

REGULAR MEETING
AUGUST 5, 2008

A Regular Meeting of the Arcadia City Council was held on August 5, 2008 at 6:00 p.m., in the Margaret Way Building at 23 North Polk Avenue. Council members attending were Goodman, Fazzone, Johnson, Heine, and Dixon. Also in attendance were Administrator Strube, Attorney Galvano, Special Projects Coordinator Hewett, Marshall Lee, Parks and Recreation Supervisor Waters, Ms. Way and Recorder Baumann.

Mayor Goodman called the meeting to order.

The Invocation was given by Councilman Heine.

Pledge Allegiance to the Flag.

The Minutes of the Work Session of July 15, 2008, the Regular Meeting of July 15, 2008 and the Budget Workshop of July 22, 2008 were adopted on a motion by Johnson; seconded by Heine and carried.

Proposed Ordinance No. 940 was presented on third reading. Heine moved to waive the rules and read the proposed ordinance by title only; seconded by Dixon and carried.

ORDINANCE NO. 940

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA, A
MUNICIPAL CORPORATION, PROVIDING FOR THE
AWARDING OF DENSITY BONUS INCENTIVE FOR
AFFORDABLE HOUSING; PROVIDING FOR SEVERABILITY
AND PROVIDING FOR AN EFFECTIVE DATE.

Fazzone moved to approve Ordinance No. 940 on third and final reading and that it become an Ordinance of the City of Arcadia; seconded by Heine. Mayor Goodman called for comments from the public. There were none. Administrator Strube noted that this ordinance allows for a density bonus incentive which will be used by the Housing Authority in construction of the Cypress Senior Center which is for age 55+ years old and meeting specific income guide lines. The motion carried on roll call vote. Ayes: Heine, Fazzone, Dixon, Johnson and Goodman. Nays: None.

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WHEREAS, Section 163.3161 through 163.3215, Florida Statutes, the Government Comprehensive Planning and Land Development Regulation Act, empowers and mandates the City of Arcadia, Florida to plan for the future development and growth and to adopt and amend comprehensive plans, or

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(Ordinance 940 Continued)

elements or portions thereof, to guide the future growth and development of the City; and

WHEREAS, the City of Arcadia desires to facilitate the development of affordable/senior housing and to implement the goals, objectives, and policies of the City's Housing Element by providing procedures for offering density bonuses as a means of encouraging affordable and senior citizen housing projects; and

WHEREAS, the City desires to amend the Arcadia Municipal Code regarding density bonuses.

NOW, THEREFORE BE IT ORDAINED, by the City Council of the City of Arcadia, Florida: that the Code of Ordinances, City of Arcadia, Florida is hereby amended as follows:

SECTION 1- Awarding of Density Bonus. Projects with at least twenty five (25) percent of the dwelling units designated as affordable are eligible to request a density bonus from the City Council. This density bonus may allow the maximum project density to increase up to the maximum density in the next highest category on the Future Land Use Map.

Density bonuses may be used only within the development creating the bonus units.

The City Council shall consider the density and intensity of surrounding land uses and compatibility with neighboring uses in determining the maximum density to allow. This density may be less than the density of the next highest future land use category.

The applicant shall enter into a land use and deed restriction agreement with the City Council. The agreement shall provide for the number of units that can be built subject to a density bonus and to ensure that the units are retained as affordable housing units, for a period of time no less than thirty (30) years. A land trust may be used as a mechanism to retain units as affordable.

Affordable housing units shall be defined as those units which are restricted to occupancy by persons whose income is not in excess of 80% of the median income.

SECTION 2-SEVERABILITY

If any subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed separate, distinct, and independent provisions and such holding shall not affect the validity of the remainder of this Ordinance.

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(Ordinance 940 Continued)

SECTION 3-EFFECTIVE DATE

This ordinance shall become effective at the expiration of ten (10) days after adoption pursuant to Chapter 73-403, Laws of Florida.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA,
ON THIS 5th DAY OF AUGUST, 2008.

