

REGULAR MEETING
APRIL 7, 2009

The Regular Meeting of the Arcadia City Council was held on April 7, 2009, at 6:00 p.m. in the Margaret Way Building at 23 North Polk Avenue. Council members attending were Fazzone, Dixon, Johnson, Goodman and Heine. Also in attendance were: Interim Administrator Fink, Attorney Henbest, Marshall Lee, Systems Supervisor Lewis, Parks and Recreation Supervisor Waters, Waste Water Treatment Supervisor Underwood and Recorder Baumann.

Mayor Fazzone called the meeting to order.

The invocation was given by Dr. Sharon Goodman, Councilwoman.

Pledge Allegiance to the Flag.

Councilman Heine moved to adopt the Minutes of the Regular Meeting of March 17, 2009; seconded by Deputy Mayor Dixon and carried.

Resolution 2009-5 to Joyce O'Steen on her retirement after twenty-five (25) years of service to the City of Arcadia was adopted as read on a motion by Heine; seconded by Deputy Mayor Dixon and carried. Recorder Baumann stated she had contacted Mrs. O'Steen regarding the presentation of Resolution 2009-5; however, Mrs. O'Steen could not attend.

RESOLUTION NO. 2009-5

WHEREAS, Joyce O'Steen was hired by the City on February 13, 1984, and

WHEREAS, "Joyce" retired from the City of Arcadia on April 1, 2009 after serving the City for 25 years with sincere dedication and diligence, and

WHEREAS, the City Council and the City of Arcadia desires to express their genuine appreciation to "Joyce" for her many years of faithful public service.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Arcadia, Florida that "Joyce" be highly commended for her devotion, and dedication to the City and for her completion of Twenty-five (25) years of service with the City, and

BE IT FURTHER RESOLVED that in appreciation for her years of dedicated public service to the citizens of Arcadia, a key to the City is hereby presented as a universal symbol of lasting friendship and best wishes to "Joyce" for an enjoyable and well-deserved retirement.

UNANIMOUSLY PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA in Regular Session this 7th day of April, 2009.

ATTEST:

CITY OF ARCADIA, FLORIDA

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

s/s RICHARD P. FAZZONE
RICHARD P. FAZZONE
MAYOR

(Resolution No. 2009-5 Continued)

A Proclamation declaring the first week in May 2009 as the Elks National Youth Week was presented. Goodman moved to endorse this action; seconded by Johnson and carried.

A Proclamation declaring April 2, 2009 as "Margaret A. Way Day" was presented to Ms. Way at a dinner given by the DeSoto County Historical Society, in her honor, for sixty-seven (67) years of service to the City of Arcadia. Mayor Fazzone asked that the Proclamation be entered into the official minutes for record. Councilwoman Goodman stated she would like to have the Proclamation re-done, to include the signatures of all the Council, and to re-present the Proclamation to Ms. Way at a future time. Goodman moved to endorse this action with corrections adding all Council Members names and signatures; seconded by Deputy Mayor Dixon and carried.

Mayor Fazzone stated he, Attorney Henbest, and Recorder Baumann met with Ms. Markae Rupp, candidate for position of City Administrator. Mayor Fazzone then introduced Ms. Rupp to the audience. Attorney Henbest addressed the Council and stated he had received a phone call from Deputy Mayor Dixon requesting two (2) changes one would be for a change in severance pay if terminated without cause. It would change the term from six (6) months after the first year to three (3) months at any time of employment. There will be no severance pay during the ninety (90) day probation period. The second change would be to increase the annual salary from \$68,500 to \$70,000. Attorney Henbest stated that he did speak with Ms. Rupp noting that she is fine with the proposed changes and he has provided her with a copy of the revised contract. Deputy Mayor Dixon stated that he did have two (2) concerns which the attorney has addressed noting that he is in favor of paying \$70,000 as it is a more equitable amount. He stated that he gave this a lot of thought and feels that the pay must be fair no matter who it is, male or female. He also noted that the budget included payment for the previous administrator in the amount of \$76,000. He stated that paying for three (3) months rather than six (6) is in the best interest of the City. He then presented the Council with a copy of Ms. Libby Ledbetter Fair Pay Act recently signed by President Obama which requires equal pay for women. Deputy Mayor Dixon stated that he believes that women have "*always been given the short end of the stick*" when it comes to pay.

