

AGENDA No. 11



CITY COUNCIL AGENDA ITEM

Requested Council Meeting Date: November 19, 2013

DEPARTMENT: Community Development/Code Enforcement

SUBJECT: Ordinance No. 13-994 Foreclose Registration

RECOMMENDED MOTION: First reading. Council and public input on determining annual fee.

SUMMARY:

A RESOLUTION RELATING TO THE REGISTRATION OF REAL PROPERTY IN FORECLOSURE; ESTABLISHING AN ANNUAL FEE FOR REGISTRATION OF REAL PROPERTY IN FORECLOSURE. Ordinance No. 994 (Text Amendment File No. 13-994)

FISCAL IMPACT: _____
 Capital Budget
 Operating
 Other

ATTACHMENTS: Ordinance Resolution Budget Other

Department Head: Carl McQuay Date:

Finance Director (As to Budget Requirements) Date:

City Attorney (As to Form and Legality) Date:

City Administrator: Tom Slaughter Date:

COUNCIL ACTION: Approved as Recommended Disapproved
 Tabled Indefinitely Tabled to Date Certain _____ Approved with Modifications

ORDINANCE NO. 994

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA RELATED TO MORTGAGED REAL PROPERTY; AMENDING THE CODE OF ORDINANCES OF THE CITY OF ARCADIA, FLORIDA BY CREATING ARTICLE X OF CHAPTER 30, "REGISTRATION OF REAL PROPERTY IN FORECLOSURE"; PROVIDING FOR PURPOSE INTENT AND APPLICABILITY; PROVIDING FOR PENALTIES AND ENFORCEMENT; REQUIRING MORTGAGEE REGISTRATION OF REAL PROPERTY MORTGAGES IN DEFAULT; PROVIDING FOR THE TERM OF REGISTRATION; CREATING MAINTENANCE REQUIREMENTS FOR CERTAIN REAL PROPERTY BY MORTGAGEES; PROVIDING SECURITY REQUIREMENTS; SETTING FORTH ADDITIONAL MAINTENANCE AND SECURITY REQUIREMENTS; PROVIDING SUPPLEMENTAL AUTHORITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the mortgage foreclosure crisis has serious negative implications for all communities trying to manage the resulting vacant properties, increases in crime, homelessness, and other problems resulting from family financial crisis; and

WHEREAS, the City Council of the City of Arcadia, Florida has determined local codes must be adopted to mitigate the negative impacts of foreclosures; and

WHEREAS, foreclosed homes quickly become nuisances, grass and weeds grow untended, swimming pools become stagnant public health hazards, landscaping either dies or grows out of control, windows are broken, and exteriors suffer damage, both from normal wear-and-tear as well as vandalism, thus resulting in loss of value on nearby properties and neighborhoods, and ultimately the entire community; and

WHEREAS, Property maintenance codes to implement community standards for the exterior and interior condition of structures have been adopted; and

WHEREAS, registration requires the personal contact information of the Mortgagee or other responsible party who may be liable for any violation of codes when such person is or was the person owning or managing, controlling, or acting as agent with regard to buildings or premises; and

WHEREAS, most mortgages contain clauses allowing Mortgagees to enter onto the mortgaged Property to prevent waste and damage, and to correct or abate nuisances; and

WHEREAS, in the absence of the Property owner, it is appropriate for the City of Arcadia to expect and require the Mortgagee to exercise authority and be responsible for inspecting and maintaining the mortgaged Property while the owner is in Default of the mortgage; and

WHEREAS, the City Council of the City of Arcadia, Florida finds that neighborhoods should be protected from becoming blighted through the lack of adequate maintenance and security of properties subject to mortgages that are in Default; and

WHEREAS, the City Council of the City of Arcadia, Florida finds that the Mortgagee's registration of Property subject to a mortgage which is in Default, will establish a contact person for the City of Arcadia to address concerns regarding the maintenance and security of the Property; and

WHEREAS, the City Council of the City of Arcadia, Florida finds that it is in the public interest to address safety and aesthetic concerns of the City of Arcadia to assure that Property subject to a mortgage in Default or foreclosure will continue to be maintained and secured and that blight will not occur.

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

SECTION 1. Findings. The Council hereby adopts and incorporates by reference herein all of the findings set forth above as findings of the Council.

SECTION 2. Amendment of the Code of Ordinances. The Code of Ordinances of the City of Arcadia is hereby amended to create a new Article X of Chapter 30, "Registration of Real Property in Foreclosure" to read as follows:

Sec. 30-300. Purpose and Intent.

It is the purpose and intent of this Article to establish a process to mitigate the level of deteriorating Property located within the City of Arcadia, which is in Default, for which a public notice of Default has been filed regardless of occupancy, is in foreclosure, or where ownership has been transferred to lender or Mortgagee by any legal method. It is further intended to establish a registration program as a mechanism to protect

neighborhoods from becoming blighted through the lack of adequate maintenance of properties subject to mortgages that are in Default.

Sec. 30-301. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning.

Accessible Property means a Property that is accessible through a compromised or breached gate, fence, wall, etc.

Accessible structure means a structure or building that is unsecured or breached in such a way as to allow access to the interior space.

Default means that the Mortgagee files a foreclosure action or public notice of Default on the mortgage. A mortgage shall be considered in Default at such time as the Mortgagee declares said mortgage to be in Default and by recording a Notice of Lis Pendens, or by its actions, or commences foreclosure proceedings.

Enforcement officer means any law enforcement officer, building inspector, fire inspector, or code enforcement officer employed by the City of Arcadia, Florida.

Evidence of vacancy means any condition that on its own, or combined with other conditions present would lead a reasonable person to conclude that the Property is vacant. Such conditions may include, but not be limited to, overgrown and/or dead vegetation, lack of active electric, water or other utilities, stagnant swimming pool, statements by neighbors, passers-by, delivery agents or government officials, among other evidence.

Foreclosure means the judicial process by which a Property, placed as security for a mortgage loan, after a judicial process, is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.

Mortgagee means the creditor, including but not limited to, trustees; service companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement. For purposes of this ordinance, the term Mortgagee does not apply to governmental entities.

Property means any real Property, or portion thereof, located in the City of Arcadia, Florida, that is under a current notice of Default, notice of Mortgagee's sale, pending tax assessor's lien sale and/or properties that have been the subject of a foreclosure sale where title is retained by the beneficiary of a mortgage involved in the foreclosure, and any properties transferred under a deed-in-lieu of foreclosure sale, a surrender of real Property to a Mortgagee pursuant to a bankruptcy proceeding or any other

legal means. For purposes of this ordinance, Property does not include any exterior elements and common areas that are jointly owned and/or where maintenance is the joint responsibility of a community association or home owner's association.

Property manager means an individual Property Manager, Property management company, Property maintenance company or similar entity designated by the owner or Mortgagee to be responsible for the maintenance of real Property subject to the provisions of this ordinance.

Vacant means any building or structure that is not lawfully occupied or inhabited by human beings.

30-302. Applicability.

This Article relates to Property subject to a mortgage that has been determined by the Mortgagee to be in Default. This Article shall be considered cumulative and is not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the City of Arcadia above and beyond any other state, county, or local provisions for same.

30-303. Penalties.

Any violation of this Article may be enforced by the City of Arcadia Special Master as authorized and constituted by Chapter 2, Article IV, Division 5 of the Arcadia Code of Ordinances.

30-304. Registration of Real Property Mortgagee Holding Mortgages in Default.

- (a) Any Mortgagee who holds a mortgage on real Property located within the City of Arcadia, Florida shall perform an inspection of the Property that is the security for the mortgage upon Default by the mortgagor or issuance of a notice of Default. Within ten (10) days of the inspection, the Mortgagee shall register the Property with the City's Administrator or authorized designee, or the City's authorized representative, on forms provided for same. If the Property remains in Default, it shall be inspected by the Mortgagee or designee at least once monthly, until the mortgagor or other party remedies the Default.
- (b) Within ten (10) days of the date the Mortgagee declares its mortgage to be in Default, the Mortgagee shall register the Property as provided in Sec. 30-304 (a) and, at the time of registration, shall designate in writing a Property Manager to inspect, secure, and maintain the real Property subject to the mortgage in Default.

