

## REGULAR MEETING

MARCH 6, 2008

A Regular Meeting of the Arcadia City Council was held on March 6, 2008, at 6:00 p.m. in the Margaret Way Building at 23 North Polk Avenue. Council members attending were: Goodman, Fazzone, Heine, Johnson, and Dixon. Also in attendances were: Administrator Strube, Attorney Holloman, Marshal Lee, Special Projects Coordinator Hewett, Ms. Way, and Recorder Baumann.

Mayor Goodman called the meeting to order and noted that the meeting had originally been scheduled for Tuesday, March 4, 2006; however due to scheduling conflicts it was changed to Thursday, March 6, 2008 and that the date change had been advertised.

The Invocation was given by Rev. Troy Rowe

Pledge Allegiance to the Flag.

The Minutes of the Work Session of February 12, 2008, Work Session of February 19, 2008, and the Regular Meeting of February 19, 2008 were adopted on a motion by Heine; seconded by Fazzone and carried.

Ordinance No. 939 amending the Police Officers' and Firefighters' Pension Fund was presented on third reading. Johnson moved to waive the rules and read the proposed by title only; seconded by Fazzone and carried.

## ORDINANCE NO. 939

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 CITY OF ARCADIA POLICE OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM; AMENDING SECTION 3, BOARD OF TRUSTEES; AMENDING SECTION 6, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 8, DISABILITY; AMENDING SECTION 10, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 19, EXEMPTION FROM EXECUTION; PROVIDING FOR CODIFICATION, PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

Regular Meeting  
March 6, 2008  
Continued

Fazzone then moved to adopt Ordinance No. 939 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. Mayor Goodman called for comments from the Council. There were none. The motion carried on roll call vote. Ayes: Fazzone, Dixon, Johnson, Heine, and Goodman. Nays: None.

ORDINANCE NO. 939

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA, AMENDING CHAPTER 2, ARTICLE VII, DIVISION 3, SECTION 2, OF THE CODE OF ORDINANCES OF THE CITY OF ARCADIA, AMENDING THE CITY OF ARCADIA POLICE OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM; AMENDING SECTION 6, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 8, DISABILITY; AMENDING SECTION 10, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 19, EXEMPTION FROM EXECUTION; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1 : That Chapter 2, Article VII, Division 3, Section 2 of the Code of Ordinances of the City of Arcadia, The City of Arcadia Police Officers' and Firefighters' Retirement System, is hereby amended by amending Section 3, Board of Trustees, subsection 1, to read as follows:

SECTION 3, BOARD OF TRUSTEES.

1. The sole and exclusive administration of and responsibility for the proper operation of the System and for making effective the provisions of this ordinance is hereby vested in a Board of Trustees. The Board is hereby

Regular Meeting  
March 6, 2008  
Continued

(Ordinance No. 939 Continued)

designated as the plan administrator. The Board shall consist of five (5) Trustees, two (2) of whom, unless otherwise prohibited by law, shall be legal residents of the City, who shall be appointed by the Arcadia City Council, one (1) of whom shall be a Police Officer Member and one (1) of whom shall be a Firefighter Member, who shall be elected by a majority of the Police Officers or Firefighters, respectively, who are Members of the System. The active Firefighter Member seat may be held by either a retired Firefighter or an active Firefighter who is elected by the active and retired Firefighters of the Plan. If there are no active or retired Firefighters remaining in the Plan or capable of serving, the remaining Board members may elect an individual to serve in the active Firefighter seat. Upon receipt of such person's name, the Arcadia City Council shall, as a ministerial duty, appoint such person to the Board. The fifth Trustee shall be chosen by a majority of the previous four (4) Trustees as provided for herein, and such person's name shall be submitted to the Arcadia City Council. Upon receipt of the fifth person's name, the Arcadia City Council shall, as a ministerial duty, appoint such person to the Board of Trustees as its fifth Trustee. The fifth Trustee shall have the same rights as each of the other four (4) Trustees appointed or elected as herein provided and shall serve a two (2) year term unless he sooner vacates the office. Each resident Trustee shall serve as Trustee for a period of two (2) years, unless he sooner vacates the office or is sooner replaced by the Arcadia City Council at whose pleasure he shall serve. Each Member Trustee shall serve as Trustee for a period of two (2) years, unless he sooner leaves the employment of the City as a Police Officer or the County as a Firefighter or otherwise vacates his office as Trustee, whereupon a successor shall be chosen in the same manner as the departing Trustee. Each Trustee may succeed himself in office. DROP participants can be elected as but not vote for elected trustees. The Board shall establish and administer the nominating and election procedures for each election. The Board shall meet at least quarterly each year. The Board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