Ms Rupp addressed the Council and stated that she is very happy to be here. Her first day will be Monday, April 13, 2009. Mayor Fazzone asked Ms. Rupp to attend an Economic Development meeting in North Port on Thursday on the behalf of the City Ms. Rupp stated she would attend.

Deputy Mayor Dixon moved to authorize the Mayor to execute a contract as amended between the City and Ms. Markae Rupp for the position of City Administrator for the City of Arcadia; seconded by Goodman and carried.

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Attorney Henbest then stated that the Charter only allows for one (1) administrator and the Council had previously extended Mr. Fink's contract to run through the end of April 2009. Heine moved to terminate the position of Interim Administrator effective April 13, 2009; seconded by Dixon. Deputy Mayor Dixon asked for clarification from the attorney stating that he feels that there is a distinct difference between an Administrator and an Interim Administrator. He does not see why Mr. Fink should be pushed or rushed out and noted that *"I am sure there will be some things over the next couple of weeks that he can help with, he is only in there for the next two or three weeks, he could inform her and show her what knowledge he has about things, and he is not going to do that after you suggest we get rid of him, I am not certain we need to act on this because there is only one administrator, she is the Administrator, we voted on that and he is Interim and it ends at the end of this month. I don't see any reason to act on dismissing him unless you can show me where legally we are going to get in trouble. I would like him to be here until his time is up"*. Attorney Henbest stated that if this is what the Council wants there is no problem with it. He then stated he believes that City staff needs to have that clear, the chain of command noting that Ms. Rupp would be vested with the full authority as Administrator and Mr. Fink would stay on as an advisory capacity through the end of the month.

Councilwoman Goodman asked Mr. Fink if he was comfortable with this suggestion to which he stated that he was. Councilwoman Goodman asked Ms. Rupp if she was comfortable with the arrangement to which she stated that she is and would appreciate Mr. Fink staying on for a couple of weeks. Councilwoman Goodman stated that she had previously requested that upon the end of Mr. Fink's contract that the Council would present him with a formal recognition for his service; however she stated that the greatest recognition of Mr. Fink would be to not to lose him. She believes that the City would not have gotten Obama stimulus money for sidewalks if he had not been pushing for it. She noted that he is already working toward and pushing for information on CRA's. She stated whether or not this materialized or not, it means a lot to her because this was a request of the Council that didn't just happen, but for years had been requesting it and he is moving it forward. She noted that he has also started talks on double taxation and believes that he has knowledge about double taxation issues that he could share with Ms. Rupp. She stated the Council does not have the authority to hire Mr. Fink but stated she was trying to "plant seed". She stated a person retired, so there is a vacancy. She stated the Council was adamant about when vacancies occur, that they are posted and advertised as they should be and everyone has the opportunity to apply, not *"oh well, I like you and I will slide you in here"*, we want everything above board. Councilwoman Goodman stated she was excited because everyone will soon have job descriptions like they should. She stated she would hate to lose Mr. Fink. Deputy Mayor Dixon asked Ms. Rupp to do a thorough evaluation of Mr. Fink noting that he would be a valuable asset. Ms. Rupp stated she had met with Mr. Fink and found him very knowledgeable and very easy to work with. Attorney Henbest suggested that based on this discussion, the motion to terminate Mr. Fink be withdrawn. Councilmember Heine withdrew his previous motion and Deputy Mayor Dixon withdrew his second of the motion. Attorney Henbest then suggested a motion to modify Interim Administrator Fink's contract through the end of

April be made. Deputy Mayor Dixon moved to approve a modification of Interim Administrator Fink's contract to no longer be the Interim Administrator and to become an advisor for the remainder of his contract through April 2009; seconded by Johnson and carried. Deputy Mayor Dixon stated for the record "*I am not telling you to hire him, I am not telling you to fire him. Just make it clear for the record, we are not telling the Administrator to hire him*".

