

REGULAR MEETING
FEBRUARY 3, 2009

The Regular Meeting of the Arcadia City Council was held on January 20, 2009 at 6:00 p.m. in the Margaret Way Building at 23 North Polk Avenue. Council members attending were: Fazzone, Dixon, and Heine. Absent due to illness: Johnson and Goodman. Also in attendance: Interim Administrator Fink, Attorney Hensbest, Marshall Lee, Parks and Recreation Supervisor Waters, Systems Supervisor Lewis, Water Treatment Plant Supervisor Bullion, Waste Water Supervisor Underwood, and Recorder Baumann.

Mayor Fazzone called the meeting to order.

The Invocation was given by Deputy Mayor Dixon.

Pledge Allegiance to the Flag.

Deputy Mayor Dixon moved to have each Council member select three (3) names from the forty-nine (49) applicants for the position of City Administrator along with four (4) questions to be asked of those candidates' during interviews and that they send their selections to Recorder Baumann prior to the next work session scheduled for Tuesday, February 17, 2009 at 5:00 p.m.; seconded by Heine and carried. This motion ratifies Council action at the Work Session held at 5:00 p.m. today.

The Minutes of the Work Session of January 20, 2009 and the Regular Meeting of January 20, 2009 were adopted on a motion by Heine; seconded by Dixon and carried.

Proposed Ordinance No. 945 amending Chapter 2, of the Police Officers' and Firefighters' Retirement System was presented on first reading. Each Council member had previously been given a copy for review. Recorder Baumann addressed the Council and stated that the proposed ordinance is required due to changes in the Internal Revenue Service Code (IRS) and to comply with Florida Statutes Chapters 175 & 185 which govern all aspects of the Police and Fire Retirement System. She also noted that there is a letter from Foster & Foster, Actuarial Consultants for the City of Arcadia Police and Fire Pension Plan. The letter states that this ordinance will have no impact in determining the funding requirements of the program. Heine moved to waive the rules and read Proposed Ordinance No. 945 by title only; seconded by Dixon and carried.

PROPOSED ORDINANCE NO. 945

AN ORDINANCE OF THE CITY OF ARCADIA, AMENDING CHAPTER 2, ARTICLE VII, DIVISION 3, SECTION 2, OF THE CODE OF ORDINANCES OF THE CITY OF ARCADIA AMENDING THE POLICE OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM; AMENDING SECTION 1, DEFINITIONS; AMENDING SECTION 5, CONTRIBUTIONS, AMENDING SECTION 6, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 7, PRE-RETIREMENT DEATH; AMENDING SECTION 8, DISABILITY; AMENDING SECTION 10, OPTION FORMS OF BENEFITS; AMENDING SECTION 15, MINIMUM PENSION; AMENDING SECTION 16, MINIMUM

Ordinance No. 945 Cont.

DISTRIBUTION OF BENEFITS; AMENDING SECTION 17, MISCELLANEOUS PROVISIONS; AMENDING SECTION 18, REPEAL OR TERMINATION OF SYSTEM; AMENDING SECTION 21, FORFEITURE OF PENSION; AMENDING SECTION 24, DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS; ELIMINATION OF MANDATORY DISTRIBUTIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Deputy Mayor Dixon then moved to adopt Ordinance No. 945 on first reading; seconded by Heine. Mayor Fazzone called for comments from the public. There were none. He then called for comments from the Council. There were none. The motion carried on a roll call vote: Aye: Dixon, Heine, and Fazzone. Nays: None Absent: Goodman and Johnson.

Mrs. Clel Shore, Director of the DeSoto County Historical Society addressed the Council to request the closing of Volusia Avenue from Magnolia to Oak Street for Pioneer Day to be held on March 21, 2009 at McSwain Park. Marshal Lee stated that he did not have a problem with the street closure. Deputy Mayor Dixon moved to approve the request to close Volusia Avenue from Magnolia to Oak Street on March 21, 2009 for the Annual Pioneer Day Festival; seconded by Heine and carried.

