

REGULAR MEETING  
MARCH 1, 2005

A Regular Meeting of the Arcadia City Council was held on March 1, 2005 at 6:00 p.m. in Room D of the Way Building at 23 N. Polk Avenue. Councilmembers attending were: Whitlock, Heine, Fazzone, Goodman and Johnson. Also in attendance were: Administrator Strube, Attorney Holloman, City Fire Chief Rutherford, City Marshal Lee, Special Projects Coordinator Hewett, Grants Coordinator Weeks, Ms. Way and Recorder Baumann.

Mayor Whitlock called the meeting to order.

The Invocation was given by Reverend Ted Hanus from Grace Lutheran Church.

Pledge of Allegiance to the Flag.

**Mayor Whitlock called the Public Hearing to order** and stated that the purpose of the public hearing as advertised is to review the grant/loan application made to the United States Department of Agriculture (USDA) for a new public facilities building to house the police and fire departments. Steve Weeks, Grant Coordinator addressed Council noting that the grant/loan would be in the amount of \$4,000,000.00. The proposed site is at the corner of US 17 and Cypress Street on property recently acquired by the City. Fazzone asked about the status of Fire Station No. 2 which suffered sever damage caused by Hurricane Charley and was informed that the City is still waiting for insurance funds to help off set the cost of repairs. It was noted that Station No. 2 may not be used as a fire station; however it could be repaired in order to house the Utilities Department. The City may need to hire a private insurance adjuster in order to get the insurance claim processed. Fire Chief Rutherford noted that he would like to schedule a trip for Council to visit a building similar to what the City would construct on the site. Mayor Whitlock called for anyone in the public to speak. No one spoke. All Council Members stated that they are in favor of pursuing this grant/loan application.

**The Joint Public Hearing was closed.**

**Mayor Whitlock then reconvened the regular meeting**

Proposed Ordinance No. 915 was presented on third reading. Heine moved to waive the rules and read the proposed ordinance by title only; seconded by Goodman and carried.

ORDINANCE NO. 915

AN ORDINANCE OF THE CITY OF ARCADIA, DESOTO COUNTY, FLORIDA, AMENDING SECTIONS 46-3 AND 46-91, OF THE CODE OF ORDINANCE OF THE CITY OF ARCADIA, FLORIDA, TO CONFORM TO EARLY VOTING AT ELECTIONS; AMENDING SECTION 46-173 OF THE CODE OF ORDINANCES OF THE CITY OF ARCADIA, FLORIDA, TO PROVIDE FOR EARLY VOTING AT ELECTIONS; AMENDING SECTION 46-263 OF THE CODE OF ORDINANCES OF THE CITY OF ARCAIDA, FLORIDA, TO PROVIDE FOR THE DATE OF A RUN-OFF ELECTION IN THE EVENT OF A TIE; PROVIDING FOR CHALLENGES OF ELECTORS;

Regular Meeting  
March 1, 2005  
Continued

(Ordinance No. 915 continued)

PROVIDING FOR CANVASS OF RETURNS OF SUCH BALLOTS;  
PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE  
DATE.

Fazzone then moved to adopt Ordinance No. 915 on third and final reading and that it become an ordinance of the City of Arcadia; seconded by Johnson. Mayor Whitlock called for comments from the public, there were none. The motion carried on roll call vote. Ayes: Heine, Fazzone, Goodman, Johnson, and Whitlock. Nays: None.

ORDINANCE NO 915

AN ORDINANCE OF THE CITY OF ARCADIA, DESOTO COUNTY, FLORIDA, AMENDING SECTIONS 46-3 AND 46-91 OF THE CODE OF ORDINANCES OF THE CITY OF ARCADIA, FLORIDA, TO CONFORM TO EARLY VOTING AT ELECTIONS; AMENDING SECTION 46-173 OF THE CODE OF ORDINANCES OF THE CITY OF ARCADIA, FLORIDA, TO PROVIDE FOR EARLY VOTING AT ELECTIONS; AMENDING SECTION 46-263 OF THE CODE OF ORDINANCES OF THE CITY OF ARCADIA, FLORIDA, TO PROVIDE FOR THE DATE OF A RUN-OFF ELECTION IN THE EVENT OF A TIE; PROVIDING FOR CHALLENGES OF ELECTORS; PROVIDING FOR CANVASS OF RETURNS OF SUCH BALLOTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, AS FOLLOWS:

1. Section 46-3 of the Code of Ordinances of the City of Arcadia, Florida, is hereby amended as follows:

Sec. 46.2. VOTING HOURS.