- (c) Registration pursuant to this section shall contain, at a minimum, the name of the Mortgagee and servicer along with their corresponding mailing addresses email addresses, and telephone numbers and the name of the Property Manager and said person's address, email address and telephone number. The Property Manager shall be responsible to inspect, secure and maintain the Property. The Property Manager named in the registration shall be available to be contacted by the City of Arcadia, Monday through Friday between 8:00 a.m. and 5:00 p.m., excluding holidays.
- (d) Any Property registration pursuant to this Article is valid for one (1) calendar year. An annual registration fee set by Resolution of the City Council of the City of Arcadia, Florida shall accompany each registration or modification of registration. No fee shall be charged for modifying contact information, provided the organizational information remains the same. The City of Arcadia may assign and delegate the collection of such fee to a third party independent contractor, as noted on the registration form.
- (e) This section shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to a beneficiary of a mortgage involved in the foreclosure and any properties transferred to the Mortgagee under a deed-in-lieu of foreclosure/sale or properties surrendered to a Mortgagee pursuant to a bankruptcy proceeding.
- (f) Any person or other legal entity that has registered a Property under this Article must report any change of information contained in the registration within ten (10) days of the change.
- (g) Properties subject to this Article shall remain under the annual registration requirement, inspection, security and maintenance standards of this section as long as they remain in Default.
- (h) Failure of the Mortgagee and/or Property owner of record to properly register or to revise the registration to reflect a change of circumstances as required by this Article shall constitute a violation punishable as provided in Sec. 30-303.

30-305. Maintenance Requirements.

- (a) Properties subject to the provisions of this Article shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices except those required by federal, state or local law, discarded personal items including, but not limited to, furniture, clothing, household appliances, or any other items that give the appearance that the Property is vacant, shows evidence of vacancy or is not being properly maintained. Grass, weeds, overgrown brush or dead vegetation

which exceeds the maximum height provided by Sec. 50-102(12) of the Code of Ordinances of the City of Arcadia is prohibited.

- (b) Properties subject to the provisions of this Article shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure. Yards shall be landscaped and maintained pursuant to the standards set forth in the Code of Ordinances of the City of Arcadia. Landscaping shall include, but not be limited to, grass, ground cover, bushes, shrubs, hedges or similar ornamental plantings, decorative rock or bark or artificial turf/sod designed specifically for residential, commercial or industrial installation, as applicable. Landscaping shall not include weeds, gravel, broken concrete, asphalt or similar material.
- (c) Maintenance required under this Article shall include, but not be limited to, watering, irrigation, cutting and mowing of required landscape, and removal of all trimmings and weeds.
- (d) Pools and spas on properties subject to the provisions of this Article shall be kept in working order such that the water therein remains free and clear of pollutants and debris. Pools and spas shall comply with any of the applicable enclosure requirements set forth in the Florida Building Codes and local ordinances, including but not limited to, required permitting and inspections.
- (e) Failure of the Mortgagee and/or Property owner of record to properly maintain a Property subject to the provisions of this Article shall constitute a violation punishable as provided in Sec. 30-303.

Sec. 30-306. Security Requirements.

- (a) Properties subject to the provisions of this Article shall be maintained in a secure manner so as to be inaccessible to unauthorized persons.
- (b) A “secure manner” shall include, but not be limited to, the closure and locking of all windows, doors, gates and other openings of such size that may allow access to the interior of the Property and/or structure. Broken windows shall be secured by reglazing, or by boarding in accordance with City of Arcadia Code of Ordinances.
- (c) If a mortgage on a Property subject to the provisions of this Article is in Default a Property manager shall be designated by the Mortgagee. The Property Manager shall perform all work necessary to bring the Property into compliance with this Article and all other applicable codes and ordinances.

- (d) Properties subject to the provisions of this Article shall be posted with the name and twenty-four (24) hour contact telephone number for the Property manager. The posting shall be not less than eight and one half (8 1/2) inches by eleven (11) inches in size. The posting shall contain the following language: THIS PROPERTY IS MANAGED BY (Name of Property Manager). TO REPORT PROBLEMS OR CONCERNS CALL AND/OR E-MAIL (Telephone Number and/or E-Mail address of Property Manager).
- (e) The posting shall be placed on the interior of a window facing the street to the front of the Property or secured to the exterior of the building structure facing the street to the front of the Property, or if no such area exists, on a stake of sufficient size to support the posting. Exterior postings shall be constructed of rigid materials and printed with weather resistant materials.
- (f) Properties subject to the provisions of this Article shall be inspected by the Property Manager weekly so as to ensure continued compliance with this Article. Upon the request of the City's Administrator or authorized designee, the Property Manager shall provide a copy of the inspection reports.
- (g) Failure of the Mortgagee and/or Property owner of record to properly inspect and secure, post and maintain the notice required by this Article shall constitute a violation punishable as provided in Sec. 30-303.

Sec. 30-307. Additional Authority.

The Administrator or authorized designee shall have the authority to require the Mortgagee and/or owner of record of any Property, subject to the provisions of this Article, to complete additional maintenance and/or security measures including, but not limited to, securing any and all door, window or other openings, employment of an on-site security guard, or other measures as may be reasonably necessary to prevent further deterioration of the Property.

Sec. 30-308. Adoption of Rules; Expenditure of Funds; Declaration of Municipal Purpose.

The City Administrator, consistent with powers and duties prescribed in Chapter 2, Article IV, Division 2 of the City of Arcadia Charter, including those duties and authorities relating to emergency situations, is authorized and empowered to adopt rules and regulations, and expend funds as may be reasonably necessary and available to carry out the terms of this Article, the expenditure of such funds having been declared a proper municipal purpose.

Sec. 30-309. Supplemental Provisions.

Nothing contained in this Article shall prohibit the City of Arcadia from enforcing its codes and ordinances by any other means, including, but not limited to, injunction, abatement, or as otherwise provided by state or local law.

SECTION 3. Codification. The publisher of the City's Code of Laws, the Municipal Code Corporation, is directed to incorporate the amendments included in Section 2 above into the Code of Ordinances.

SECTION 4. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

SECTION 5. Effective Date. This ordinance shall be effective immediately upon final passage by the City Council.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, on this ___ day of _____, 2013.

CITY OF ARCADIA, FLORIDA

ALICE FRIERSON, MAYOR

ATTEST:

By: _____
GIA LANCASTER
CITY CLERK

PASSED ON FIRST READING: _____, 2013.

PASSED ON SECOND READING: _____, 2013.

APPROVED AS TO FORM:

THOMAS J. WOHL, CITY ATTORNEY

RESOLUTION NO. 13-994

A RESOLUTION RELATING TO THE REGISTRATION OF REAL PROPERTY IN FORECLOSURE; ESTABLISHING AN ANNUAL FEE FOR REGISTRATION OF REAL PROPERTY IN FORECLOSURE; MAKING FINDINGS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on _____, 2013, the City Council of the City of Arcadia, Florida adopted requirements for owners and mortgagees to register properties in foreclosure within the City of Arcadia, Florida pursuant to City Ordinance No. _____ “Registration of Real Property in Foreclosure”; and

WHEREAS, in order to implement the City’s program for the registration of real property in foreclosure, the City will require funds to enforce the ordinance and retain the services of a third-party vendor to administer the program; and

WHEREAS, pursuant to City Ordinance No. _____ all such property registrations shall be valid for a period of one (1) year and that an annual registration fee established by the City Council of the City of Arcadia by adoption of a resolution shall accompany each registration form; and

WHEREAS, such fees, are reasonable and necessary to establish a registration program for real property in foreclosure.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA:

SECTION 1. The foregoing findings are incorporated herein by reference and made a part hereof.

SECTION 2. The City Council does hereby find that the proposed fee related to the registration of real property in foreclosure represents a fair and reasonable sum to be assessed on each property registered on an annual basis in the amount of \$100.00.

SECTION 3. This Resolution shall take effect _____, 2013.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, in regular session at the City Council Chambers of said City of Arcadia, Florida this ____ day of _____, 2013.