A request from Mr. Vince Sica, CEO, of DeSoto Memorial Hospital for letters of support from the Council was presented. Mr. Sica was not present. Interim Administrator Fink stated Mr. Sica had asked that the Council give letters of support for two items; one for a roof replacement and the second, for a MRI Imaging Unit. The Hospital is seeking funding from the Federal Government for these projects. Heine moved to authorize the Mayor to sign letters of support to DeSoto Memorial Hospital as requested; seconded by Deputy Mayor Dixon and carried.

A request for the closure of Oak Street from Polk Avenue to the alleyway next to the Arbor Building on April 11, 2009 from 12 o'clock until 2:00 p.m. for an Easter Egg Hunt was presented. The Easter Egg Hunt is sponsored by The Arcadia Main Street Association and Arcadia Parks and Recreation Department. The Parks and Recreation Department request the street closure also extend to Oak Street and include the Tree of Knowledge Park. Heine moved to approve the request for street closures for an Easter Egg Hunt as presented; seconded by Goodman and carried.

Mr. John Saffer, Owner, Hot Fudge Shoppe, addressed the Council to request the closure of Oak Street from the Tree of Knowledge Park to Orange Street on the 3rd Sunday for the months of April, May and June 2009 for a Car Cruise-In from 12:30 p.m. until 4:00 p.m. Deputy Mayor Dixon moved to approve the request for street closures on the 3rd Sunday of April, May and June 2009 as presented; seconded by Goodman and carried.

Mr. John Saffer, Owner, Hot Fudge Shoppe, then addressed the Council to request permission to place three (3) sets of tables and chairs on the sidewalk in front of the Hot Fudge Shoppe. Deputy Mayor Dixon stated he would deny the request at this time stating that he would like more time to study the request and the impact it might have to handicapped citizens by putting tables and chairs on the sidewalk. Councilman Johnson also had concerns regarding the handicapped noting that by blocking the sidewalk it would make it more difficult for them to pass in a wheelchair. Deputy Mayor Dixon stated for the record, "*SunTrust was in a big lawsuit and the customer won*". *I am concerned for the handicapped*". Councilman Johnson stated he would like Mr. Saffer to do a study to see if there is enough room for wheelchairs and bring the information back to the Council.

Ms Jackie Tucker, Parade Chairman addressed the Council to request permission to hold the 2nd Annual Cattlemen's Ranch Rodeo parade on Saturday, May 9, 2009. Goodman moved to approve the request to hold the parade on May 9, 2009, seconded by Deputy Mayor Dixon and carried. Ms. Tucker complimented the Arcadia Police Department for doing a great job for the City of Arcadia.

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Marshall Lee addressed the Council and reported that a grant in the amount of \$26,000 from the Edward Byrne Memorial Justice Grant Program has been awarded to the Arcadia Police Department. Marshall Lee stated that the grant is to purchase equipment and he will be purchasing a new vehicle. He then reported that several vehicles in the Police Departments fleet have over 120,000 miles on them. He stated this is Federal money and the City did not have to match anything. Deputy Mayor Dixon asked if this money could only be used for purchasing a vehicle or could it be used to change the image-wording on the cars to which Marshall Lee stated he has money set aside for updating the image. These grant funds can only be used to purchasing equipment. Marshall Lee stated he only needed an endorsement at this time. Deputy Mayor Dixon moved to authorize the purchase of a new vehicle for the Police Department with grant funds; seconded by Heine and carried.

Marshall Lee addressed the Council to report that on April 25, 2009, Mr. Chris Clemons a local resident would be drafted to the NFL. He invited the Council to participate in a parade in honor of Mr. Clemons which will be held sometime after April 25th. Marshall Lee stated Mr. Clemons is someone for the community to be proud of and calls Arcadia home.

Marshall Lee then reported that the Community Orientated Police (COP) Grant which was phased out by the Bush administration is now back in effect. This would allow the hiring of three (3) additional police officers for a period of three years without cost to the City; however the City must fully fund the officers in the 4th year. Heine moved to authorize Marshall Lee to apply for COP Grant funding; seconded by Goodman and carried.

Marshall Lee stated Code Enforcement was going well. He stated the back- log was beginning to slack and thanked the Council for the hiring of a Special Master to handle these cases.

The Police Activity for March 2009 was presented.

