

REGULAR MEETING**MARCH 7, 2006**

A Regular Meeting of the Arcadia City Council was held on March 7, 2006 at 6:00 p.m. in Room D of the Way Building at 23 N. Polk Avenue. Councilmembers attending were: Heine, Johnson, Goodman, Whitlock, and Fazzino. Also in attendance were: Administrator Strube, Attorney Holloman, Marshal Lee, Public Works Supervisor Reed, Special Projects Coordinator Hewett, Ms. Way and Recorder Baumann.

Mayor Heine called the meeting to order.

The Invocation was given by Council Member Goodman.

Pledge of Allegiance to the Flag.

The minutes of the Special meeting of January 17, 2006, Regular meeting of January 17, 2006, Special meeting of January 24, 2006, Work Session of February 21, 2006 and Regular meeting of February 21, 2006 were adopted on motion of Goodman; seconded by Whitlock and carried.

Proposed Ordinance No. 918 was presented on third reading. Johnson moved to waive the rules and read the proposed ordinance by title only; seconded by Whitlock and carried.

ORDINANCE NO. 918

AN ORDINANCE OF THE CITY OF ARCADIA, AMENDING THE CITY OF ARCADIA POLICE OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM, ADOPTED PURSUANT TO ORDINANCE NO. 897, AS SUBSEQUENTLY AMENDED; AMENDING SECTION 1, DEFINITIONS; AMENDING SECTION 3, BOARD OF TRUSTEES; AMENDING SECTION 10, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 16, DISTRIBUTION OF BENEFITS; AMENDING SECTION 24, DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS; AMENDING SECTION 28, DEFERRED RETIREMENT OPTION PLAN; ADDING SECTION 29, REEMPLOYMENT AFTER RETIREMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Whitlock then moved to adopt Ordinance No. 918 on third and final reading and that it become an ordinance of the City of Arcadia; seconded by Goodman. Mayor Heine called for comments from the public, there were none. The motion carried on roll call vote. Ayes: Johnson, Fazzino, Goodman, Whitlock, and Heine. Nays: None.

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ORDINANCE NO 918

AN ORDINANCE OF THE CITY OF ARCADIA, AMENDING THE CITY OF ARCADIA POLICE OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM, ADOPTED PURSUANT TO ORDINANCE NO. 897, AS SUBSEQUENTLY AMENDED; AMENDING SECTION 1, DEFINITIONS; AMENDING SECTION 3, BOARD OF TRUSTEES; AMENDING SECTION 10, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 16, DISTRIBUTION OF BENEFITS; AMENDING SECTION 24, DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS; AMENDING SECTION 28, DEFERRED RETIREMENT OPTION PLAN; ADDING SECTION 29, REEMPLOYMENT AFTER RETIREMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1: That the City of Arcadia Police Officers' and Firefighters' Retirement System, adopted pursuant to Ordinance No. 897, as subsequently amended, is hereby further amended by amending Section 1, Definitions, to read as follows:

SECTION 1. DEFINITIONS

Credited Service means the total number of years and fractional parts of years of service as a Police Officer or Firefighter with Member contributions, when required, omitting intervening years or fractional parts of years when such Member was not employed by the City as a Police Officer or Firefighter. If a Firefighter Member accumulates service both as a Firefighter and a Volunteer Firefighter, Credited Service shall be calculated separately for full-time and volunteer service with the sum of all volunteer years used only for vesting and retirement eligibility purposes. After the effective date of the ordinance adopting this provision, service as a Volunteer Firefighter shall not be calculated in computing Credited Service for either current or terminated vested prior Members. A Member may voluntarily leave his Accumulated Contributions in the Fund for a period of five (5) years after leaving the employ of the Police or

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Fire Department pending the possibility of being reemployed as a Police Officer or Firefighter, without losing credit for the time that he was a Member of the System. If a vested Member leaves the employ of the Police or Fire Department, his Accumulated Contributions will be returned only upon his written request. If a Member who is not vested is not reemployed as a Police Officer or Firefighter with the Police or Fire Department within five (5) years, his Accumulated Contributions, if one-thousand dollars (\$1,000.00) or less, shall be returned. If a Member who is not vested is not reemployed within five (5) years, his Accumulated Contributions, if more than one-thousand dollars (\$1,000.00), will be returned only upon written request of the Member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the Board. Upon return of a Member's Accumulated Contributions, all of his rights and benefits under the System are forfeited and terminated. Upon any reemployment, a Police Officer or Firefighter shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his Accumulated Contributions from the Fund, unless the Police Officer or Firefighter repays into the Fund the contributions he has withdrawn, with interest, as determined by the Board, within ninety (90) days after his reemployment.