City of Arcadia, Florida

Alice Frierson, Mayor

ATTEST:

Gia Lancaster, City Clerk

Approved as to form:

Thomas J. Wohl, City Attorney

AGENDA No. 12



CITY COUNCIL AGENDA ITEM
Requested Council Meeting Date: November 19, 2013

DEPARTMENT: Community Development/Code Enforcement

SUBJECT: Ordinance No. 2013-995 Housing Code/Property Maintenance Standards

RECOMMENDED MOTION: First Reading, no staff suggested conditions or restrictions

SUMMARY:

It is recommended that the City Council review Ordinance No. 995 (Text attached File No. 13-995TX) and provide an opportunity for the Public and the City Council input prior to taking finale action.

There exist within the City of Arcadia buildings that are, or may become, unsafe or dilapidated due to lack of maintenance or damage caused by weather, fire, vandalism, vermin, insects, or other conditions. Such buildings constitute a menace to the health, safety, welfare and reasonable comfort of citizens of the City of Arcadia. The existence of such buildings, if not remedied, creates blighted areas, curtails investments and tax revenues, and impairs economic values; and all buildings or structures of any kind, including all electrical, gas, mechanical, or plumbing systems which are unsafe or unsanitary, constitute a fire hazard, or are dangerous to human life or a hazard to safety or health, shall be abated by repair and rehabilitation or by demolition, in accordance with the provisions herein and the duties of oversight, inspection and enforcement for possible noncompliance violations of building maintenance standards should established.

FISCAL IMPACT: _____ () Capital Budget
() Operating
() Other

ATTACHMENTS: (x) Ordinance () Resolution () Budget () Other

Department Head: Carl McQuay Date:

Finance Director (As to Budget Requirements) Date:

City Attorney (As to Form and Legality) Date:

City Administrator: Tom Slaughter Date:

COUNCIL ACTION: () Approved as Recommended () Disapproved
() Tabled Indefinitely () Tabled to Date Certain _____ () Approved with Modifications

ORDINANCE NO. 2013-995

**AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA;
CREATING ARTICLE IX OF CHAPTER 30 OF THE CITY OF
ARCADIA CODE OF ORDINANCES; PROVIDING FOR THE
DETERMINATION, ENFORCEMENT, VIOLATION AND
PENALTY FOR UNSAFE AND/OR DILAPIDATED BUILDINGS;
PROVIDING FOR CODIFICATION; PROVIDING FOR
SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, there exist in the City of Arcadia buildings that are, or may become, unsafe or dilapidated due to lack of maintenance or damage caused by weather, fire, vandalism, vermin, insects, or other conditions. Such buildings constitute a menace to the health, safety, welfare and reasonable comfort of citizens of the City of Arcadia. The existence of such buildings, if not remedied, creates blighted areas, curtails investments and tax revenues, and impairs economic values; and

WHEREAS, all buildings or structures of any kind, including all electrical, gas, mechanical, or plumbing systems which are unsafe or unsanitary, constitute a fire hazard, or are dangerous to human life or a hazard to safety or health, shall be abated by repair and rehabilitation or by demolition, in accordance with the provisions herein; and

WHEREAS, the duties of oversight, inspection and enforcement for possible noncompliance violations of building maintenance standards should be established; and

WHEREAS, it appears to be in the best interest of the citizens of the City of Arcadia that Chapter 30 of the Code of Ordinances be amended as set forth herein,

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

SECTION 1. Findings. The Council hereby adopts and incorporates by reference herein all of the findings set forth above as findings of the Council.

SECTION 2. Amendment of the Code of Ordinances. The Code of Ordinances of the City of Arcadia is hereby amended to create a new Article IX of Chapter 30 to read in its entirety as follows:

“ARTICLE IX. - HOUSING CODE/PROPERTY MAINTENANCE STANDARDS.

Sec. 30-272. - Definitions.

For the purpose of this article, the following definitions shall apply:

Building shall have the same meaning as set forth in the Florida Building Code, as it may be amended from time to time.

Minimum maintenance standards means the minimum standards to which buildings and structures are to be maintained within the City of Arcadia as set forth in section 30-274 below.

Owner means the fee simple title owner of real property located within the city limits of the City of Arcadia and includes any natural person, corporation or unincorporated association.

Structure shall have the same meaning as set forth in the Florida Building Code, as it may be amended from time to time.

Undue economic hardship means an exceptional financial burden that would amount to the taking of property without just compensation, or failure to achieve a reasonable economic return in the case of income producing property.

Sec. 30-273. - Maintenance required.

It shall be unlawful for any owner to withhold ordinary maintenance and repair or to fail to maintain buildings and structures to at least the standards provided herein.

Sec. 30-274. - Minimum maintenance standards.

The following minimum maintenance standards for all improved properties within the geographical boundaries of the City of Arcadia are hereby adopted:

(1) *Buildings and structures:*

a. Every part of a building or structure shall be kept structurally sound. Rotten or weakened portions shall be removed, repaired or replaced in such a manner as to be compatible with the rest of the structure. All exposed wood shall be stained or painted. Every part shall be clean of graffiti, litter, dirt, mildew or other debris; and, where surfaces are painted, once painted or normally painted, not more than ten percent of such surface may be free of paint. Painted surfaces must be maintained without peeling.

b. Walls shall be repaired and painted to present a neat and clean appearance.

(2) *Windows:*

a. Broken or missing window glass shall be replaced.

b. All windows must be tight fitting and window sashes with rotten wood, broken joints or loose mullions or muntins shall be repaired or replaced.

c. The exterior of windows may be covered for no more than 30 consecutive days, or 90 total days per year, however, if the material used to cover the window is metal, anchored to the structure and specifically manufactured to resist high winds, that material may cover the windows for up to 180 consecutive days or 180 total days per year. Examples of specifically manufactured materials include roll-type coverings, awning-style coverings and accordion style coverings but do not include wood of any type or scrap metal.

(3) *Roofs:*

a. Chimneys and all other rooftop structures shall be kept in good repair.

b. All roofs, gutters and downspouts shall be maintained to prevent damage to the structure and adjoining properties. Leaky roofs shall be repaired or replaced.

(4) *Auxiliary structures:*

a. Auxiliary structures, whether attached to the principal structure or unattached, which are structurally deficient shall be properly repaired or demolished. All fences, lighting devices and retaining walls shall be structurally sound and be repaired and painted so as to present a neat and clean appearance.

(5) A building is unsafe or dilapidated when any of the following conditions exist:

a. There is an unusual sagging or leaning out of plumb of the building or any parts of the building and such effect is caused by deterioration or over-stressing to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.

b. The building has improperly distributed loads upon the floors or roofs, or the same are overloaded or have insufficient strength to be reasonably safe for the purpose used.

c. The building has been damaged or destroyed by fire, wind, or other causes and has become dangerous to life, safety, or the general health and welfare of people within or nearby the structure.

d. The building is so dilapidated, decayed, unsafe, unsanitary, or so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation or occupancy, or is likely to cause sickness or disease, so as to injure the health, safety, or general welfare.

e. The building has parts that are so attached that there is a reasonable likelihood they may fall and injure members of the public or property in general.

f. The building is vacant and not sufficiently secured to prevent easy access to trespassers and vagrants, or is otherwise untended or unkempt to the extent that it poses a general health or safety hazard for neighboring people or property.

g. The electrical or mechanical installations or systems create a hazardous condition contrary to the standards of the Florida Building Code.

h. An unsanitary condition exists by reason of inadequate or malfunctioning sanitary facilities or waste disposal systems.

A building that is unsafe or dilapidated constitutes a nuisance. No person shall permit an unsafe or dilapidated structure to exist on property under his or her ownership or control.

Sec. 30-275. - Variances.

Where, by reason of unusual circumstances, the strict application of any provision of this article would result in undue economic hardship upon any owner, the city council of the city may vary or modify strict adherence to such provision so as to relieve the undue economic hardship, providing such variance does not distract from the general purpose and intent of this article. An undue economic hardship must be unique to that specific property, shall not have been created by an owner or occupant of the property and the granting of the variance must not create a conflict with any other city ordinance.

Sec. 30-276. - Existing building codes.

Nothing in this article shall be construed as exempting any property owner from complying with all existing or future city building codes nor as preventing any property owner from making any use of his property not otherwise prohibited by statute, ordinances or regulations.

Sec. 30-277. - Inspection and notice of noncompliance.