Recorder Baumann addressed the Council to request their approval for the adjusting of individual accounts in the utility billing system to reflect their uncollectible status through September 30, 1999 in the amount of \$187,589.23. Recorder Baumann stated that these accounts are over eight (8) years old and have exceeded the time frame that a collection agency can collect on. She noted that she is working with Attorney Galvano regarding issues with the collection agency. She noted that the City's auditors CPA Associates have recommended that the individual accounts be adjusted. She stated that until the accounts are adjusted to reflect their uncollectible status, they will continue to overstate the actual receivable amount due to the City when running aging reports. Councilman Johnson asked why the water bills were allowed to go so far in arrears. Recorder Baumann stated this took place before she was in charge of the Utility Billing Department and under the auspices of a former employee. Recorder Baumann stated the

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Utility Department now is very aggressive in collecting bills and past due bills were only allowed to go for two months before disconnecting. Recorder Baumann assured the Council that procedures are in place to prevent this type of problem from continuing to occur. She noted that re-connection fees and lock tampering fees have been increased to help staff keep control of the accounts. Deputy Mayor Dixon stated he had concerns *with administrative fees which the current auditor seem to have stated as well. He stated he had also looked at other concerns in the audit report.* "Due to the fact a new Administrator is coming in" and several other issues he believes that an independent audit is needed. Deputy Mayor Dixon asked who the Grants Administrator was at that time to which Recorder Baumann stated it was Mr. Steve Weeks. Deputy Mayor Dixon requests that an agreed audit be done noting that it should not cost too much. He stated he wanted the City and Public to be informed noting that the public does not see the audit. He stated if it cost anymore than \$10,000 to \$20,000 he would pay up to \$5,000 of the difference. He stated he wanted the Public to know why he wanted this. *"There was a person that worked in the Water Department who was terminated by the previous Administrator for money missing. So this is why, maybe some of the money still unanswered for, she may have taken much more. I want to make sure the record shows the facts" why the City is in such a deficit and the public would be very amazed of those who don't pay their water bills".* He stated he would not vote to forgive this money. Mayor Fazzone stated he would like to see the current audit before anything is done. Deputy Mayor Dixon stated he wanted to see a forensic audit of the golf course. He stated for the record, *"I am not questioning the previous Administrator's integrity. I would never believe he would take anything. That was never a question. There was money stolen from the golf course that was never answered for".* Recorder Baumann stated for the record, *"the audit is a public document and is available at City Hall and at any point in time, anyone who wants to come in and see one, I have no problem with anyone at anytime seeing the audit".*

City Administrator Rupp stated she would welcome an audit before she took over the position. Deputy Mayor Dixon moved to hire an independent auditor to do an agreed audit at the desecration of the Council as to what areas to audit; seconded by Goodman and carried. Councilman Johnson stated he defiantly had concerns and he would like to know the total amount outstanding including up to date. Deputy Mayor Dixon stated he had asked for the same information at a previous Council meeting. Mayor Fazzone stated he wanted to see the current audit and would like to speak with the auditor.

Recorder Baumann stated that she inherited a mess with the utility billing and collections when she took over in March 2007. She reported that she put in over Two Hundred (200) comp hours in one (1) year in an attempt to correct several issues and clear up audit comments. She again stated that collection efforts had been revised and an aggressive collection program was in place.

Recorder Baumann reported that the City Code has been re-codified and supplement two (2) is ready to go into the code books. She asked the Council to let her know if they wanted to pick up their supplement or if they preferred she would be happy to insert the replacement pages for them.

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Interim Administrator Fink stated the City Recorder is not being given all the tools to use in collecting past due bills. He stated in many communities the property owner is responsible for any unpaid water bills or a lien was put on the property. He suggested the City Administrator and the Attorney consider that option. Deputy Mayor Dixon agreed, saying he was aware of cities that put the debt against the property owner. He stated he had brought information to the previous administrator regarding this issue over a year ago. Interim Administrator Fink stated he was in agreement with Deputy Mayor Dixon in having a forensic audit performed. Local business woman Martha Craven agreed stating that she's dealt with cities that have implemented this formula to collect debts which has worked.

