONS

#### 13. RESOLUTION 2010-06, SETTING THE FY-11 ADOPTED MILLAGE RATE

The City Recorder read resolution 2010-06 by title. **On motion of Councilmember Keene, with a second by Councilmember Goodman, the Council voted 4-0, to approve Resolution 2010-06 setting the FY-11 adopted millage rate at 8.0899. Councilmember Dixon cast the dissenting vote. The resolution in its entirety appears below.**

**RESOLUTION NO. 2010-06**

**A RESOLUTION ADOPTING THE MILLAGE RATE  
TO BE LEVIED BY THE CITY OF ARCADIA,  
FLORIDA FOR FISCAL YEAR 2010-2011**

**WHEREAS**, Florida Statutes 200.065(2)(d) requires that the City of Arcadia, Florida adopt a Resolution stating the millage rate to be levied for Fiscal year 2010-2011, and

**WHEREAS**, the Resolution shall state the percent, if any, by which the millage rate to be levied exceeds the rolled-back rate.

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

1. The City of Arcadia does hereby adopt a Millage Rate of 8.0899 mills to be levied for the General Fund upon all real and tangible personal property located within the boundaries of the City of Arcadia to fund the Fiscal Year 2010-2011 budget, and

2. The percentage by which this millage rate to be levied exceeds the rolled back rate of 9.6184 mils, computed pursuant to Florida law, is zero (0%) percent.

**PASSED AND ADOPTED** by the City Council this 21<sup>st</sup> day of SEPTEMBER 2010.

By: /s/ Roosevelt Johnson, Ed.D., Mayor

ATTEST:

/s/ Dana L.S. Williams, CMC  
City Recorder

**14. RESOLUTION 2010-07, SETTING THE FY-11 BUDGET**

The City Recorder read resolution 2010-07 by title. **On motion of Councilmember Goodman, with a second by Councilmember Dixon, the Council voted unanimously, 5-0, to approve Resolution 2010-07 setting the FY-11 Budget.** The resolution in its entirety appears below.

**RESOLUTION NO. 2010-07**

**A RESOLUTION ADOPTING THE FINAL  
BUDGET FOR THE CITY OF ARCADIA,  
FLORIDA FOR FISCAL YEAR 2010-2011**

**WHEREAS**, the City Council of the City of Arcadia, Florida has followed the procedures for budget preparation, public notices, and public hearings as prescribed by *Florida Statutes*, and

**NOW THEREFORE BE IT RESOLVED**, by the City Council of the City of Arcadia that the following funds be adopted as the City of Arcadia's Final Budget for Fiscal

Year 2010-2011:

GENERAL FUND	\$ 5,793,652
WATER AND SEWER FUND	3,223,042
WATER AND SEWER BOND SINKING FUND	1,223,743
WATER AND SEWER BOND RESERVE FUND	-
WATER AND SEWER RENEWAL & REPLACEMENT FUND	251,497
LOCAL OPTION INFRASTRUCTURE SALES TAX FUND	1,064,131
LOCAL OPTION GAS TAX FUND	1,372,650
CAPITAL IMPROVEMENT FUND	1,077,147
FIRE SERVICES PROTECTION FUND	193,640

***PASSED AND ADOPTED*** by the City Council this 21<sup>st</sup> day of September 2010.

By: /s/ Roosevelt Johnson, Ed.D., Mayor

ATTEST:

/s/ Dana L.S. Williams, CMC  
City Recorder

### ORDINANCES

#### 15. FIRST READING OF ORDINANCE 961 - RENTAL HALLS

As a result of the earlier workshop, this item was deferred for revisions and first reading to October 5, 2010.

### COMMENTS FROM DEPARTMENTS

#### 16. CITY MARSHAL

The Marshal stated that he had a discussion with the City Administrator regarding his role as traffic engineer particularly as it related to on-street parking by the body shop at Orange and Magnolia Streets. He continued that although parking on the street was not illegal, his department had had trouble with overnight parking of untagged and uninsured vehicles, making repairs in the roadway, and sometimes blocking sight/view of oncoming vehicles. The Marshal added that he had requested removal of parking spaces after a near accident was reported; and that he mistakenly had not first gone to the Administrator because he assumed the procedures had not changed, but that he was requesting clarification on his role as traffic engineer.