The building official or a code enforcement officer shall inspect or cause to be inspected any building, structure or portion thereof which is suspected of failing to meet the minimum maintenance standards set forth herein. After such inspection, if the building official or code enforcement officer has determined that such building, structure or portion thereof fails to meet the minimum maintenance standards he or she shall issue a notice to the owner or owners of the building as listed on the most recent available tax rolls, by registered or certified mail, return receipt requested, or by hand delivery by the said building official, code enforcement officer or deputy sheriff, directing that it be repaired or demolished. Also, said notice shall be posted on the building. Failure of any person to receive notice shall not invalidate any proceedings under this section. Evidence of an attempt to serve notice, and proof of posting, shall be sufficient to show that these notice requirements have been met. Proof of posting with date and place of its posting shall be by affidavit of the person posting the notice. Attached to the affidavit shall be a copy of the notice posted. As applicable, the notice should contain generally the following information:

- (1) The name of the person upon whom the notice is served.
- (2) The street address of the building or structure and the legal description of the property on which it is located.
- (3) A statement indicating that the building or structure has been determined not to meet the minimum maintenance standards together with a report documenting the conditions determined to have rendered the building or structure in violation of the provisions of this article.
- (4) If repairs or alterations will remedy the conditions, a description of the nature and extent of the repairs or alterations necessary.
- (5) That within 45 days from sending the notice, a complete building permit application for necessary repairs must be submitted and repairs commenced, or the building must be demolished.
- (6) If the conditions are of such a character that repairs or alterations are not feasible or reasonably expected to remedy the conditions, notice that the building must be demolished.

If the conditions are not remedied within 45 days after the notice of determination is sent, or a building permit for repairs is not applied for and repairs not completed within a reasonable period of time, the determination shall be referred by the code enforcement officer or building official to the code enforcement board for a condemnation public hearing concerning the subject building. The owner or owners shall be notified by the code enforcement officer or building official of the time, place and purpose of the public hearing. Also, said notice shall be posted on the building. Failure of any person to receive notice shall not invalidate any proceedings under this section. Evidence of an attempt to serve notice, and proof of posting, shall be sufficient to show that these notice requirements have been met. Proof of posting with date and place of its posting shall be by affidavit of the person posting the notice. Attached to the affidavit shall be a copy of the notice posted.

Sec. 30-278. - Enforcement, violations and penalties.

(a) *Authorized officials.* The city building official, the city fire chief, code enforcement officer and the code enforcement special magistrate and anyone acting with or under their authority are hereby designated and authorized to enforce the terms of this article.

(b) *Condemnation.*

(1) If the owner of any building has failed to remedy unsafe or dilapidated conditions as provided in section 30-277, after the expiration of the 45-day period, the code enforcement special magistrate shall consider condemning the building.

(2) Each case before the code enforcement special magistrate may be presented by the code enforcement officer, building official or other city staff. At the hearing, the code enforcement special magistrate shall proceed to hear evidence and testimony on the cases before the code enforcement special magistrate. All testimony shall be under oath and shall be recorded. The special magistrate shall take testimony from the building official, code enforcement officer or city staff, the property owner and other witnesses called by either the city staff or the property owner. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(3) After hearing evidence and/or testimony on the case at said public hearing conducted by said code enforcement special magistrate that any building is unsafe or dilapidated in accordance with subsection 30-274(5), the code enforcement special magistrate may enter an order condemning it, requiring the owner to remedy the conditions by repair or removal by a date set by the code enforcement special magistrate, and providing that failure of the owner to do so will result in the code enforcement special magistrate authorizing the building official or code enforcement officer to take action to remedy the conditions, including demolition, and charging all expenses thereof against the real property. The code enforcement special magistrate may also take any other appropriate action to carry out the purpose and intent of this ordinance, including the imposition of fines pursuant to F.S. ch. 162. The code enforcement special magistrate, code enforcement officer, building official or his duly authorized representative or the property owner may request a postponement or continuance of a scheduled public hearing.

(4) If the conditions are not remedied within the time established by the special magistrate, the code enforcement officer or building official shall take whatever action determined necessary and appropriate to remedy the conditions, including vacating, fencing, securing, demolishing, or removing the unsafe or dilapidated building. In the event demolition or removal of the unsafe or dilapidated building is required by the building official, the code enforcement officer or building official shall notify the city council prior to said demolition or removal of said building.

(c) *Notice of condemnation.*

(1) A certified copy of the order of condemnation, together with a copy of the notice of determination containing information as provided in section 30-277 shall be sent by the building official or code enforcement officer, to each owner as listed on the most recent available real property tax rolls, by registered or certified mail, return receipt requested, or by hand delivery by the building official, code enforcement officer or deputy sheriff.

(2) In addition, a certified copy of the order of condemnation, together with a copy of the notice of determination, shall be posted on the building following the adoption of the

order of condemnation. Said notice shall be posted on the building following adoption of said order.

(3) Failure of any person to receive notice shall not invalidate any proceedings under this section. Evidence of an attempt to serve notice, and proof of posting, shall be sufficient to show that these notice requirements have been met. Proof of posting with the date and place of its posting shall be by affidavit of the person posting the notice. Attached to the affidavit shall be a copy of the notice posted.

(d) *Repairs after condemnation.* After the code enforcement special magistrate has condemned a building, no building permit application shall be accepted or permit issued for repairs of the building except as follows:

(1) The building official shall review any application for a permit to repair a condemned building, and shall determine whether repairs are feasible.

(2) If the proposed repairs are not reasonably expected to resolve the conditions or are otherwise not feasible, the permit shall be denied.

(3) If the repairs are feasible and are reasonably expected to resolve the conditions, a permit shall be issued only upon written condition that the owner or authorized agent specify the nature of the repairs, the date on which the repairs shall be complete, and that failure to complete the repairs within the time provided shall result in the building official taking remedial action with attachment of a lien for all costs or other action authorized by law.

(e) *Appeals to the city council.*

(1) The city council has the sole authority to hear and decide appeals from the decision or determination of the code enforcement special magistrate pursuant to the code enforcement board's authority under this article. Appeals may be taken by any person aggrieved or by any officer, board, department or agency of city government adversely affected by the decision or determination of the code enforcement special magistrate. An appeal shall be taken within ten working days after rendition of said decision or determination, by filing with the building official, code enforcement department and with the legal department, a written notice of appeal specifying its grounds. The appeal shall be on a form prescribed by the code enforcement department.

Upon receipt of the notice of appeal, the code enforcement officer shall transmit to the city council all documents, plans, papers, minutes, applications, recommendations or other materials relating to the appealed decision. The appeal of any decision of the code enforcement special magistrate shall be on evidence made on the record made before it.

(2) *Public hearing.* The city council shall hold a hearing on said appeal after publication of notice stating the time, place and purpose of the hearing in a newspaper of general circulation in the city at least ten days before said hearing. The applicant or his duly authorized agent shall also post, at least ten days prior to the date of such hearing, a notice provided by the code enforcement department in a conspicuous place or places on the building or structure involved in the hearing. In all cases, affidavit proof with the date and place of the required publication and posting of the notices shall be present at the hearing. The city council shall decide the appeal within a reasonable time. It may, upon appeal, reverse, affirm or modify any

order, decision or determination of the code enforcement special magistrate. If the city council finds that the city should pay the costs of an appeal, it may so authorize. No appeal shall be granted in whole or in part unless four members of the city council concur.

(f) *Administrative action.* The decision of the city council shall be final administrative action, reviewable by certiorari in circuit court as provided by law.

(g) *Assessment of costs of abatement; imposition of lien.* Any costs incurred by the City of Arcadia to correct dilapidated or unsafe conditions pursuant to this provision shall be charged to the owner of the property by resolution, and shall constitute a lien against the property in favor of the City of Arcadia. The resolution lien shall be entitled to the same priority as a lien for special assessments with the same rights of collection, foreclosure and sale, and resolution lien shall be superior to all others except taxes. Until payment is complete, such assessment shall be a legal, valid, binding obligation upon the real property.

(h) *Recording of lien.* As soon as possible after the assessment has been made as provided in this article by the building official or code enforcement officer, a certified copy of the special assessment lien shall be recorded in the official records of the DeSoto County in the office of the Clerk of the Circuit Court in and for DeSoto County, and the lien shall become effective as of the date of filing such copy with said clerk of the circuit court. The code enforcement officer or building official after recording of said lien, shall forward to the owner or owners a copy of the recorded lien by registered or certified mail, return receipt requested, or by hand delivery, by the building official, code enforcement officer or deputy sheriff.