City Attorney Henbest addressed the Council to request that the current attorney contract be extended to coincide with the City's fiscal year end of September 30, 2009. He stated once Attorney Galvano returned and the new City Administrator came on board, the contract could then be reviewed. Heine moved to extend the current attorney contract to go through September 30, 2009; seconded by Deputy Mayor Dixon and carried.

Attorney Henbest discussed possible actions concerning Interlocal Fire and Emergency Services Agreement. He stated there are a couple of options the City has regarding this issue. He suggested that Attorney Galvano and he speak with County Attorney Holzendorf on "attorney-to-attorney" bases, apprising him of the City's position and resolve this in a quick and easy way. After all means have expired, then a dispute resolution would take place as per Florida Statue 164, which regards local governments not suing each other while discussions take place. Deputy Mayor Dixon moved to approve the City Attorney's to move forward with discussions with the County Attorney; seconded by Heine and carried. Councilman Heine stated Mr. Holzendorf has retired, but does not know how soon he will be leaving.

Mrs. Minnear, of Air-Cadia Inc. addressed the Council stating that the FAA has received Seventy Billion dollars and she believes there are funds available for infrastructure. She stated they would be pursuing information to see if they could get money for repairs at the airport. Mr. Bill Minnear addressed the Council regarding concerns of anonymous letters and calls sent to him and to the Council regarding issues at the airport. Mr. Minear was removed from the meeting by City Marshall Lee due to inappropriate behavior during his presentation. Interim Administrator Fink stated Mrs. Minear had called a locksmith for removal of locks and was presenting a bill to the City. Mayor Fazzone stated this issue should be handled at a workshop. The workshop was scheduled for April 14, 2009 at 5:00 p.m.

The Mobile Home Report for April 2009 was presented.

Mr. Don Waters, Supervisor of the Parks and Recreation, reported that vandalism to the bathrooms at Martin Luther King Park on February 6, 2009 caused damages in the amount of \$890.00. He then reported that on March 29, 2009 the slide was set on fire and totally destroyed, noting that a new slide is \$1,500.00. Marshall Lee stated there were witnesses to this act and the Police Department hopes to bring charges soon.

Supervisor Waters thanked the Council for approving the lowering of rates at the Golf Course for the summer and reported an increase in play due to the lower rates.

Interim Administrator Fink reported on two (2) blockages in the City lines that were handled very efficiently by Mr. Fred Lewis, Public Works Supervisor.

Mrs. Martha Craven, a local business owner, and a member of the public, addressed the Council with questions regarding profits made by the City from the Airport and if installing cameras at Martin Luther King Park would help elevate vandalism.

Mr. Gary Frierson a local business owner and member of the public addressed the Council with concerns of conversations between Deputy Mayor Dixon and the Attorney Henbest during the time when issues were being addressed by the Council. Deputy Mayor Dixon assured Mr. Frierson that no Sunshine Law was being broken. Mr. Frierson stated that he was not suggesting that there was a violation; he just feels that the public should be able to hear the attorney when he is speaking in a public meeting. He also noted that the attorney speaks very softly and does not speak directly into the microphone. He addressed the additional cost for a second audit and Deputy Mayor Dixon stated that he would pay up to \$5,000 if the cost exceeded the \$10,000 to \$20,000 as Council had approved. Mr. Frierson then stated that he understands why the Council might want to make the landlord or property owner responsible for unpaid water bills; however he feels that would be a burden to the property owners and not fair.

Mrs. Roseanne Collins a local business owner and member of the public addressed the Council with a request that signs saying NO BICYCLES OR SKATEBOARDS on the sidewalks be placed in the Downtown area. She stated it was a danger to customers coming in and out of the downtown shops.

Interim Administrator Fink advised Council that the grant for \$134,000.00 has been awarded and would take care of the city sidewalks on US 17 at no cost to the City.

Interim Administrator Fink then thanked the Police Department for their assistance regarding a recent break-in at his antique shop.

Councilman Heine reported that he recently attended a local meeting with Senator Bill Nelson.

The Council all welcomed Ms. Rupp and look forward to working together.

There being no further business the meeting was adjourned.


CITY RECORDER


PRESIDENT