The Mayor and Dr. Goodman agreed that at least one of the questionable parking spaces should be eliminated so as not to block the stop sign. The Marshal added parking is still available but not for overnight parking and that it is with DOT concurrence.

The City Administrator stated his support for the Marshal's role, adding he wants to do things as he knows them to be and that Code Section 62.57 puts that procedures in place, although he also thinks there's a logical hierarchy in terms of staff.

It was the consensus of Council that nothing had changed related to the Marshal's role as traffic engineer for the City.

The Marshal then deferred his time to Mr. Steve Game of Stonegate Apartments. Mr. Game, referencing the controversy over his water source, wanted to be certain the city was "ok" with the installed well at Stonegate. He gave a brief background on the well, saying it was certified by SWFMD and will be undergoing bacterial testing by the Health Department. He also clarified that no councilmember has ever helped him or has been involved with the process. He went on to say his goal in installing the well was to keep the rents low for his tenants, adding that many cannot afford to be charged more (alluding to the city's recently enacted utility increase). Mr. Game also apologized for not coming before the Council in the first place, saying he was unaware of the need to do so. And finally, he noted that the Systems Supervisor would be installing a meter(s) to charge accordingly for the utilities used, adding all property is on city sewer and a portion is on city water.

Councilmember Dixon expressed his gratitude for the clarification on the councilmember's help (or lack thereof).

#### 17. ATTORNEY

The City Attorney reported that in the last few days, two summons' had been served on the City; one in the James South vs. City of Arcadia case and the other in Markae Rupp vs. City of Arcadia. With regard to the South case, the summons' was improperly served on the City Administrator; and in the Rupp case, a hearing on the motion to dismiss was conducted whereby the judge reserved ruling having a question on the severance pay.

Councilmember Keene, referring to Ms. Pepper's concern with the noise ordinance, asked that the attorney review the environmental nuisance ordinance, saying that some of the language contained therein could be improved. Mr. Keene also stated that the City is finding itself in a tough situation to have an ordinance that allows someone to usurp a connection to the water system and asked the Attorney to make it stronger for a future meeting. The Attorney responded that it was not uncommon but that he would do the research to see if the City has the authority to require hook up within so many feet of availability.

Mr. Keene also asked about the status of the sign ordinance. The City Attorney stated he had worked back and forth with the consultant on revisions once the ordinance was approved by the Planning and Zoning Board and from a legal standpoint, it has been agreed to in a final version. The City Recorder added it would be going back to the P&Z Board at their next meeting of September 28<sup>th</sup>.

#### 18. ADMINISTRATOR

The City Administrator, referencing the Marshal as traffic engineer, stated the new Assistant City Administrator will act as liaison with both the Planning & Zoning Board and the Marshal's office.

He next talked about the Utility Department deposits, saying the current deposit amount does not reflect an increase in the rate structure. He explained that currently if a rate payer leaves

the premises where the City is providing utility service, the deposit will not cover the amount of two months service, therefore the taxpayers will be "on the hook" for the cost of service associated with that connection. The Administrator continued that he would like to increase the deposit required to \$140 effective as soon as possible to be more in line with the rate structure and to avoid any further debt the city may incur.

Councilmember Dixon suggested perhaps doing like FPL does where an additional deposit is based on historical usage and payment patterns. Councilmember Keene added this direction is consistent with what has been previously discussed, e.g. running the utilities as a business and using opportunities to re-coup costs. Both Councilmembers Keene and Goodman supported the idea of an increased deposit.

Ms. RoseAnne Collins, 208 N. Monroe, stated that FPL also provides interest on the deposit each year but the city does not and suggested consistency among the utilities. The Finance Director explained that the City utility deposits are held in a separate, non-interest bearing account and applies those deposits against final bills when service is turned off. Ms. Adrian Daly asked why it wasn't an interest bearing account to which the Finance Director explained it as an escrow account, which is booked as a liability to the City.

The City Administrator stated the sidewalks on the east side of Polk Avenue between Hickory and Magnolia Streets will be repaired with new curbs, grass and sidewalks with the work to begin shortly. He added this would be a FDOT project using federal stimulus dollars; and that the business owners have been notified of the project schedule.