(i) *Satisfaction of lien.* Upon satisfaction of the lien created under this article, the code enforcement officer or building official shall file an order of satisfaction, release and dismissal of lien with the clerk of the circuit court.

(j) *Penalties.* Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this article may be additionally punished as provided in this Code and as provided under F.S. ch. 162, as they may be amended from time to time.”

SECTION 3. Codification. The publisher of the City’s Code of Laws, the Municipal Code Corporation, is directed to incorporate the amendments included in Section 2 above into the Code of Ordinances.

SECTION 4. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

SECTION 5. Effective Date. This ordinance shall be effective immediately upon final passage by the City Council.

Ordinance No. _____

Page 8 of 8 _____

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, on this
___ day of _____, 2013.

CITY OF ARCADIA, FLORIDA

KEITH KEENE, MAYOR

ATTEST:

By: _____
GIA LANCASTER
CITY CLERK

PASSED ON FIRST READING: _____, 2013.

PASSED ON SECOND READING: _____, 2013.

APPROVED AS TO FORM:

THOMAS J. WOHL, CITY ATTORNEY

AGENDA No. 13



CITY COUNCIL AGENDA ITEM
Requested Council Meeting Date: November 19, 2013

DEPARTMENT: Finance Department

SUBJECT: Confirm Salary Adjustments per Personnel Action Forms

RECOMMENDED MOTION: Approval for pay increases for the 21 employees

SUMMARY: It is recommended that the City approve these pay increases for the employees. The increase will not have an effect on this year's overall budget due to using an unfilled position's salary.

Memo attached has the breakdown for budget purposes and the former City Administrator Judith Jankosky explanation for these increases.

The breakdown of employees is: 13 general fund 6 solid waste 2 water/sewer

The total of all of the raises is \$41,600.00

FISCAL IMPACT: \$41,600.00

Capital Budget

Operating

Other

ATTACHMENTS: Ordinance Resolution Budget Other

Department Head: Ashley Killmon

Date:

Finance Director Renee Green (As to Budget Requirements)

Date:

City Attorney TJ Wohl (As to Form and Legality)

Date:

City Administrator: Tom Slaughter

Date:

COUNCIL ACTION: Approved as Recommended

Disapproved

Tabled Indefinitely Tabled to Date Certain _____

Approved with Modifications



CITY COUNCIL AGENDA ITEM

Requested Council Meeting Date: November 19, 2013

DEPARTMENT: Finance Department

SUBJECT: Confirm Salary Adjustments per Personnel Action Forms

RECOMMENDED MOTION: Approval for pay increases for the 21 employees

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() Capital Budget

() Operating

(X) Other

ATTACHMENTS: () Ordinance () Resolution () Budget (X) Other

Department Head: Ashley Killmon

Date:

Finance Director Renee Green (As to Budget Requirements)

Date:

City Attorney TJ Wohl (As to Form and Legality)

Date:

City Administrator: Tom Slaughter

Date:

COUNCIL ACTION: () Approved as Recommended

() Disapproved

() Tabled Indefinitely () Tabled to Date Certain _____

() Approved with Modifications



TO: MAYOR, COUNCIL MEMBERS AND INTERIM CITY ADMINISTRATOR
FROM: ASHLEY KILLMON PAYROLL AND ACCOUNTING CLERK
SUBJECT: END OF YEAR PAY RAISES
DATE: 11/01/2013

Per Council Request:

Pay raises were given to 20 employees and 1 employee a pay decrease.

This salary and benefit amount was in the original budget under Jerry Cordes, who was terminated on September 9, 2013 by the Public Works Director. The budget was adopted on September 17, 2013.

Mr. Cordes' salary was budgeted with a 50% split to Sanitation (Solid Waste now an enterprise fund) and 50% to the Street Department (general fund).

| | | |
|----------------|------------|---------------------------|
| Annual salary: | | \$38,417.60 |
| Benefits: | FICA & MRC | <u>\$3,182.40</u> |
| TOTAL | | <u>\$41,600.00</u> |

The breakdown of employees is 13 general fund 6 solid waste 2 water/sewer

The total of all of the raises is \$41,600.00

The only financial implication for this would be the water/sewer fund raises due to they were not in the same fund as Mr. Cordes' split.

The total for the water /sewer fund is \$2,080. This amount is immaterial to the entire water/sewer fund payroll budget and if necessary a change might have to be made for this.

The two(2) employees in the water/sewer fund had a change of the on-call pay which lowered their annual salary.

The intention of the raises was to divide Mr. Cordes' salary between these employees.

The Personnel Action Forms which is the form used for any payroll changes had thirteen(13) dated September 17,2013, five (5) dated September 27, 2013 and two(2) dated October 9, 2013.

The intention of the increase in three (3) employees in the Sanitation department was due to their "incentive" pay of \$2.00 per hour was not going to be paid for year ending 2014.

On-Call and Cell phone reimbursements were changed per revision of the personnel policy on July 1, 2013.

If there are any questions or other information please contact Renee or Ashley.

Renee Green

From:
Sent: Thursday, October 31, 2013 4:28 AM
To: Renee Green
Subject: Re:

I only find 14 PW staff pay adjustments that were made.

This is how it happened:

There was \$118,910 in the budget in all of PW payroll (salary, taxes, benefits) that was budgeted but not yet being utilized due to a few staff that left the city. We did not adjust those staff back out because we were going to replace them but after looking at current staff and their duties we did not. Rather we re-organized and re-assigned duties to existing staff to make up the loss of other staff.

In addition, Denise Musselwhite was making less than her male co-workers that were doing the same job with less time under their belt which is a lawsuit waiting to happen. Denise, who Jerry recommended, was made foreman over sanitation thus her adjustment as well.

Sanitation throwers on the back of the truck were being paid a \$2/hr incentive causing them to be paid more than the drivers that had taken the time and initiative to obtain their CDL license to operate the huge trucks. We took away the \$2/hr incentive and gave them an increase which equaled less than they would usually get. Jerry had hired newer CDL drivers at a higher rate of pay than existing CDL drivers which again is a lawsuit waiting to happen. We had to adjust CDL drivers to be getting equal pay for equal work.

Parks staff had unequal pay for the same work as well. Those pays were adjusted based on time with the city, work being performed and the re-assigned duties so we did not have to replace staff that had left.

The adjustments to PW staff, in the end, cost \$30,267 TOTAL, salary, taxes and benefits saving the city \$88,643.

I will be sending this to council and the newspaper as well. The newspaper said it called me, it never called. Tom is making a big deal of this because he doesn't know anything about budgets and finance and is trying to make a name for himself at the cost of others. Those PAF's were not held until the day I left and who where they held from??

I saved the city over \$88,000 by making these adjustments yet I get thrown under the bus by someone who has no clue about finances.

On Wed, Oct 30, 2013 at 9:05 AM, Renee Green <rgreen@arcadia-fl.gov> wrote:

Pay raises: Council – wants to know how you came up with the \$ amount for the raises for public works. I saw 5 employees, but the list turned out to be about 20+??????

Streets and parks (including all groundskeepers/mowers but not golf course)

| | |
|--|---------------------------------------|
| Jerry – Streets | Jerry - Parks |
| \$29,534 (salary, taxes and benefits) | \$29,534 (salary, taxes and benefits) |
| Do not replace Charlie Cobb have extra | |
| \$22,256 (salary, taxes and benefits) | |
| Total available streets: \$51,790 | Total available parks: \$29,534 |
| Both general fund departments so all one pot of money: \$81,324 | |

| Staff – Streets | Current | Proposed |
|--------------------------|---------|----------------|
| Nick | 8.50/hr | 9.75 hr |
| Byron | 8.50/hr | 9.75/hr |
| | | |
| Annual difference | | \$4,160 |
| Additional taxes | | \$318 |
| TOTAL ANNUAL COST | | \$4,478 |

| Staff – Parks/Cem/MHP All groundskeepers | Current | Proposed |
|---|---------|-----------------|
| Steve R. | \$14.97 | \$15.50 |
| Tim Boone | \$13.54 | \$14.25 |
| John John | \$10.61 | \$11.75 |
| Rickey | \$10.61 | \$11.75 |
| Jeanie | \$10.00 | \$11.25 |
| Arthur | \$9.00 | \$9.50 |
| | | |
| Annual difference | | \$11,996 |
| Additional taxes | | \$918 |
| TOTAL ANNUAL COST | | \$12,914 |

| | |
|-----------------------------|-----------------|
| TOTAL AVAILABLE | \$81,324 |
| TOTAL COST TO ADJUST | \$17,392 |
| TOTAL LEFT/SAVED | \$63,932 |

We need the left/saved because the budget did not account for the changes in health insurance, work comp and general insurance which I need to figure out yet. Has to be divided between general fund and enterprise funds but I think the total is running around a \$75,000 increase so with other savings you'll see from Sanitation and WWTP, I think we will be close enough.