A request by Recorder Baumann to ratify the re-appointment of Karl Lewis to serve as the "Member at Large" on the Police & Fire Pension Board for a two (2) year term was presented. The term will expire on January 1, 2011. Recorder Baumann explained this is just a formality as the Police & Fire Pension Board select one member from among themselves to be the "Member at Large". Heine moved to re-appoint Karl Lewis to serve on the Police and Fire Pension Board; seconded by Deputy Mayor Dixon and carried.

A proposal by Roger Penner of Jewel Contracting, Inc. concerning the Arcadia Livestock Market was tabled until the next meeting as Mr. Penner was not in attendance.

A Discussion by Mr. Keith Markey of properties owned in the City by Mr. Markey was not held due to the absence of Mr. Markey.

Mr. Randy Shane, Regional Manager of Florida Highway Products, Inc. (FHP) presented handouts to the Council and gave a summary of the Progressive Pavement Management Program provided by FHP. Mr. Rob Mager, President of FHP addressed the Council explaining the objective of The Progressive Pavement Management Program is to optimize road repair and maintenance activities for counties and municipalities. He stated the result for the road owners would be higher quality pavements, lower life-cycle costs, and 50% reduction in energy consumption and greenhouse emissions. Mayor Fazzone informed Mr. Shane that the City is currently in the process of hiring a new City Administrator and until one is in place no decisions of this type are being made.

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Mr. Roger Pulley, County Administrator and Chris Rodgers, County Engineer addressed the Council to discuss the possibility of a No-Cost Engineering Study to interconnect the City and County water systems. Mayor Fazzone and Councilman Heine stated they would like for all Council members to be present to hear the presentation. Mayor Fazzone suggested a Work Shop at a later date.

Mrs. Jane Martin representing The Faith Mission of Southwest Florida addressed the Council to request the use of the dining room in the Margaret Way Building in order to serve a meal on Sunday from 4:00-5:30 p.m. to citizens of the county and city that are in need of food. Mrs. Martin advised the Council that they have a liability insurance policy of One Million Dollars (\$1,000,000.) and she would be responsible for cleaning the facility after using it. Councilman Heine stated that unless the entire Council was present, he would not vote on this action. He noted that in the past groups had left the facility in disarray and the City could not pay someone overtime to come in and clean up. Deputy Mayor Dixon stated that due to the fact that legally by law there is a quorum, whether it passes or fails, he has the right to make a motion if he so desires. He stated if it passed or failed it was in the best interest of the public. He stated he realized two (2) of the Council members were not in attendance; however he does not want to wait on everything that comes up as with FHP. Deputy Mayor Dixon stated for the record he know the services of FHP are needed and that funds would have to be obtained, he encouraged FHP to come back. He stated this is such a small request the majority should act on it. Deputy Mayor Dixon stated he supports what The Faith Mission of Southwest is doing by helping people that are less fortunate. He stated that knowing that this facility is not used on Sunday, he does not see that it would be a conflict; however, he is just one voice. He stated he was ready to make a motion even if he did not get support. Deputy Mayor Dixon stated for the record, "If we are going to table everything, we might as well table the whole meeting and let me go". "I have a conference starting in the morning in Gainesville, and I made a special effort to be here tonight for this meeting and for the Work Shop". "So if there is nothing that is going to happen, there is no reason for me to be here". "I wanted to be here to make sure you had a quorum, Mr. Mayor, so we can move on the simple things". "I don't believe either one of those Council members would be offended if we granted such request to help charity". Deputy Mayor Dixon asked who would be responsible to make sure the place was clean to which Mrs. Jane Martin stated she would. She also offered to make a deposit.

Mayor Fazzone told Deputy Mayor Dixon to go ahead and make the motion but he would not vote for approval. Mayor Fazzone feels that all of the Council should be involved in the decision and stated that in the twenty some years he has served on the Council he does not remember a time without at least four (4) members being present to make decisions. Ms. Martin stated that they intend to begin serving meals by February 15th and if they begin somewhere other than the Way Building they most likely would not be back with their request. She informed the Council that they do have an alternate location available to use. It was noted that the next Council meeting is scheduled for Tuesday, February 17, 2009 which is after Ms. Martin's start date. Deputy Mayor Dixon stated for the record, "Mr. Mayor, you may have never seen this happen, but even in the last twenty something years you have not seen us hire a new administrator, but we are going to successfully do it". "We had not witnessed us hiring a new attorney in the past twenty (20) years, but we have done it". "I am for it, there is no need of making a motion" "I am