The polls shall open and close at the same hour or time required under general law for the opening and closing of polls for state elections.

Regular Meeting  
 March 1, 2005  
 Continued

(Ordinance No. 915 continued)

Before the opening of the polls on the day any city election is to be held, or on any day of early voting pursuant to Section 46-173 of the Code of Ordinances of the City of Arcadia, Florida, the city recorder or his designee shall cause to be delivered to the inspectors and clerk of the election the registration documents for the city together with the ballot boxes, ballots, and blank oaths and returns provided for such election.

2. Section 46-91 of the Code of Ordinances of the city of Arcadia, Florida, is hereby amended as follows:

Section 46-91. PUBLICATION OF SAMPLE BALLOT.  
 The city recorder or his designee shall cause a sample ballot to be published in a newspaper circulated in the city one time no later than seven twenty-one (21) days prior to the election.

3. Section 46-173 of the Code of Ordinances of the City of Arcadia, Florida, is hereby amended as follows:

~~Section 46-173. VOTING IN PERSON.  
 Notwithstanding F.S. Section 97.021(1), any qualified and registered elector who is unable to attend the polls on election day may pick up and vote an absentee ballot in person at the office of, and under the supervision of the city recorder or his designee. Before receiving the ballot, the elector must present a Florida driver's license, a Florida identification card issued under F.S. Section 322.051, or another form of picture identification approved by the department of state. If the elector fails to furnish the required identification, or if the city recorder or his designee is in doubt as to the identify of the elector, the city recorder or his designee must follow the procedure prescribed in F.S. Section 101.49.~~

Section 46-173. VOTING IN PERSON.  
A. A qualified voter shall be allowed to vote early in the office of the supervisor of Elections by depositing the voted ballot in a voting device used by the Supervisor to collect or tabulate ballots. The results or tabulation may not be made before the close of the day polls on election day.

Regular Meeting  
 March 1, 2005  
 Continued

(Ordinance No. 915 continued)

B. Early voting shall begin on the fifteenth (15<sup>th</sup>) day before the election and end on the Friday before an election. Early voting shall be provided for at least eight hours per weekday during the applicable period. Early voting shall also be provided for eight hours in the aggregate for the weekend during the applicable period.

C. The voter must provide identification and must complete an Early Voter Certificate in substantially the following form:

EARLY VOTING VOTER CERTIFICATE

I, \_\_\_\_\_, am a qualified elector in this election and registered Voter of DeSoto County, Florida, and a resident of the City of Arcadia, Florida. I do solemnly swear or affirm that I am the person so listed on the voter registration rolls of DeSoto County, Florida, and that I reside at the listed address. I understand that if I commit or attempt to commit fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I could be convicted of a felony of the third degree and both fined up to \$5,000 and imprisoned for up to 5 years. I understand that my failure to sign this certificate invalidates my ballots.

Voter's signature  
Address  
City/State

Any elector may challenge an elector seeking to vote early under the provisions of Section 101.111, Florida Statutes. Any challenged voter must vote a provisional ballot. The canvassing board shall review the ballot and decide the validity of the ballot by majority vote.

The canvass of returns for ballots cast under this subsection shall be substantially the same as votes cast by electors in precincts.

Section 4. Section 46-263 of the Code of Ordinances of the City of Arcadia, Florida, as amended by Ordinance No. 896, is hereby amended as follows:

Regular Meeting  
March 1, 2005  
Continued

(Ordinance No. 915 continued)

Section 46-263. TIE VOTES.

If there is a tie for the highest number of votes for City Marshall or if there is a tie for the highest number of votes in descending order for the last Council Office to be filled, then there will be a run-off election between the two tying candidates which shall be held ~~on the first Tuesday after the third Monday of September of each odd year.~~ on the first Tuesday after the fourth Monday of September of each odd year.

Section 5. SEVERABILITY. Should any section or provision of this ordinance or any parts hereof, any paragraphs, sentences, words, etc., be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remainder hereof as a whole or any part hereof, other than the part so declared to be invalid.

Section 6. EFFECTIVE DATE. This Ordinance shall become effective at the expiration of ten (10) days after adoption in accordance with Chapter 73-403 of the Laws of the State of Florida.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, IN REGULAR SESSION IN THE COUNCIL CHAMBERS THIS 3<sup>rd</sup> DAY OF MAY, 2005.