Might want to show each staff their potential total raise and do it in two steps, little now and the rest after 30, 60, 90 days. Incentive! or bribe??

May need to add a little more time to Melissa Hand on the weekend if we are going to close downtown streets during events. Give her extra time to set up and take down barricades.

Sanitation and WWTP

| | |
|--|--|
| Steve – Sanitation | Steve - WWTP |
| \$37,586 (salary, taxes and benefits) | \$37,586 (salary, taxes and benefits) |
| Replace Steve at \$19.23/hr (\$40K/year 50/50 split) | Replace Steve at \$19.23/hr (\$40K/year 50/50 split) |
| \$24,558 (salary, taxes and benefits) | \$24,558 (salary, taxes and benefits) |
| Total available Sanitation: \$13,028 | Total available WWTP: \$13,028 |
| Enterprise funds, cannot be combined | Enterprise funds, cannot be combined |

No permanent changes to WWTP so that \$13,028 is saved.

| Staff – Sanitation | Current | Proposed |
|------------------------|---------|----------|
| Denise – CDL foreman | \$11.00 | \$11.00 |
| Daniel – CDL/Claw | \$9.50 | \$10.65 |
| Mark – CDL | \$9.50 | \$10.65 |
| Juan – CDL | \$9.50 | \$10.65 |
| Shannon | \$9.00 | \$10.15 |
| James | \$9.00 | \$10.15 |
| | | |
| Annual difference | | \$11,960 |
| Additional taxes | | \$915 |
| TOTAL ANNUAL COST | | \$12,875 |
| SAVED PUT BACK IN FUND | | \$153 |

Rate Increase for 10-01-2013

| Employee Name | Value | Annual Pay | FICA | MCR | Notes Below: |
|---------------|---------|--------------|------------|----------|--|
| Jerry Cordes | \$20.00 | \$ 41,600.00 | \$2,579.20 | \$603.20 | Mr. Cordes salary was spilt into 2 funds 50% - Solid Waste and 50% General Fund |

| | Employee Name | Old Value | Old Annual Pay | FICA | MCR | New Value | New Annual Pay | FICA | MCR | Notes Below: | Fund: |
|----|--------------------|-----------|----------------|------------|----------|-----------|----------------|------------|----------|---------------|-------------|
| 1 | Charles Huckaby | \$10.61 | \$22,068.80 | \$1,368.27 | \$320.00 | \$11.75 | \$24,440.00 | \$1,515.28 | \$354.38 | | GENERAL |
| 2 | Arthur Brady | \$8.82 | \$18,345.60 | \$1,137.43 | \$266.01 | \$10.15 | \$21,112.00 | \$1,308.94 | \$306.12 | Incentive Pay | SOLID WASTE |
| 3 | Tim Boone | \$13.54 | \$28,163.20 | \$1,746.12 | \$408.37 | \$14.25 | \$29,640.00 | \$1,837.68 | \$429.78 | | GENERAL |
| 4 | Gia Lancaster | \$23.19 | \$48,235.20 | \$2,990.58 | \$699.41 | \$24.04 | \$50,003.20 | \$3,100.20 | \$725.05 | | GENERAL |
| 5 | Nicholas Ostrowe | \$8.50 | \$17,680.00 | \$1,096.16 | \$256.36 | \$9.75 | \$20,280.00 | \$1,257.36 | \$294.06 | | GENERAL |
| 6 | Michael Kotzker | \$17.00 | \$35,360.00 | \$2,192.32 | \$512.72 | \$19.24 | \$40,019.20 | \$2,481.19 | \$580.28 | | GENERAL |
| 7 | Denise Musselwhite | \$8.50 | \$17,680.00 | \$1,096.16 | \$256.36 | \$11.00 | \$22,880.00 | \$1,418.56 | \$331.76 | | SOLID WASTE |
| 8 | Richelle Peacock | \$10.50 | \$21,840.00 | \$1,354.08 | \$316.68 | \$11.50 | \$23,920.00 | \$1,483.04 | \$346.84 | | GENERAL |
| 9 | Casey Lambert | \$8.00 | \$16,640.00 | \$1,031.68 | \$241.28 | \$8.50 | \$17,680.00 | \$1,096.16 | \$256.36 | | WATER/SEWER |
| 10 | Daniel Newsome | \$9.00 | \$17,680.00 | \$1,096.16 | \$256.36 | \$10.65 | \$22,152.00 | \$1,373.42 | \$321.20 | | SOLID WASTE |
| 11 | John Towhig | \$10.61 | \$22,068.80 | \$1,368.27 | \$320.00 | \$11.75 | \$24,440.00 | \$1,515.28 | \$354.38 | | GENERAL |
| 12 | Christopher White | \$9.27 | \$19,281.60 | \$1,195.46 | \$279.58 | \$9.77 | \$20,321.60 | \$1,259.94 | \$294.66 | | WATER/SEWER |
| 13 | Cassandra Vitella | \$23.08 | \$48,006.40 | \$2,976.40 | \$696.09 | \$24.05 | \$50,003.20 | \$3,100.20 | \$725.05 | | GENERAL |
| 14 | Carrie Taylor | \$15.00 | \$31,200.00 | \$1,934.40 | \$452.40 | \$11.00 | \$22,880.00 | \$1,418.56 | \$331.76 | Decrease | GENERAL |

| | | | | | | | | | | | |
|---------------|----------------|---------|---------------------|--------------------|-------------------|---------|---------------------|--------------------|-------------------|---------------|-------------|
| 15 | Timothy Avant | \$9.58 | \$19,926.40 | \$1,235.44 | \$288.93 | \$10.00 | \$20,800.00 | \$1,289.60 | \$301.60 | | GENERAL |
| 16 | Shannon Smith | \$8.50 | \$20,800.00 | \$1,289.60 | \$301.60 | \$10.15 | \$21,112.00 | \$1,308.94 | \$306.12 | Incentive Pay | SOLID WASTE |
| 17 | Steven Rowley | \$14.97 | \$31,137.60 | \$1,930.53 | \$451.50 | \$15.50 | \$32,240.00 | \$1,998.88 | \$467.48 | | GENERAL |
| 18 | James Arndts | \$8.17 | \$16,993.60 | \$1,053.60 | \$246.41 | \$10.15 | \$21,112.00 | \$1,308.94 | \$306.12 | Incentive Pay | SOLID WASTE |
| 19 | Byron Williams | \$8.50 | \$17,680.00 | \$1,096.16 | \$256.36 | \$9.75 | \$20,280.00 | \$1,257.36 | \$294.06 | | GENERAL |
| 20 | Juan Morales | \$8.50 | \$17,680.00 | \$1,096.16 | \$256.36 | \$10.65 | \$22,152.00 | \$1,373.42 | \$321.20 | | SOLID WASTE |
| 21 | Helen Raines | \$10.00 | \$20,800.00 | \$1,289.60 | \$301.60 | \$11.25 | \$23,400.00 | \$1,450.80 | \$339.30 | | GENERAL |
| TOTAL: | | | \$509,267.20 | \$31,574.57 | \$7,384.37 | | \$550,867.20 | \$34,153.77 | \$7,987.57 | | |

| | Annual Pay | FICA | MCR |
|-------------|--------------------|-------------------|-----------------|
| Difference: | \$550,867.20 | \$34,153.77 | \$7,987.57 |
| | \$509,267.20 | \$31,574.57 | \$7,384.37 |
| | \$41,600.00 | \$2,579.20 | \$603.20 |

| Notes: |
|--|
| On-call was change from 7 X \$30.00 = \$210.00 to 1 hour of rate of pay X 7 days |
| Cell phone reimbursement was \$5.00 or \$10.00 per paycheck now removed. |
| Garbage/Sanitation Incentive was \$2.00 per hours now removed from payroll. |

AGENDA No. 14



CITY COUNCIL AGENDA ITEM
Requested Council Meeting Date: November 19, 2013

DEPARTMENT: Administration and City Attorney

SUBJECT: Public Workshop for Establishing Permit Process, Location, Fees and Services for Special Events within the Downtown Activity Center.