not voting on anything else.” Deputy Mayor Dixon then asked Mayor Fazzino why he feels he cannot vote when the law says the majority is present, noting that he serves on the Regional Planning Council and they are able to pass items without a full board. Deputy Mayor Dixon stated he does not believe that Mrs. Martin’s request is asking for very much it is only to help the citizens of Arcadia. Deputy Mayor Dixon then stated “I do not guess we are going to pass anything else tonight because I am not voting anymore”.

The Police Activity Report for the month of January 2009 was presented.

Marshall Lee then addressed the Council to inquire on the status of hiring a new Special Master to handle code enforcement issues. He noted that he has between twenty (20) and thirty (30) cases pending, most of them dealing with abandoned buildings. Interim Administrator Fink stated the position had been advertised; one person called but did not apply. He stated he would run that ad again. Mayor Fazzino asked if Interim Administrator Fink could contact previous Special Master Sandy Sanders to see if she might be interested in the position. Attorney Henbest suggested advertising in the Florida Bar News. Mayor Fazzino suggested that Interim Administrator Fink send letters to all the local attorneys advising them of the position and the rate of pay being One Hundred and Fifty Dollars (\$150.00) an hour.

A presentation by Mr. Bob Gereg, President of Force Five, an Arcadia Company that builds FEMA and DOD homes and shelters was not presented due to the absence of Mr. Gereg.

Interim Administrator Fink presented a questionnaire for Federal Funds for Projects from Rep. Vern Buchanan office. The application for funding must be in the office of Rep. Vern Buchanan no later than February 13, 2009. Interim Administrator Fink suggested three (3) major projects being: roads, sewers, and fire hydrant replacement. The application would be for \$200,000 to \$300,000 for sewers, \$700,000 for road repair and \$100,000 - \$200,000 for hydrants. He stated there was no guarantee these funds would be awarded to the City, however, the money was available. The application must have the unanimous approval of the Board. Mayor Fazzino stated that he does not want it to be a double standard; however this must be approved before February 13, 2009. Heine moved to approve the application and that it be submitted for possible funding. Deputy Mayor Dixon stated “ I will not be a liar because that is double standard no matter how you look at it”. The motion died for lack of a second.

Attorney Henbest addressed the Council and reported that he reviewed the procedure for the bid of the fire station roof and everything was in order. He noted that the amount is below a tiered bid process amount. Interim Administrator Fink asked for clarification that this is not a bidding procedure under Florida Statutes to which Attorney Henbest stated that the procedure followed did not require a bid. Deputy Mayor Dixon asked if the previous bids had been advertised and it was noted that they were not. He then asked if they were not advertised if it is legal to just contact someone to which Attorney Henbest stated if the amount is under a \$25,000.00 threshold it is ok to contact prospective vendors. Deputy Mayor Dixon stated for the record, “It is fine with me to go

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with the lowest bidder". He stated if the contractor did work here before, and it was good quality work and he is licensed and insured, then he should get the job. Deputy Mayor Dixon stated that is "what happens when we procrastinate" noting that he has received reports of rain coming into the fire station on the new paint. Attorney Henbest stated that no motion is required and Interim Administrator Fink was instructed to proceed with the lowest bid.

A discussion on The Special Approval of Land Use Procedures brought by the City Attorney was tabled until next Regular Meeting.

Mrs. Rebecca Minnear, of Air-Cadia, Inc. addressed the Council regarding two (2) vacant hangers at Building F at the airport. Rental for this building is set at \$300.00 per month plus tax. An offer of Two Hundred was given for rental and she asked if they could rent it for the lower amount. Council members stated that the set price of \$300.00 per month should remain and asked that Interim Administrator Fink advertise the vacancy.