ATTEST:

CITY OF ARCADIA, FLORIDA

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

s/s DR. SHARON T. GOODMAN
DR. SHARON T. GOODMAN
MAYOR

PASSED ON FIRST READING JULY 1, 2008
PASSED ON SECOND READING JULY 15, 2008
PASSED ON THIRD READING AUGUST 5, 2008

APPROVED AS TO FORM:

WILLIAM S. GALVANO, CITY ATTORNEY

A Proclamation declaring August 4th through 8th, 2008 as Florida Water Professionals Week was presented. Johnson moved to endorse this action; seconded by Fazzone and carried.

A request by Bread of Life Mission, Inc. was tabled until later in the meeting due to the absence of the presenter Ms. Darie Hamilton.

The Police Activity Report for the month of July, 2008 was presented.

The Recorders' report of Revenues and Expenditures through June 30, 2008 was presented. Recorder Baumann reported that the auditors were here this week to begin the annual audit.

Administrator Strube addressed the Council regarding the FY 2008/2009 Budget. He stated that the new certified value of taxable non-exempt property resulted in a rolled back rate of 8.0606. This rolled back rate is really a rolled forward rate since it is greater than the current millage rate of 7.5587. He suggested that in order to honor Amendment 1 and comply with the wishes of the citizens for tax relief the millage rate remain at last year's rate of 7.5587 which is a 6.2% reduction from the rolled back rate. This would equate to a decrease in revenues from last year of about \$64,356.00. In order to balance the budget based on a reduction in ad valorem revenue and to help off-set increases in fuel of 65% and electricity of 16% Administrator Strube stated that the budget was balanced by incorporating several increases in charges for services that the City provides. He suggested an increase of sixty-five (.65) cents per month for residential garbage collection. The last increase in garbage fees was about eight (8) years ago and the proposed increase would bring in about

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\$35,000.00 in additional revenue. The City would continue to provide two (2) pick-ups per week rather than reducing the number of pick-ups. He also proposed the following increases; an increase for commercial pick-up from \$2.96 per cubic yard, to \$3.10, an increase of \$5.00 per month for Mobile Home Park rent, and RV sites to increase from \$275.00 to \$300.00 per month. The increase from mobile home park rents and RV rents would generate about \$5,000.00 to \$7,000.00 of additional revenue. He also suggested an increase of ten percent (10%) on membership and green fees at the Arcadia Golf Course which would bring in about \$32,000.00 extra. The increase would still keep the course competitive and help to pay back expansion and improvement costs. Administrator Strube then recommended an increase on water and sewer rates of ten percent 10% noting that the last increase was in 2003. The rates should have been increased after Hurricane Charley in 2004. The Water and Sewer Fund currently operates with a shortfall of \$250,000.00 noting that electricity is a large part of the budget. The City's Bond Covenant requires that a revenue stream be maintained in order to not operate with a shortfall. With an increase of 10% the City's rates would still be lower than Punta Gorda. He stated that most of what the City does relating to water and sewer issues are mandated by the Department of Environmental Protection. Administrator Strube stated the City has until August 11, 2008 to certify the millage and he recommends the Council set the millage at 7.5587 mills. Fazzone moved to adopt the tentative millage rate of 7.5587; seconded by Dixon. The following discussion occurred.

Councilman Dixon expressed concern with increasing the garbage and water and sewer rates. He suggested that garbage collection services be contracted to an outside company. He does not like the budget being balanced by increasing fees. He is not in favor of any increase in taxes or rates to the citizens.

Councilman Johnson stated that he is not opposed to contracting garbage collection noting that it must go out for bid.

Administrator Strube reiterated that the 5% increase in garbage rates is to recapture fuel cost and that the budget as presented and balanced requires this increase of \$35,000.00. He noted that the City operates the garbage collection as a business and that it also provides additional revenue over expenditures to help pay other City operating costs. Administrator Strube stated that he welcomes bids for the service; however specifications would have to be developed and the full cost and revenue for the City looked at.