SECTION 2: That Chapter 2, Article VII, Division 3, Section 2 of the Code of Ordinances of the City of Arcadia, The City of Arcadia Police Officers' and Firefighters' Retirement System, is hereby amended by amending Section 6, Benefit Amounts and Eligibility, subsection 2, to read as follows:

Regular Meeting  
March 6, 2008  
Continued

(Ordinance No. 939 Continued)

2. Normal Retirement Benefit.

A Member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his Retirement and be continued thereafter during Member's lifetime, ceasing upon death, but with one hundred twenty (120) monthly payments guaranteed in any event. The monthly retirement benefit shall equal three and ~~one-half~~ sixty-five one hundredths percent (~~3.5~~ 3.65%) of Average Final Compensation, for each year of Credited Service.

SECTION 3: That chapter 2, Article VII, Division 3, Section 2 of the code of Ordinances of the City of Arcadia, The City of Arcadia Police Officers' and Firefighters' Retirement System, is hereby amended by amending Section 8, Disability, subsection 1., Disability Benefits In-Line of Duty, and subsection 3., Disability Benefits Not-in-Line of Duty, to read as follows:

1. Disability Benefits In-Line of Duty.

Any Member who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient services as a Police Officer or Firefighter, which disability was directly caused by the performance of his duty as a Police Officer or Firefighter, shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to three and ~~one-half~~ sixty-five one hundredths percent (~~3.5~~ 3.65 %) of his Average Final Compensation multiplied by the total years of Credited Service, but in any event the minimum amount paid to the Member shall be forty-two percent (42%) of the Average Final Compensation of the Member. Terminated persons, either vested or non-vested, are not eligible for disability benefits, except that those terminated by the City or County for medical reasons may apply for a disability within thirty (30) days after termination.

Regular Meeting  
March 6, 2008  
Continued

(Ordinance No. 939 Continued)

3. Disability Benefits Not-in-Line of Duty.

Any Member with ten (10) years or more Credited Service who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient services as a Police Officer or Firefighter, which disability is not directly caused by the performance of his duties as a Police Officer or Firefighter shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to three and ~~one-half~~ sixty-five one hundredths percent (~~3.5~~ 3.65%) of his Average Final Compensation multiplied by the total years of Credited Service. Terminated persons either vested or non-vested, are not eligible for disability benefits, except that those terminated by the City or County for medical reasons may apply for a disability within thirty (30) days after termination.

SECTION 4: That Chapter 2, Article VII, Division 3, Section 2 of the Code of Ordinances of the City of Arcadia, The City of Arcadia Police Officers' and Firefighters' Retirement System, is hereby amended by amending Section 10, Optional Forms of Benefits, subsection 1, to read as follows:

SECTION 10. OPTIONAL FORMS OF BENEFITS.

1. In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified herein, a Member, upon written request to the Board, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one (1) of the following options:
  - A. A retirement income of a monthly amount payable to the Retiree for his lifetime only.
  - B. A retirement income of a modified monthly amount, payable to the Retiree during the lifetime of the Retiree and following the death of the Retiree, one hundred percent (100%), seventy-five percent (75%), sixty-six and two-thirds percent (66-2/3%) or fifty percent (50%) of such monthly amount payable to a joint pensioner for his lifetime. Except where the Retiree's joint pensioner is his spouse, the payments to the joint pensioner as a

Regular Meeting  
March 6, 2008  
Continued

(Ordinance No. 939 Continued)

percentage of the payments to the Retiree shall not exceed the applicable percentage provided for in the applicable table in the Treasury regulations.