RECOMMENDED MOTION:

Direct staff to advertise, coordinate and administer a Public Workshop to permit input from special event permit holders, vendors, business owners, property owners and other members of the public.

SUMMARY:

The City Attorney and City Administrator have been working to develop the policy structure for hosting special events within the Downtown Activity Center. With the completion of a draft resolution and ordinance, staff is seeking input from special event stakeholders prior to scheduling the public hearings for considering the resolution and ordinance. A public workshop can be held to solicit input as it relates

FISCAL IMPACT: _Unknown_____ () Capital Budget
() Operating
() Other

ATTACHMENTS: (X) Ordinance (X) Resolution () Budget () Other

Department Head: _____ Date: _____

Finance Director (As to Budget Requirements) _____ Date: _____

City Attorney (As to Form and Legality) _____ Date: _____

City Administrator: _____ Date: _____

COUNCIL ACTION: () Approved as Recommended () Disapproved
() Tabled Indefinitely () Tabled to Date Certain _____ () Approved with Modifications

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ARCADIA REGARDING SPECIAL EVENTS; PROVIDING FOR: DEFINITIONS; PERMITS; PERMIT APPLICATIONS; FEES; PERMIT PROCESSING; PERMIT APPROVAL; REIMBURSEMENT FOR SERVICES; REVOCATION OF PERMITS; VIOLATIONS; REMEDIES OF THE CITY; DEMONSTRATIONS, PICKETS, AND FREE SPEECH ACTIVITIES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is beneficial to the City and its residents for special events to be held in the City; and

WHEREAS, over time, a large number of varied special events have occurred in the City without clearly defined regulations; and

WHEREAS, it is necessary to provide clear criteria to regulate and facilitate special events occurring in the City; and

WHEREAS, the City Council finds that special events that utilize City services over and above the normal level of service should reimburse the City for such additional services; and

WHEREAS, the City Council has determined that it is in the best interest of the public health, safety, environment and general welfare to adopt this Ordinance establishing criteria for the regulation of special events; and

WHEREAS, the City Council of the City of Arcadia finds and determines that the above mentioned criteria protects First Amendment freedom of speech by establishing content-neutral time, place, and manner regulations, by narrowly tailoring the regulations to achieve the City's compelling governmental interest in aesthetics and traffic safety on behalf of its citizens, and by providing ample alternatives for communication of messages,

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

SECTION 1. DEFINITIONS.

The following words, terms and phrases, when used in this Ordinance shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Applicant means the individual(s) or entity that makes the application to the City to hold a special event

City means the City of Arcadia, Florida.

City sponsored event means any event sponsored by the City. City sponsored events may be exempt from the procedural and fee requirements contained herein as determined by the City Council.

Special event means any organized gathering or activity which occurs within the City of Arcadia, whether on public or public-access private property, assembled with a common purpose which interferes with the normal flow or regulation of traffic upon the streets, sidewalks, or rights-of-way, or the normal use of parks or other public grounds or which is not normal to any licensed or regular routine business or private activities. Special Events include, but are not limited to concerts, fairs, carnivals, circuses, parades, flea markets, marathons, walkathons, festivals, races, bicycle events, celebrations or any other gathering or events of similar nature. Special Events do not include non-commercial events held on private property such as private celebrations, social parties or residential yard or garage sales.

Special event application means the form provided by the City for the purpose of processing a special event.

Special event fee means the fee an Applicant is required to pay as reimbursement for City services utilized by the Special Event above the level of service customarily provided by the City, in accordance with the Special Event permitting procedures, before a Special Event permit will be processed. Special Event fee rates shall be as established by resolution, which may be amended from time to time.

Special event organizer means an individual or group of individuals responsible for organizing the event.

Special event permit means a letter or other correspondence to the special event organizer following approval of the event by City Council outlining the conditions of approval.

Special event permitting procedures means the procedures adopted by this Ordinance pertaining to the issuance, suspension, and revocation of a special event permit.

Special event vendor means a person, corporation, company or business that sells, or offers for sale, goods, wares, merchandise, beverages, or food-stuff of any kind or nature whatsoever at a special event and includes all persons, corporations, companies or businesses, whether for profit or not-for-profit.

SECTION 2. PERMIT REQUIRED.

No Special Event may be conducted or held within the boundaries of the City of Arcadia unless and until a Special Event application has been approved by City Council and a Special Event permit has been issued to conduct such event.

SECTION 3. PERMIT APPLICATION AND FEE.

- (a) A person seeking issuance of a special event permit shall file an application with the City Administrator, or his/her designee, on forms provided by the City. The application fee and any additional charges shall be established by City Council resolution.
- (b) Prior to the scheduled commencement of the event, the completed application with descriptive plans for all arrangements must be submitted along with the application fee, if any. Upon receipt of the completed application with all required attachments, the City

Administrator, or his/her designee, shall review same together with the Applicant and appropriate City Department representatives from the Arcadia Police Department, Arcadia Fire Department, Public Works Department, and any other agencies deemed appropriate or necessary by the City Administrator, or his/her designee, and make a prompt recommendation to City Council on all applications pursuant to a resolution established by City Council for permit processing. The City Council shall have final authority to approve or deny permit applications subject to reasonable conditions on the permit. The application will automatically be considered approved if no determination is made by City Council within thirty (30) days of the Applicant submitting a completed application.

SECTION 4. INSURANCE.

At its discretion, subject to other applicable laws or ordinances, the City of Arcadia may require the event organizer to procure insurance coverage for the special event in the minimum limits of coverage of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. City shall be listed as an additional insured on the policy and the event organizer must provide City with a current certificate of insurance evidencing the required coverage prior to the event. A special event that involves higher risk activities may be required to have higher limits of coverage at the discretion of City Council.

SECTION 5. LICENSE FEE AND OTHER FEES.

All vendors not licensed by the City of Arcadia will be required to be licensed before conducting business in the City. License fees will be paid to the occupational license section pursuant to Ordinance No. _____, which is not codified in the present code but is on file in the City Clerk's office. Any permitted event can require registration fees to vendors, participants and exhibitors collected by the applicant. Any person not registered would be a trespasser and subject to trespassing laws and codes.

SECTION 6. MOBILE, ITINERANT AND STREET VENDORS WITHIN ONE MILE OF EVENT.

All participants in the events will be required to pay registration fees to said applicant obtaining a permit or cease any business in the area. Registration fees will be required of all vendors regardless of tax status, exempt or nonprofit. Failure to pay registration fees will result in a license fee of \$500.00 per day.

SECTION 7. APPEAL

The City Council's decision to permit or deny any application shall be considered final agency action.

SECTION 8. REVOCATION OF PERMIT

The City Administrator, or his/her designee, of the City of Arcadia shall have the power to revoke a permit where the Applicant fails to comply with any conditions required for operation of an event, ordinances of the City of Arcadia, laws of the State of Florida, or otherwise places persons or property in jeopardy or serious harm or injury. Any person may petition the City Administrator, or his/her designee, to conduct a review of reason(s) for any revocation.

SECTION 9. VIOLATIONS; REMEDIES OF THE CITY.

Special events which are subject to this ordinance and are being held without having obtained a permit as provided in this ordinance are prohibited. Should the permittee, his agents or employees violate the terms of the agreement by which the permit is granted, any ordinance of the City of Arcadia, or any law of the State of Florida or the United States, or knowingly allow those laws to be violated, such violation shall constitute a violation of this ordinance. Any violation shall be punished as provided by law. The City of Arcadia also retains any and all civil remedies which may be available.