The years or fractional parts of a year that a Member serves in the military service of the Armed Forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily, after separation from employment as a Police Officer or Firefighter with the City to perform training or service, shall be added to his years of Credited Service for all purposes, including vesting, provided that:

- A. The Member must return to his employment as a Police Officer or Firefighter within one (1) year from the earlier of the date of his military discharge or his release from active service.
- B. The Member is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), (P.L. 103-353)
- C. The maximum credit for military service pursuant to this paragraph shall be five (5) years.

SECTION 2: That the City of Arcadia Police Officers' and Firefighters' Retirement System, adopted pursuant to Ordinance No. 897, as subsequently amended, is hereby further amended by amending Section 3, Board of Trustees, subsection 1. to read as follows:

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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 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 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 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 and 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 3: That the City of Arcadia Police Officers' and Firefighters' Retirement System, adopted pursuant to Ordinance No. 897, as subsequently amended is hereby further amended by amending Section 10, Optional Forms of Benefits, subsection 1.B. 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:

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- 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. ~~The present value of payments to the Retiree shall not be less than fifty percent (50%) of the total present value of payments to the Retiree and his joint pensioner.~~ Except where the Retiree's joint pensioner is his spouse, the payments to the joint pensioner as a percentage of the payments to the Retiree shall not exceed the applicable percentage provided for in the applicable table in the Treasury regulations.

SECTION 4: That the City of Arcadia Police Officers' and Firefighters' Retirement System, adopted to Ordinance No. 897, as subsequently amended, is hereby further amended by amending Section 16, Distribution of Benefits, to read as follows:

SECTION 16. MINIMUM DISTRIBUTION OF BENEFITS.

~~Notwithstanding any other provision of this System to the contrary, a form of retirement income payable from this System after the Effective Date of this ordinance, shall satisfy the following conditions:~~

- ~~1. If the retirement income is payable before the Member's death,~~
 - ~~A. It shall either be distributed or commence to the Member not later than April 1 of the calendar year following the later of the calendar year in which the Member attains age seventy and one half (70 1/2), or the calendar year in which Member retires,~~
 - ~~B. The distribution shall commence not later than the calendar year defined above: and a), shall be paid over the life of the Member or over the lifetimes of the Member and Spouse, issue or dependent,~~

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~~or b), shall be paid over the period extending not beyond the life expectancy of the Member and Spouse, issue or dependent.~~

~~Where a form of retirement income payment has commenced in accordance with the preceding paragraphs and the Member dies before his entire interest in the System has been distributed, the remaining portion of such interest in the System shall be distributed no less rapidly than under the form of distribution in effect at the time of the Member's death.~~

~~2. If the Member's death occurs before the distribution of his interest in the System has commenced, the Member's entire interest in the System shall be distributed within five (5) years of the Member's death, unless it is to be distributed in accordance with the following rules:~~

- ~~A. The Member's remaining interest in the System is payable to his Spouse, issue or dependent;~~
- ~~B. The remaining interest is to be distributed over the life of the Spouse, issue or dependent or over a period not extending beyond the life expectancy of the Spouse, issue or dependent; and~~
- ~~C. Such distribution begins within one (1) year of the Member's death unless the Member's Spouse shall receive the remaining interest in which case the distribution need not begin before the date on which the Member would have attained age seventy and one half (70 1/2) and if the Spouse dies before the distribution to the Spouse begins, this Section shall be applied as if the Spouse were the Member.~~

1. General Rules.

- A. Effective Date. The provisions of this Section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- B. Precedence. The requirements of this Section will take precedence over any inconsistent provisions of the Plan.
- C. Requirements of Treasury Regulations Incorporated. All distributions required under this Section will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Code.
- D. TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Section other than this subsection

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1.D., distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that related to Section 242(b)(2) of TEFRA.