The City Administrator reported he would be attending a Federal Aviation Administration grant training workshop in Orlando on October 26<sup>th</sup>. He continued the FAA offers grants to small municipal airports to enhance their service capabilities and safety issues; and that the Arcadia airport is in need of updating its Master Plan as well as addressing certain safety issues particularly fire suppression.

On another matter, the Administrator reported on the elimination of overtime for department heads in the new budget year, but also that he was requesting to adjust salaries of those department heads to bring them more in line with their duties and responsibilities using some of that savings. A brief discussion followed regarding persons who may be able to make more money through overtime pay and not having the responsibility of a supervisory position. Councilmember Goodman pointed out the City wants to encourage employees to move up the ladder but doesn't want to punish them for doing so.

The City Administrator then talked about the CDBG grant, saying a response letter was sent to the Department of Community Affairs regarding their letter outlining concerns particularly with regard to Section 504 policy and ADA compliance for city buildings. He stated he had outlined steps the city has taken and is in the process of completing to address those concerns, and specifically the ADA motorized doors for the front of the Way Building. He mentioned a few other ADA issues at other city facilities as well.

**19. CITY RECORDER  
A) PLANNING & ZONING BOARD APPOINTMENTS**

The City Recorder summarized the memo addressing appointments to the P&Z Board, which was included in the agenda package.

On motion of Councilmember Goodman and with a second by Councilmember Dixon, the Council voted unanimously, 5-0, to appoint RoseAnne Collins, Shirley Brown, and Michael Pooser to the Planning and Zoning Board, for a three (3) year term commencing immediately and continuing through July 1, 2013.

### PUBLIC

Ms. Susan Swanson, Executive Director of Arcadia Main Street, discussing the design for the front of the Way Building deferred from last meeting, introduced Jessie Balaity who is working with Main Street on the first phase of the downtown master plan. She also presented two renderings prepared by Mr. Balaity complete with rough cost estimates which she felt were not out of line. Ms. Swanson felt the designs still brought a homey feeling and that through creative funding, it would be a good investment to bring the building in line with ADA compliance and proposed improvements. Mr. Balaity noted the plans were conceptual and that the budget is "loose but not unrealistic."

Councilmember Dixon was "very impressed" with the "face lift" proposed for the building. Councilmember Keene felt the City should lead by example, but also recognized there was no funding available from Main Street or even the City, although in the effort to make the building ADA compliant it would be nice to begin with new styling. He also noted he was pleased to see the figures as low as they are and that the City can start to move forward in the future. The Mayor like the renderings, though noted the City doesn't have the funding right now and suggested that perhaps we could seek donations. Councilmember Goodman felt the City "can do this" and added to that by referencing the recent hospital campaign and Leadership DeSoto's \$16k project. She also complimented Ms. Swanson and Mr. Balaity on their efforts. The City Administrator thought perhaps the City could work with Main Street and the Chamber on matching funds and reach out to the community. He felt the project could be done incrementally, adding if "we expect others to make an investment and we're not willing to do the same, that doesn't send the right message."

The City Administrator stated that a few months back when Ms. Bettye Coone was named Interim Finance Director, the city had neglected to compensate her for having served and so accordingly, he had authorized extra compensation for her during the time she served.

### MAYOR AND COUNCIL MATTERS

Councilmember Keene apologized for being late to the workshop, stating that he was involved with Leadership DeSoto Simulated Society and that there may be other occasions when he would similarly be late.

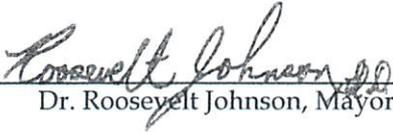
The Mayor reported that the Executive Director of the Ridge League had provided him a list of the dates and locations of the dinner meetings for the remainder of the year and that he would ask the City Recorder to share that list with everyone. He also asked that Councilmember Dixon be recognized for his term of service with a plaque (with gavel) at the first meeting in October as the City does its reorganization.

ADJOURN

Having no further business at this time, the meeting was adjourned at 7:30 PM.

APPROVED THIS 5<sup>th</sup> DAY OF OCTOBER 2010.

By:

  
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Dr. Roosevelt Johnson, Mayor

ATTEST:

  
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Dana L.S. Williams, CMC, City Recorder