ATTEST:  
FLORIDA

CITY OF ARCADIA,

/s/ PAUL P. WHITLOCK  
PAUL P. WHITLOCK, MAYOR

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

PASSED ON FIRST READING MARCH 1, 2005

PASSED ON SECOND READING APRIL 19, 2005

PASSED ON THIRD READING MAY 3, 2005

APPROVED AS TO FORM:  
DAVID C. HOLLOMAN, CITY ATTORNEY

Regular Meeting  
March 1, 2005  
Continued

Fazzone moved to adopt Resolution No. 2005-3; seconded by Heine and carried.

RESOLUTION 2005-03

A RESOLUTION OF THE CITY OF ARCADIA, FLORIDA,  
URGING MEMBERS OF THE FLORIDA LEGISLATURE  
TO SUPPORT THE FLORIDA LEAGUE OF CITIES, INC.  
GROWTH MANAGEMENT ISSUES DURING THE 2005  
LEGISLATIVE SESSION.

WHEREAS, Florida's Growth Management Act was created in 1985 in an effort to create a blueprint for growth in Florida's cities and counties; and

WHEREAS, cities and counties plan for future growth through local Comprehensive plans, but there is no defined state plan that provides an overall Growth management strategy; and

WHEREAS, as Florida's population continues to increase, cities are challenged to meet the infrastructure needs to account for new growth and development, but there is no infrastructure revenue source dedicated to municipalities; and

WHEREAS, counties, school districts, or the state of Florida control every funding source that has been authorized for implementing growth management capital improvements and complying with concurrency requirements; and

WHEREAS, the Florida League of Cities, Inc., membership has adopted key issues that address Growth Management, Reform and Infrastructure Funding for the 2005 legislative session; and

WHEREAS, Governor Jeb Bush and Florida's House and Senate leaders have made growth management reform a top priority for the 2005 legislative session.

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

Section 1. That the City of Arcadia urges Governor Jeb Bush and members of the Florida Legislature to support legislation as part of a comprehensive growth management package that:

- Establishes a process for the county commission and the municipal governing authorities within a county to jointly levy local government infrastructure surtax within their jurisdictions to fund infrastructure improvements.

Regular Meeting  
March 1, 2005  
Continued

(Resolution 2005-3 continued)

- Authorizes municipalities to levy a real estate transfer fee for infrastructure improvements.
- Repeals the fuel adjustment charge exemption from the municipal public service tax.
- Revises concurrency requirements or adequately funds needed infrastructure.
- Ties state funding and budget allocations to articulated state growth management policies. In other words, no more public expenditures that are inconsistent with articulated growth management policies.
- Revises the Sustainable Communities Certification Program to encourage not discourage, cities from participating.
- Creates a state comprehensive plan that articulates state planning goals and policies with measurable benchmarks.
- Grants cities greater flexibility and less state oversight in pursuing growth management strategies.

Section 2. That a copy of this resolution shall be provided to Governor Jeb Bush, Senate President Tom Lee, House Speaker Allan Bense and our District members of the Florida Legislature.

PASSED AND ADOPTED by the City of Arcadia, Florida, this 15<sup>th</sup> Day of February, 2005.

/s/ PAUL P. WHITLOCK  
PAUL P. WHITLOCK  
MAYOR

ATTEST:

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

Regular Meeting  
March 1, 2005  
Continued

Mayor Whitlock proclaimed February 27, 2005 through March 5, 2005 as "Dental Hygiene Awareness Week" and encouraged all citizens and government officials to recognize this week. Goodman moved to endorse this action; seconded by Johnson and carried.

The Police Activity Report for the month of February 2005 was presented.

Marshal Lee introduced five (5) new police officers to the City Council.

The Recorder's report of Revenues and Expenditures for the month of February 2005 was presented. Recorder Baumann reported that revenues appear to be on target at this time. Johnson then asked if it would be possible to give raises later in the year. Administrator Strube stated that at this time we do not know what effect last seasons' hurricanes will have on the property taxes for 2004/05 and 2005/06.

Recorder Baumann noted that the Planning and Zoning Board would like to recommend that Mr. Martin McLure be appointed to serve on the Board. Johnson moved to appoint Mr. Martin McLure to serve on the Planning and Zoning Board said term to expire July 1, 2007; seconded by Goodman and carried.