Attorney Galvano stated that a motion and second were in place and that only one subject could be voted on and that was to adopt a millage rate.

Mayor Goodman called for the vote to adopt a tentative millage rate of 7.5587. The motion carried. Councilman Dixon voted against the motion. Later he asked to amend his motion to reflect an affirmative vote.

The Public Works reports for the months of May 2008 and June, 2008 were presented.

Mrs. Martha Craven and several members of the public and downtown business owners addressed the Council regarding a problem with people sleeping on benches, using foul language, urinating in public, being a general nuisance, and a threat to downtown customers. Mrs. Craven asked if there was an ordinance which prohibits people from loitering. She

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stated the Police Department had been called; however they refused to remove anyone. Ms. Dawn Hensley reported that an individual has been on the bench in front of her store everyday for about six (6) weeks, and that an individual has been exposing themselves.

Marshall Lee addressed the Council and explained that these individuals do not meet the criteria for loitering, they are not breaking the law and he cannot arrest them. He suggested the business owners or members of the public fill out an affidavit with the State Attorney Office. He stated the City could be sued for removing them. Attorney Galvano stated there are procedures in state law for handing these issues and that filling out an affidavit with the State Attorney is one of the best ways to handle it. He also suggested that the store owners take photos to back up the complaint. The merchants requested a copy of the ordinance addressing vagrants and loitering. Mr. Joe Fink, a member of the public and local business owner suggested that the current ordinance be updated to address this situation and that the Council work with the merchants to find a solution to this problem.

A request from Ms. Dawn Hamilton, of Bread of Life Mission, Inc. which was tabled was brought back for discussion as Ms. Hamilton was now in attendance. Ms. Hamilton addressed the Council and gave an overview of present and future non-perishable food delivery events at the Arcadia Shopping Plaza and asked for approval to hold rummage sales during these events. Marshall Lee reported that the City does have an ordinance regulating Garage Sales by residents to once a month. The Bread of Life Mission is not a resident of the City and they are having continuous garage sales every day of the week. Ms. Hamilton stated the sales were to benefit the homeless in the area by giving the agency funds which allow them to provide food distribution services. Administrator Strube stated that the Bread of Life Mission originally requested a permit to be able to distribute food out of a parking lot. The rummage/garage sale was thought to be a one (1) time event; it quickly became a weekend event. They are now asking to be able to have a rummage sale every time they are in town to deliver food. Councilman Dixon stated he is not opposed to what they are doing. He asked how often the food is delivered and how often they would be requesting permission for a garage sale. Ms. Hamilton could not give an exact number of days or times. She then went on to discuss the need for a study of the number of homeless. Mayor Goodman suggested that Ms. Hamilton talk with Valerie Gilchrist who has done a study of the area homeless. Attorney Galvano stated that the City does have an ordinance addressing temporary vendor regulations which applies to this case. It allows for this type of sale to be done four (4) times a year. He then stated that there is an exemption if the organization is recognized as a "local charitable organization". Councilman Dixon stated that the word "local" would require that you are registered in Arcadia and he suggested that Ms. Hamilton work with Administrator Strube to see what would need to be done in order for them to be considered as a "local charitable organization". Councilman Johnson stated that he has heard good things about the distribution of food; however they must comply with the City ordinance and it appears that they can only hold a rummage/garage sale four (4) times per year. Since they have held more sales then they are allowed for the year they cannot have another until January 2009. Mayor Goodman stated she is not opposed to the distribution of food; however, the City ordinances are for the good of all the citizens, and they must be complied with

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Mr. Robert Womack of Womack Sanitation addressed the Council and stated that the proposed budget increase in garbage rates due to the increase in fuel charges is justified. He believes that a Request For Proposal "RFP" for bidding garbage services would be beneficial. He stated that at this time he cannot give a knowledgeable and complete bid of services as he feels there are expenditures which are allocated over several departments and therefore do not fully reflect the total cost for the garbage department. Administrator Strube suggested he and Mr. Womack work together in establishing the information needed in order to begin the RFP process.