2. Time and Manner of Distribution.

- A. Required Beginning Date. The Member's entire interest will be distributed, or begin to be distributed, to the Member no later than the Member's required beginning date which shall not be no later than April 1 of the calendar year following the later of the calendar year in which the Member attains age seventy and one half (70 ½) or the calendar year in which the Member retires unless otherwise provided for in the Plan or required by law.
- B. Death of Member Before Distributions Begin. If the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed no later than as follows:
- (1) If the Member's surviving spouse is the Member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by December 31 of the calendar year in which the Member would have attained age 70 ½, if later.
 - (2) If the Member's surviving spouse is not the Member's sole designated beneficiary, then, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Member died.
 - (3) If there is no designated beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.
 - (4) If the member's surviving spouse is the Member's sole designated beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin,

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this subsection 2.B., other than subsection 2. B(1), will apply as if the surviving spouse were the Member. For purpose of this subsection 2.B. and subsection 5., distributions are considered to begin on the Member's required beginning date or, if subsection 2.B.(4) applies, the dates of distributions are required to begin to the surviving spouse under subsection 2.B.(1). If annuity payments irrevocably commence to the Member before the Member's required beginning date (or to the Member's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection 2.B.(1), the date distributions are considered to begin is the date distributions actually commence.

C. Form of Distribution. Unless the Member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance of subsections 3, 4 and 5 of this Section. If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and Treasury regulations. Any part of the Member's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and Treasury regulations that apply to individual accounts.

3. Determination of Amount to be Distributed Each Year.

A. General Annuity Requirements. If the Member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

- (1) The annuity distributions will be paid in periodic payments made at intervals not longer than one year.
- (2) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in subsection 4 or 5.

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- (3) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted.
 - (4) Payments will either be nonincreasing or increase only as follows
 - (a) By an annual percentage increase that does not exceed the cumulative annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics or by a fixed annual increase of five percent or less.
 - (b) To the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in subsection 4 dies or is no longer the Member's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p).
 - (c) To provide cash refunds of Accumulated Contributions upon the Member's death.
 - (d) To pay increased benefits that result from a Plan amendment.
- B. Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Member's required beginning date (or, if the Member dies before distributions begin, the date distributions are required to begin under subsection 2.B(1) or 2.B.(2) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's required beginning date.

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- C. Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
4. Requirements for Annuity Distributions That Commence During a Member's Lifetime.
- A. Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse. If the Member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary, annuity payments to be made on or after the Member's required beginning date to the designated beneficiary after the Member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Member using the table set forth in Q & A-2 of Section 1.401(a)(9)-6 T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary and a period certain annuity, the requirements in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.
- B. Period Certain Annuities. Unless the Member's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Member's lifetime may not exceed the applicable distribution period for the Member under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Member reaches age 70, the applicable distribution period for the Member is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Member as of the Member's birthday in the year that contains the annuity starting date. If the Member's spouse is the Member's sole designated

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beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Member's applicable distribution period, as determined under this subsection 4.B., or the joint life and last survivor expectancy of the Member and the Member's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Member's and spouse's attained ages as of the Member's and spouse's birthdays in the calendar year that contains the annuity starting date.

5. Requirements for Minimum Distributions Where Member Dies Before Date Distribution Begins.
- A. Member Survived by Designated Beneficiary. If the Member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in subsection 2.B.(1) or 2.B.(2) over the life of the designated beneficiary or over a period certain not exceeding:
- (1) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death.
- (2) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year the contains the annuity starting date.
- B. No designated Beneficiary. If the Member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.
- C. Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Member dies before the

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date distribution of his interest begins, the Member's surviving spouse is the Member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection 5 will apply as if the surviving spouse were the Member, except that the time by which distributions must begin will be determined without regard to subsection 2.B.(1).