SECTION 10. DEMONSTRATIONS, PICKETS, AND FREE SPEECH ACTIVITIES.

The First Amendment of the United States Constitution affords demonstrators the constitutional right to assemble and speak in a peaceful and orderly manner. Therefore, the City shall not require or issue permits for such activity. Demonstrations and pickets consist of activities which are generally performed in public in support of or against a person or cause and which may have the potential for impeding movement along a public right-of-way or other disruption. Organizers of such events that potentially will impede movement along a public right-of-way are asked to submit a questionnaire, site plan, and to notify the City of Arcadia Police Department of their intentions, and to provide details of the planned activity in order to insure the health safety and welfare for all concerned. If requested by the City Administrator, or his/her designee, a copy of an approved Police plan should be provided. There may be instances where the nature of the demonstration and/or the number of participants (including counter-demonstrators) will require reasonable content-neutral time, place and manner restrictions in order to protect the health, safety and welfare of every citizen by means of providing crowd control, traffic control and general security to the public. Such restrictions will be communicated to the individual or group prior to the activity. The special event permit requirements do not apply to such activities. Demonstrations, pickets, and rallies must abide by any other relevant City Code sections.

SECTION 11. SEVERABILITY.

If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 12. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its passage and its approval by the Mayor or it becoming law without his approval.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, on this
___ day of _____, 2013.

RESOLUTION NO. 2013-_____

A RESOLUTION OF THE CITY OF ARCADIA, FLORIDA ESTABLISHING FEES FOR SPECIAL EVENTS; ESTABLISHING A PROCEDURE FOR SPECIAL EVENTS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. _____ regarding Special Events was passed by City Council on _____, 2013; and

WHEREAS, City Council desires to establish fees for Special Events, which will be in effect until changed by further resolution of City Council; and

WHEREAS, it is in the best interest of the residents of the City of Arcadia to establish the fees as set forth herein; and

WHEREAS, the proposed fees are reasonable in light of the expenses necessary to regulate Special Events,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, that:

I. Special Events Application Fee.

- A.** The application fee will be a flat \$25, nonrefundable.
- B.** The application fee will be \$25.00 both for a one day event or multiple day events.
- C.** For events approved by Council to occur on a routine monthly basis the application fee is a one time \$25 per year.

II. Reimbursement for Services.

A. Police and Fire Services.

- 1. Events not requiring additional staff and held during normal working hours** – Police and Fire services provided for events during normal working hours and without the need for additional staffing (i.e. Homecoming Parade, Tractor Parade, etc.) are provided by the City at no cost.
- 2. Events held after normal working hours or requiring additional staffing** – Events requiring additional staffing are billed as follows:
 - a.** Police Department personnel working in a supervisory role are compensated at \$30/hr.
 - b.** Police and Fire personnel working in a non-supervisory role are compensated at \$25/hr.
 - c.** There is a three hour minimum for all personnel.
 - d.** A representative from the Arcadia Police Department and DeSoto Fire Department, during the planning process, will provide the event organizer with a cost estimate for the event.

- e. Police and Fire personnel are paid directly by the event organizer and not through the City's payroll process.
- f. After the event, both the Police and Fire Department will invoice the event organizer for any costs incurred. The event organizer should make the checks payable directly to the Police and Fire personnel involved. For certain events, personnel are paid immediately following the event.
- g. Police vehicles and the Fire department emergency cart and boat, if needed, are billed at a rate of \$10/hr. The applicable department will invoice the event organizer after the event. The City keeps the fee collected for use of vehicles. The exception to the policy is the Arcadia Race, where the police cars are typically parked and not used as part of the security detail.

B. Public Works Services.

1. **Events during normal workday** – Public Works services provided for events during the normal workday (i.e. Parades, etc.) are provided by the City at no cost.
2. The event organizer will pay **in advance** the following charges for services:
 - a. Stage rental setup and breakdown - \$150.00.
 - b. Hanging and removing banners over roadways – \$100.00 each.
 - c. Road Closures (Excludes events designed to celebrate City observed Holidays and Parades).
 - (1) During normal working hours \$ _____ .00.
 - (2) After normal working hours \$ _____ .00.
 - (3) Major citywide closures/Triathlon, etc. – to be negotiated at time of event, depending on the extent and duration of the closures.
3. Solid Waste Services:
 - a. Trash pickup of downtown receptacles during event including additional blue cans - \$75.00/day.
 - b. Dumpster rates (includes placement, rental fee and one pickup per event - \$100.00; each additional pickup - \$55.00.
4. Public Works Employees – Should an event sponsor want the services of Public Works Employees during the event, the hourly rate is \$25/hr. This includes use of City vehicles. The number of hours needed will be determined and negotiated prior to the event and payment will be made in advance prior to the event. Payment will be made to the City of Arcadia. The hours worked will be shown on the employee's time and attendance record and processed through the City's payroll.

III. Insurance.

A. The event organizer shall maintain commercial general liability (CGL) insurance with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this special event in the amount of \$1,000,000. CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property

damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury and advertising injury.

B. The event organizer shall furnish the City with a certificate of insurance. The certificate is to be signed by a person authorized by that insurer to bind coverage on its behalf. The City of Arcadia is to be specifically included as an additional insured. The certificate of insurance must be on file with and approved by the City before the special event.

IV. This resolution shall take effect upon its adoption.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, in regular session at the City Council Chambers of said City of Arcadia, Florida this _____ day of _____, 2013.

ATTEST:

CITY OF ARCADIA, FLORIDA

_____,
CITY CLERK

ALICE FRIERSON
MAYOR

APPROVED AS TO FORM BY

THOMAS J. WOHL
CITY ATTORNEY

AGENDA No. 15



CITY COUNCIL AGENDA ITEM
Requested Council Meeting Date: November 19, 2013

DEPARTMENT: Administration

SUBJECT: City Administrator Search

RECOMMENDED MOTION: Approve procedural steps outlined below under "Recommended steps" and direct staff to facilitate the creation of a Blue Ribbon Committee to assist in City Administrator Search.

SUMMARY:

Due to the resignation of the City Administrator on October 18, 2013, it is desired that City Council discuss a process that they will agree to use in conducting a search for a permanent City Administrator.

Recommended steps:

1. City Council forms a Blue Ribbon Committee to assist in City Administrator search
 - a. Select representatives from the community who will volunteer time and effort to participate in the recruitment and selections process, or
 - b. Each City Council member nominate a citizen from the community to participate in the Committee activities
2. Assign a staff member to provide administrative support for the Committee.
3. Set kick off meeting of Committee to discuss process that will be used.
4. In conjunction with the City Council, Committee shall develop a plan schedule and budget for the City Administrator recruitment.
5. Subject to the approval of the City Council, develop a candidate profile, position description and applicant qualifications. The candidate profile, position description and applicant qualifications will be developed by the Committee based on interviews with the City Council, staff, as well as input from the community.
6. Develop, recommend and place appropriate advertising and marketing materials for the position that targets qualified candidates.
7. Attract top candidates who have extensive knowledge of local government who best satisfy the requirements and qualifications of the position through fair and effective solicitations.

8. Conduct personal outreach recruitment to ensure that competitive candidates from diverse backgrounds apply for the position.
9. Review and screen applicants, including verification of credentials, qualifications and recommendations. Evaluate candidates against the approved candidate profile, position description and applicant applications; conduct preliminary interviews and background checks on selected candidates and recommend superior candidates to the appointing authority for review.
10. Prepare profile of experience, skills assessment and analysis of strengths and weaknesses for each candidate to be reviewed.
11. Coordinate, attend and facilitate the City's interview process of selected candidates. Assist in preparing interview questions and other techniques to evaluate candidates.
12. Conduct background and reference checks on final candidates and prepare a confidential reference report on each.

FISCAL IMPACT: _Unknown_____ Capital Budget
 Operating
 Other

ATTACHMENTS: Ordinance Resolution Budget Other

Department Head: _____ Date: _____

Finance Director (As to Budget Requirements) _____ Date: _____

City Attorney (As to Form and Legality) _____ Date: _____

City Administrator: _____ Date: _____

COUNCIL ACTION: Approved as Recommended Disapproved
 Tabled Indefinitely Tabled to Date Certain _____ Approved with Modifications