Parks and Recreation Supervisor Waters addressed the Council regarding his being able to give away a certificate for two (2) rounds of golf to the DeSoto County Historical Society for their annual fundraiser. Supervisor Waters asked if he will need to bring all charitable requests before the Council. He stated in the past, he had made the decision to provide charitable organizations with these types of contributions. Mayor Fazzone stated that this type of request could be done without the Council. Deputy Mayor Dixon reminded Mayor Fazzone about a recent request from the Fire Department, Mr. Tim Backer that came before the Council as it was for a waiver of greens fees for the entire tournament. Mr. Waters is just discussing two (2) rounds of golf. Attorney Henbest stated that in order to do this, Supervisor Waters should have the authority delegated to him by the Council. Attorney Henbest stated delegation of authority should be given to the Interim Administrator as well as the Golf Course Manager in order to approve these types of events. He stated the delegation should state limitations before bringing them before the Council. Attorney Henbest stated he will prepare a resolution addressing the delegation of authority for Council action at their next Council meeting.

The Mobile Home Park Report for the month of February, 2009 was presented. Deputy Mayor Dixon addressed Mrs. Tara Anderson about a problem with one of the tenants. Mrs. Anderson stated more than one tenant was involved, however, a letter to these tenants seems to have curtailed the problem.

Mr. Minnear, of Air-Cadia Inc. addressed the Council. He presented handouts to the Council of upcoming events at the airport which noted that the Rods and Wings event will be held on March 15, 2009 and the Hutson Society will be hold an event on March 13, 14, and 15, 2009.

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Mrs. Jane Martin, a member of the Public, addressed the Council reporting that eighty (80) percent of DeSoto County school children were on either free or reduced lunch.

Mayor Fazzone asked if the letters of support of the Post Office Union had been sent and he was informed that they were.

Interim Administrator Fink reported he will be meeting with Jason Green from the County, Jennifer Codo- Salisbury and Patrick Brett on February 6, 2009 regarding construction of a CRA, what can be done and what can not be done.

Interim Administrator Fink asked that a Special Meeting be called before the 13th of February in order to complete the funding application which must be in the office of Rep. Buchanan by February 13, 2009. In addition, Interim Administrator Fink suggested that the issue of the request made by Mrs. Jane Martin might also be addressed.

Deputy Mayor Dixon stated he would be out of town next week and would not be available for a Special Meeting.

Interim Administrator Fink suggested that possibly a temporary concession could be given to Mrs. Jane Martin's request for facility use until the request could be reviewed by the entire Council. Mayor Fazzone stated he was opposed to that suggestion. Mayor Fazzone stated this request is to open the doors of a secure facility to activities that have never happened, and felt this needs more investigation. He stated that in his opinion, a million dollar bond does not do it and he feels that the issue deserves the consideration of the full Council. Deputy Mayor Dixon addressed Mayor Fazzone regarding the Mayor's refusal to consider Mrs. Martin's request due to the absence of two (2) Council members. He stated that he wanted to make it clear for the record Mr. Mayor that we do not have a strong mayor system, we have a weak mayor system and if it should come to his attention that at any time in the future there are only three members in attendance and they are allowed to take action he will have a problem with it. If that should happen he will make certain you are legally addressed noting that the Council operates under the Government in the Sunshine Law. He then stated that the law states that we have a legitimate quorum and he sees no reason to table the issue. Deputy Mayor Dixon stated that he is very sensitive to people that need something to eat or a place to stay and that anyone that says they believe in God ought to be willing to help these people. He then stated that "it is personal to me when you start neglecting the hungry, the homeless and the needy".

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Mrs. Jane Martin then addressed the Council and withdrew her request to use the facility stating that she does not want to be the reason that the City does not get 1,000,000.00 in grant funds. She stated that there is another building out there she can use. She stated that her father is a millionaire; however when she was very young her family needed to rely on the community where she lived for food and assistance due to their barn burning down and several major health issues he father had at the time. She believes that our community needs to help each other during these times stating that there are people that are going hungry. She had asked for the use of the Way Building because it is a public building.

Deputy Mayor Dixon told Ms. Martin that she is not causing the problem. He stated this is a taxpayer building, not ours. H reported that he used the building before noting that several did not want him to use the building, but sited former Council member Allen for making the motion for approval.

There being no further business the meeting was adjourned.



CITY RECORDER



PRESIDENT