The February 2005 report of Arcadia Golf Course receipts and number of play was presented. It was noted that the driving range is open and has been well received.

Administrator Strube addressed Council regarding proposed Amendment No. 1 to Specific Authorization No. 43 with Boyle Engineering Corporation. Amendment No. 1 relates to wastewater collection system damage assessment associated with Hurricane Charley the estimated cost is \$200,325.00 and would be added as a FEMA project worksheet. This will allow for "smoke testing" and closed circuit television inspection of utility lines. FEMA has estimated actual repair costs in excess of \$1,400,000.00. Heine moved to authorize the Mayor to sign Amendment No. 1 to Specific Authorization No. 43 with Boyle Engineering Corporation to provide "smoke testing" and closed circuit television inspection of utility lines for a contract in the amount of \$200,325.00; seconded by Fazzone and carried.

Administrator Strube then addressed Council to report that a second application for the position of Special Master has been received, having been delayed in the mail. He recommends that Council appoint Ms. Sandra Sanders. Ms. Sanders is currently a Special Master for DeSoto County. If Ms. Sanders is appointed the City would then have two (2) Special Masters to utilize. Heine moved to appoint Ms. Sandra Sanders as a Special Master; seconded by Fazzone and carried.

Reverend Ted Hanus representing the Arcadia Housing Authority requests that Board Member Karen Allen who's term expired December 31, 2004 be replaced by Effie Keen said term would expire December 1, 2008. Mayor Whitlock appointed Effie Keen to replace outgoing Board Member Karen Allen said term to expire December 31, 2008. Fazzone moved to confirm this appointment; seconded by Heine and carried.

Regular Meeting  
March 1, 2005  
Continued

Reverend Hanus then requests that the Arcadia Housing Authority Board be increased from five (5) to seven (7) members and submitted a Resolution from the Board in support of this increase. Attorney Holloman stated that Florida Statutes requires no fewer than five (5) members or more than seven (7). In 1962 Council adopted a Resolution to have a Housing Authority Board consisting of five (5) members. Attorney Holloman presented Resolution No 2005-4 amending the original Resolution to increase the number of Housing Authority Commissioners from five (5) to seven (7). Goodman moved to adopt Resolution No. 2005-4; seconded by Johnson and carried.

RESOLUTION 2005-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, AMENDING A RESOLUTION OF THIS COUNCIL ADOPTED ON JANUARY 2, 1962, WHICH DECLARED THE NEED FOR A HOUSING AUTHORITY IN THE CITY OF ARCADIA, FLORIDA AND FURTHER AUTHORIZED THE MAYOR OF THIS CITY TO APPOINT FIVE (5) PERSONS AS COMMISSIONERS OF SAID AUTHORITY, BY PROVIDING FOR THE APPOINTMENT OF SEVEN (7) COMMISSIONERS OF SAID AUTHORITY INSTEAD OF FIVE (5).

WHEREAS, the Housing Authority of the City of Arcadia, Florida did, on the 10<sup>th</sup> day of February, 2005, adopt a Resolution to increase the Arcadia Housing Authority Board of Commissioners from five (5) to seven (7) members; and

WHEREAS, this Council concurs with the Resolution of the Housing Authority; and,

WHEREAS, this Council deems it in the best interest of the City of Arcadia, Florida, that this be done.

NOW, THEREFORE, be it resolved by the City Council of the City of Arcadia, Florida, as follows:

That the Resolution of this Council declaring the need for a Housing Authority in the City of Arcadia, Florida, adopted January 2, 1962, be amended as follows:

1. That the Mayor of the City of Arcadia, is hereby authorized to appoint two additional members of the Board of Commissioners of the Arcadia Housing Authority with the approval of this Council. The number of commissioners of the Housing Authority shall be a maximum number of seven (7).

Regular Meeting  
March 1, 2005  
Continued

(Resolution 2005-4 continued)

PASSED AND DULY ADOPTED BY THE CITY COUNCIL OF THE CITY OF  
ARCADIA, FLORIDA, THIS 1<sup>ST</sup> DAY OF March, 2005.