A. If a member retires prior to the time at which social security benefits are payable, he may elect to receive an increased retirement benefit until such time as social security benefits shall be assumed to commence and a reduced benefit thereafter in order to provide, to as great an extent as possible, a more level retirement allowance during the entire period of Retirement. The amounts payable shall be as recommended by the actuaries for the System, based upon the social security law in effect at the time of the Member's Retirement.

B. For Members who do not participate in the DROP pursuant to Section 28, the Member may elect a percentage of benefit in a lump sum as follows:

(1) Ten percent (10%) of the total value of the benefit paid as a lump sum with the remaining ninety percent (90%) paid under the normal form or as per A, B or C above.

(2) Fifteen percent (15%) of the total value of the benefit paid as a lump sum with the remaining eighty-five percent (85%) paid under the normal form or as per A, B, or C above.

Twenty percent (20%) of the total value of the benefit paid as a lump sum with the remaining eighty percent (80%) paid under the normal form or as per A, B or C above.

Twenty-five percent (25%) of the total value of the benefit paid as a lump sum with the remaining seventy-five percent (75%) paid under the normal form as per A, B or C above.

Regular Meeting  
March 6, 2008  
Continued

(Ordinance No. 939 Continued)

SECTION 5: That Chapter 2, Article VII, Division 3, Section 2 of the Code of Ordinances of the City of Arcadia, The City of Arcadia Police Officers' and Firefighters' Retirement System, is hereby amended by amending Section 19, Exemption from Execution, to read as follows:

SECTION 19. DOMESTIC RELATIONS ORDERS; RETIREE  
DIRECTED PAYMENTS; EXEMPTION FROM  
EXECUTION, NON-ASSIGN ABILITY.

1. Domestic Relations Orders.
  - A. Prior to the entry of any domestic relations order which affects or purports to affect the System's responsibility in connection with the payment of Benefits of a Retiree, the Member or Retiree shall submit the proposed order to the Board for review to determine whether the System may legally honor the order.
  - B. If a domestic relations order is not submitted to the Board for review prior to entry of the order, and the System is ordered to take action that it may not legally take, and the System expends administrative or legal fees in resolving the matter, the Member or Retiree who submits such an order will be required to reimburse the System for its expenses in connection with the order.
2. Retiree Directed Payments.

The Board may upon written request by a Retiree or by a dependent, when authorized by a Retiree or the Retiree's Beneficiary, authorize the System to withhold from the monthly retirement payment those funds that are necessary to pay for the benefits being received through the City, to pay the certified bargaining agent of the City, to make payments to insurance companies for insurance premiums if permitted by Chapters 175 and 185, Florida Statutes and to make any payments for child support or alimony.

Regular Meeting  
March 6, 2008  
Continued

(Ordinance No. 939 Continued)

3. Exemption from Execution, Non-Assignability.

Except as otherwise provided by law, the pensions, annuities or any other benefits accrued or accruing to any person under the provisions of this ordinance and the Accumulated Contributions and the cash securities in the Fund created under this ordinance are hereby exempted from any state, county or municipal tax and shall not be subject to execution, attachment, garnishment or any legal process whatsoever and shall be un-assignable.

SECTION 6: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Arcadia.

SECTION 7: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 8: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 9: That this Ordinance shall take effect pursuant to Chapter 73-403 of the laws of the State of Florida.

PASSED ON FIRST READING, this 5<sup>th</sup> day of February, 2008.

PASSED ON SECOND READING, this 19<sup>th</sup> day of February, 2008.

PASSED ON THIRD READING, this 6<sup>th</sup> day of March, 2008.