6. Definitions.

- A. Designated Beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
- B. Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first distribution calendar year immediately preceding the calendar year which contains the Member's required beginning date. For distributions beginning after the Member's death, the first distribution year is the calendar year in which distributions are required to begin pursuant to subsection 2.B.
- C. Life Expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- D. Required Beginning Date. The date specified in subsection 2.A.

SECTION 5: That the City of Arcadia Police Officers' and Firefighters' Retirement System adopted pursuant to Ordinance 897, as subsequently amended, is hereby further amended by amending Section 24, Direct Transfers of Eligible Rollover Distributions, by adding subsection 3. to read as follows:

SECTION 24. DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS: ELIMINATION OF MANDATORY DISTRIBUTIONS.

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3. Elimination of Mandatory Distributions.

Notwithstanding any other provisions herein to the contrary, in the event this Plan provides for a mandatory (involuntary) cash distribution from the Plan not otherwise required by law, for an amount in excess of one-thousand dollars (\$1,000.00), such distribution shall be made from the Plan only upon written request of the Member of a written election on forms designated by the Board, to either receive a cash lump sum or to rollover the lump sum amount.

SECTION 6: That the City of Arcadia Police Officers' and Firefighters' Retirement System, adopted pursuant to Ordinance No. 897, as subsequently amended, is hereby further amended by amending Section 28, Deferred Retirement Option Plan, subsection 4., Distribution of DROP Accounts on Termination of Employment, to read as follows:

SECTION 28. DEFERRED RETIREMENT OPTION PLAN.

* * *

4. Distribution of DROP Accounts on Termination of Employment.

A. Eligibility for Benefits.

A Member shall receive the balance in his DROP Account in accordance with the provisions of this subsection 4. upon his termination of employment as a Police Officer and Firefighter. Except as provided in subsection 4.~~D~~.E., no amounts shall be paid to a Member from the DROP prior to his termination of employment as a Police Officer and Firefighter.

B. Form of Distribution.

- (1) Unless the Member elects otherwise, distribution of his DROP Account shall be made in a cash lump sum, subject to the direct rollover provisions set forth in subsection 4.~~G~~.F. A Member may, however, elect, in such time and manner as the Board shall prescribe, that his DROP distribution be used to purchase a nonforfeitable fixed annuity payable in such forms as the Member may elect. Elections under this paragraph shall be in writing and shall be made in such time or manner as the Board shall determine. ~~If the annuity form selected is not a~~

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~~qualified joint and fifty percent (50%) survivor annuity with the Member's Spouse as the Beneficiary, the annuity payable to the Member and thereafter to his Beneficiary shall be subject to the incidental death benefit rule as described in Section 401(a)(9)(G) of the Code and its applicable regulations.~~

- (2) If a Member dies before his benefit is paid, his DROP Account shall be paid to his Beneficiary in such optional form as his Beneficiary may select. If no Beneficiary designation is made, the DROP Account shall be distributed to the Member's estate.

C. Date of Payment of Distribution.

- (1) Except as otherwise provided in this subsection 4., distribution of a Member's DROP Account shall be made as soon as administratively practicable following the Member's termination of employment. Distribution of the amount in a Member's DROP account will not be made unless the Member completes a written request for distribution and a written election, on forms designated by the Board, to either receive a cash lump sum or a rollover of the lump sum amount.
- (2) ~~In lieu of a distribution as described in paragraph (1) above, a Member may, in accordance with such procedures as the Board shall prescribe, elect to have the distribution of his DROP Account made as of the first day of any month coincident with or following his termination of employment as a Police Officer and Firefighter; provided, however, payments shall be made before the distribution date elected by the Member to the extent necessary to comply with the provisions of subsections 4.D. and 4.F.~~

D. Age Seventy and One Half (70 1/2) Required Distribution.

~~In no event shall the provisions of subsection 4. operate so as to allow the distribution of a Member's DROP Account to be later than the April 1 following the later of the calendar year in which he terminates his employment as a Police Officer and Firefighter or he attains age seventy and one half (70 1/2). In the event a Member is required to receive payment while in service under the provisions of~~

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~~this subsection D., he shall receive one lump sum payment on or before his required beginning date equal to his entire DROP Account balance and annual lump sum payments thereafter of amounts credited to his DROP Account during each calendar year. Upon the Member's subsequent termination of employment, payment of his DROP Account shall be made in accordance with the provisions of subsection 4.B.~~

D.E. Proof of Death and Right of Beneficiary or Other Person.