ATTEST:

CITY OF ARCADIA, FLORIDA

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

BY: /s/ PAUL P. WHITLOCK  
PAUL P. WHITLOCK  
MAYOR

APPROVED AS TO FORM BY  
DAVID C. HOLLOMAN  
CITY ATTORNEY

Reverend Hanus requests that Valerie Gilchrist be added to the Arcadia Housing Authority Board. Mayor Whitlock appointed Valerie Gilchrist to the Arcadia Housing Authority Board said term to expire December 31, 2009. Goodman moved to confirm this appointment; seconded by Fazzone and carried.

Mr. Nathaniel Moody addressed Council representing the American Pool Company and Mr. Melvin Jackson. Mr. Jackson has contracted with American Pool Company to put a screen enclosure around his pool located at 330 La Solona Avenue. Mr. Moody stated at this time his company is not able to enclose the pool due to problems with a washout that Mr. Jackson feels was caused by the City water tower releasing water onto his property. Mayor Whitlock asked Administrator Strube if this incident had been covered by the City's insurance and was informed that the City's insurance company denied the claim. Administrator Strube asked what would need to be done in order to install the enclosure and was informed that the ground would need to be stabilized. Johnson noted that the City was to make corrections to the valve for the water tank. Administrator Strube reported that the valve was taken care of. He then noted that fence follows the contour of the land and that in 2003 poles were placed on the ground to create a foot bridge. The discharge pipe on the tank was inspected by the City's insurance company who stated that the pipe did not cause any problem with Mr. Moody's pool. Mr. Moody stated that the pool needs to be taken out of the ground and re done. Administrator Strube asked if the pool was losing water and was informed that it is not, however the pool was drained before the hurricanes. Administrator Strube then noted that Mr. Moody's water bill shows about 12,000 gallons per month higher usage than normal. Administrator Strube then stated that if Mr. Jackson has an issue it is with the City's insurance company. Mr. Moody was given a copy of the insurance company denial of claim letter. Attorney Holloman then recommend that discussion on this matter cease as Mr. Jackson may bring legal action on the City.

Regular Meeting  
March 1, 2005  
Continued

Fazzone asked if the Florida League of Cities has moved forward with a retirement plan and was informed not at this time.

Ms. Way addressed Council to report that Mr. and Mrs. Michael Pooser Sr. recently donated old City directories going back to the 1920's. They also had old post office records from 1899. Ms. Way stated that the local postmaster is very interested in the old post office records for either the museum in Fort Myers or in Washington, DC. Heine moved to authorize the Mayor to sign a resolution thanking Mr. and Mrs. Pooser for their donation and that the resolution be presented at a future Council Meeting; seconded by Fazzone and carried.

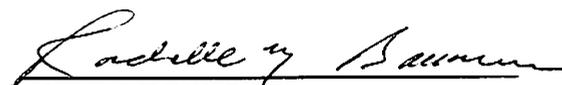
Administrator Strube reported that in an effort to help reduce costs to the City since the hurricanes, City Recorder Baumann applied for a scholarship to cover registration and hotel costs to attend the annual Florida Association of City Clerks conference in June 2005. Ms. Baumann has been awarded a scholarship in the amount of \$700.00. The Florida Association of City Clerks contributed \$550.00 and the International Institute of Municipal Clerks contributed \$150.00. Council thanked Recorder Baumann for her effort to help control costs and her success in receiving the scholarship.

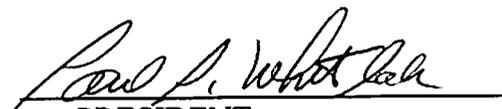
Administrator Strube then reported that a joint meeting of the City Council and County Commission has been scheduled for Tuesday, March 8, 2005 at 6:00 PM in the County Commission Chambers.

Johnson thanked Administrator Strube for handling a complaint he received and referred to him regarding the 4<sup>th</sup> Saturday event downtown. It was noted that the Main Street Association has taken over the sponsorship of this event, however there have been some questions as to what they can do regarding the setting up of booths on the sidewalks. Administrator Strube stated that he thought that booths would only be set up in front of stores that wanted to participate in the event. If a store owner did not want to participate then no booth would be set up in front of their store. This issue was brought up when a vendor who was not participating with the Main Street Association was told that in order to rent space in front of his store he must have Council approval and name the City additionally insured on his policy.

A downtown food vendor had requested to have tables and chairs permanently set up outside his establishment in order to serve food. He was told that he would need Council approval and would need to name the City as additionally insured on his policy.

There being no further business the meeting was adjourned.

  
CITY RECORDER

  
PRESIDENT