Regular Meeting  
March 6, 2008  
Continued

(Ordinance No. 939 Continued)

ATTEST:

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

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

APPROVED AS TO FORM  
DAVID C. HOLLOMAN  
CITY ATTORNEY

Mr. L.K. Nandam, P.E., District Traffic Operations Engineer, from the Florida Department of Transportation (DOT) addressed the Council regarding the traffic survey results for signalization at the intersection of M.L. King Street and U.S. 17/SR35. Also attending from DOT was Mr. Donald Cashdollar, Jr. P.E. Mr. Nandam stated that having considered the overall operations and safety at this intersection, a traffic signal is not recommended at this time. Mr. Nandam then heard from members of the public in objection to the findings as presented. He explained that the Manual on Uniform Traffic Code Devices (MUTCD) contains specific guidelines that must be met in order to warrant a traffic light. The MUTCD requires a study of the crash history noting that you must have five (5) or more correctable events or crashes per calendar year to warrant a traffic signal. He also noted that if traffic volume or stop delay warranted a signal then one could be installed; however their study showed a stop delay of twenty (20) seconds during peak hours and of the fifteen crashes in the last five (5) years only three (3) could have been corrected with a traffic signal. Many members of the public gave examples of incidents or accidents that had occurred at these intersections. Mr. Nandam stated the DOT would further review the information concerning this area. He then stated that the report recommends an interim plan to install a northbound left turning lane and possibly closing Palm Street. The estimated cost for the improvements would be \$500,000.00. He noted that when US 17 is widened it will re-align MLK and Palm Street; however this is not scheduled to be done for several years. He also stated that a missing street sign for Palm Street should be replaced along with the replacement of a sub-standard posted speed limit signs, and the reapplication of faded pavement markings. He would meet with the Administrator Strube concerning these corrections and additions. Mayor Goodman asked how much a traffic light would cost and was informed that it would be about \$300,000.00. The public asked why the state would want to spend \$500,000.00 as opposed to \$300,000.00 and was informed that it would be more like \$800,000.00 rather

Regular Meeting  
March 6, 2008  
Continued

than just the \$300,000.00 as the state would still install the turn lane along with a traffic light. Mr. Sam Morgan asked when the interim plan would be in place and was informed that it could take two (2) to three (3) years. Mr. Morgan also asked what could be done to assist with the pedestrian traffic around the flea market. There was discussion about possibly lowering the speed limit in the area. Mr. Darryl Suggs a local business owner stated that traffic comes into his business trying to avoid an accident due to vehicles that have stopped on Highway 17. He has repaired his driveway numerous times and he feels that many of the rear end accidents and "fender benders" that happen at this intersection are not reported. In addition, he brought to the attention of Mr. Nandam a Day Care Center located on Highway 17. Many members of the public were in agreement this is a dangerous area. Councilman Dixon asked that Mr. Nandam come to Arcadia on the upcoming weekend when a Rodeo will be in town to see the traffic at the intersection. Councilman Dixon requested the traffic study be done on Saturday to which Mr. Nandam responded that the MUTCD only allows for the study to be done on Tuesday through Thursday. Mayor Goodman noted that after the City gets with the County regarding the possible closing of Palm Street they will get back in touch with DOT. Administrator Strube noted that a Public Hearing would be required in order to close Palm Street and asked that DOT attend the hearing. Councilman Dixon is opposed to closing Palm Street. Administrator Strube noted that this is not the first study to be done of the area and that the community has been dealing with this problem for years. He hopes that Representative Page Kreigle would intercede on behalf of the City.

Mrs. Stacey Ricketts and Mrs. Terry West addressed the Council with a request to hold a fund raising event entitled "Celebrate Inclusion Community Festival" to be held on May 3, 2008 from 9:00 a.m. until 3:00 p.m. at Lake Katherine. Mrs. Ricketts stated that a "Mad Hatter" contest would be held and ask Council members to serve as judges. Attorney Holloman asked if there was insurance to cover the event to which Mrs. Ricketts stated there is and she will provide copy of the policy to Administrator Strube. Mrs. West passed out information to the Council explaining vendor and exhibitor rules and regulations as well as the rental price for vendor spaces. Dixon moved to grant the request to hold a fund raising event on May 3, 2008 at Lake Katherine to build an inclusion playground; seconded by Fazzone and carried.

The presentation of information regarding public records obtained from the Arcadia Police Department was tabled. The presenter, Mr. Joseph R. Pursell was not in attendance.