Attorney Galvano addressed the Council to discuss the issue of loitering specifically noting that there are two (2) items in the City Code Book regarding state misdemeanors and loitering. He then read Section No. 70-2 "*Congregating upon or obstructing sidewalk or other public place*". He believes that the Police Department needs to enforce this section of the code. Marshal Lee does not feel that this addresses the issue of individuals taking up residence on a bench as they are not obstructing the sidewalk. Attorney Galvano stated that this could/should be applied to the situation along with the store owners filing an affidavit with the State Attorney's Office.

Attorney Galvano then reported that he has been working on an ordinance addressing tent sales and anticipates it will be on the next agenda for review. He also reported that sales tax paid on a car purchased in the City would go to the county where the vehicle was originally registered.

Administrator Strube stated that this meeting would be the last meeting for August if the Council kept to the summer schedule. After discussion everyone agreed to resume regular twice a month meetings in order to complete issues that are being work on. The next regular meeting will be August 19, 2008.

Councilman Dixon requested that his vote regarding the adopting of a tentative millage rate be amended to reflect an affirmative vote. Attorney Galvano stated that Mr. Dixon could change his "vote of record"; however it could not change the outcome of the original vote. The minutes as noted earlier were amended to reflect this change.

Councilman Dixon then addressed the Council regarding the appointment of a committee to work with the County on the issue of double taxation noting that Councilman Johnson was asked to serve as the Council's representative. Mr. Dixon asked that the Council and Councilman Johnson honor to his request to be the representative since he started the process with Commissioner Langford. He reported that he had received calls from a couple of County Commissioners wondering why he was not selected and if it would be possible for him to work with Commissioner Langford. Mayor Goodman stated that she did not have a problem with Councilman Dixon's request; however she does take offense that the County Commission would question the action of the Council noting that we do not question who they appoint. Mayor Goodman stated that the Council is just as important a body as the

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County Commission and she resents that they would question what we do. Councilman Dixon said he did not mean to infer that the County was questioning the Council's action. He then said he feels that after the committee meets he could better communicate with one or two of the Commissioners that he considers to be friends. Mayor Goodman cautioned him to be careful. She then stated that she does not have a problem with Councilman Dixon being the City's representative. Councilman Johnson stated that he would relinquish the position to Councilman Dixon.

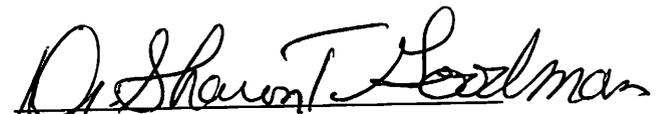
Administrator Strube addressed the Council and presented them with information regarding a FY 2008/2009 Community Development Block Grant (CDBG) application. He reported that Grant Coordinator Steve Weeks is working on the application noting that funding in the amount of \$700,000.00 is available. It appears that the City's best chance for funding would be to apply for housing rehabilitation funds. The first Public Hearing will be on August 19, 2008 at which time the Council must make a selection regarding the type of grant they want to apply for. He then reviewed a schedule showing the time line for the holding of a public hearing through to the closing of the application cycle.

Mayor Goodman addressed the Council with information concerning phone calls she received regarding activities and events at the Teen Center on Martin Luther King Street. Mayor Goodman noted that Coach Bowers had requested funding for the Center in the amount of \$10,000.00 and that the Council was supportive of including \$2,000.00 to \$2,500.00 in the FY 2008/2009 budget. Mayor Goodman then stated that Coach Bowers is an honorable man and when he asks for something it is for the children; however what he asked for is not how it will be used. Mayor Goodman reported that she is not in favor of helping out a private individual fund their business and she wants the Council to carefully consider not giving any funding to the Center until we can be assured it will be used for a proper purpose.

Councilman Dixon stated he also received some concerns as well regarding the Teen Center, and expressed his concern noting that community enrichment does not mean parting all night.

There being no further business the meeting was adjourned.


CITY RECORDER


PRESIDENT