Marshall Lee addressed the Council regarding a car lot being set up at 205 South Monroe Street stating that the owner had been served with a cease and desist order because a singlewide trailer which is not approved in the current zoning had been placed on the property. Administrator Strube stated the car lot application was made in 2003, and at

Regular Meeting  
March 6, 2008  
Continued

that time the owner was advised that the zoning did not allow for a trailer as an office. Marshall Lee noted that there is currently a for sale sign on the trailer. Councilman Dixon stated the axels had been removed indicating the trailer would not be easily moved.

Administrator Strube noted that Glenn Warthen a City employee of twenty (20) years was retiring and a proclamation was being prepared for the signature of the Mayor and Council members.

Administrator Strube reported to the Council that a response had been received from the County Commissioners concerning double taxation. The County does not believe there is a double taxation problem. Administrator Strube stated that at the February 19, 2008 meeting the Mayor was going to send a letter to the County to discuss the double taxation issue again; however he now suggests that the proposed work session deal with the County's budget. Florida Statutes requires the County to present their budget showing county wide and non county wide revenues and expenditures. Fazzone moved to approve a letter for the Mayor to sign be sent to the County to hold a work session to discuss the budget preparation as per Florida Statue to show county wide and non county wide revenues and expenditures; seconded by Heine and carried.

Mr. James Westberry, representing the Historical Society, requests that Volusia Avenue between Oak and Magnolia be closed for Pioneer Days on Saturday, March 15, 2008. Dixon moved to grant the request to close Volusia Avenue on March 15, 2008; seconded by Heine and carried. Mr. Westberry was informed to speak with the City Marshall regarding this closure.

Mr. Shawn Knapp a local contractor addressed the Council to request an exception for sidewalks on West Myrtle where he is currently building two (2) new homes. He estimates the cost to build the sidewalk at \$4,500.00 which he would then have to pass on to the home owner noting that this seems to work against building affordable housing. Mr. Knapp stated there were no sidewalks in the area and there are three (3) unbuildable lots between his property and another residence which will never have a sidewalk. Johnson moved to grant the request for a waiver of the sidewalk requirement for the two homes Mr. Knapp is building on West Myrtle; seconded by Dixon and carried.

Administrator Strube stated he would like to get into a routine and schedule these exceptions for the Council instead of having them "pop-up" at each meeting, noting that they should be requested with the building permjt.

Councilman Fazzone stated that the procedure the City uses for bidding should never have been called into question. He then requested that Administrator Strube explain the

Regular Meeting  
March 6, 2008  
Continued

bid and award procedure. Administrator Strube stated that most of the projects are advertised in the Administrative Weekly. The bid specifications are given by the engineer. All bids have a specific time, date, and location for the opening and awarding of the bid. Most of the contractors who submit a bid are in attendance at the opening of the bids. It was noted that if the specifications state that the City will award to the lowest bidder and they did not do that then the bid could be challenged.

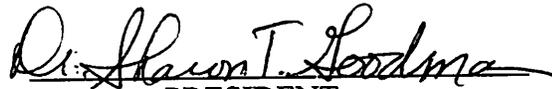
Councilman Heine asked when the street paving would begin to which Administrator stated sometime within the next thirty (30) days.

Councilman Dixon stated that he mentioned the bid process because of accountability. He noted that he was contacted by an out of town contractor who had been told that he would not have time to get his bid in. Councilman Dixon feels that the Council should be part of the bid process. He stated this might be something that needs to be looked at and changed.

Attorney Holloman addressed the Council in reference to a deed in 1947 that had been in error and advised a quit claim deed be issued. The City issued a deed to the State Road Department for their maintenance yard; however Lots 17 and 18 were inadvertently omitted. City Council minutes reflect authorization for these lots to be included. Heine moved that the Mayor and City Recorder be authorized to sign a quit claim deed to FDOT for Lots 17 and 18, Block C, Fountain Park; seconded by Dixon and carried.

There being no further business the meeting was adjourned.

  
CITY RECORDER

  
PRESIDENT