The Board may require and rely upon such proof of death and such evidence of the right of any Beneficiary or other person to receive the value of a deceased Member's DROP Account as the Board may deem proper and in determination of the right of that Beneficiary or other person to receive payment shall be conclusive.

E.F. Distribution Limitation.

Notwithstanding any other provision of this subsection 4., all distributions from the DROP shall conform to the "Minimum Distribution of Benefits" provisions as provided for herein. regulations issued under Section 401(a)(9) of the Code, including the incidental death benefit provisions of Section 401(a)(9)(G) of the Code. Further, such regulations shall override any DROP provisions that is inconsistent with Section 401(a)(9) of the code.

F.G. Direct Rollover of Certain Distributions.

This subsection applies to distributions made on or after January 1, ~~1993~~ 2002. Notwithstanding any provisions of the DROP to the contrary ~~that would otherwise limit a distributee's election under this subsection,~~ a distributee may elect, ~~at the time and in the manner prescribed by the Board,~~ to have any portion of an eligible rollover distribution paid ~~directly by the DROP to an eligible retirement plan specified by the distributee in a direct rollover as otherwise provided under the System in Section 24, herein incorporated by reference.~~

SECTION 7: That the City of Arcadia Police Officers' and Firefighters' Retirement System, adopted pursuant to Ordinance No. 897, as subsequently amended, is hereby further amended by adding Section 29, Reemployment after retirement, to read as follows:

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SECTION 29. REEMPLOYMENT AFTER RETIREMENT.

(1) Any retiree under this system, except for disability retirement as previously provided for, may be reemployed by any public or private employer, except the city, and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this system. Reemployment by the City shall be subject to the limitations set forth in this section.

(2) After normal retirement. Any retiree who is retired under normal (or early) retirement pursuant to this system and who is reemployed as a Police Officer or Firefighter and, by virtue of that reemployment, is eligible to participate in this system, shall upon being reemployed, discontinue receipt of benefits. Upon reemployment, the member shall be deemed to be fully vested and the additional credited service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to the benefit determined upon the initial retirement to determine the total benefit payable upon final retirement. Calculations of benefits upon retirement shall be based upon the benefit accrual rate, average final compensation, and credited service (and early retirement reduction factor, if applicable) as of that date and the retirement benefit amount for any subsequent employment period shall be based upon the benefit accrual rate, average final compensation (based only on the subsequent employment period and not including any period of DROP participation), and credited service (and early retirement reduction factor, if applicable) as of the date of subsequent retirement. The amount of any death or disability benefit received during a subsequent period of employment shall be reduced by the amount of accrued benefit eligible to be paid for a prior period of employment. The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but the retiree may select a different optional form and joint pensioner applicable only to the subsequent retirement benefit.

(3) Any retiree who is retired under normal retirement pursuant to this system who is reemployed by the City in a position other than as a Police Officer or Firefighter, shall upon being reemployed, continue receipt of benefits for the period of any subsequent employment period. Former DROP participants shall begin receipt of benefits under these circumstances.

(4) After early retirement. Any retiree who is retired under early retirement pursuant to this system and who is subsequently becomes an employee of the city in any capacity, shall discontinue receipt of benefits from the system. If the reemployed person by virtue of his reemployment, is eligible to participate in this system, that person shall accrue a second benefit as provided for in

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subsection (2) above and benefit payments shall remain suspended during any such subsequent employment period. If the reemployed person is not eligible to participate in this system, that person's pension benefit payments shall be suspended until the earlier of termination of employment or such time as the reemployed retiree reaches the date that he would have been eligible for normal retirement under this system had he continued employment and not elected early retirement. "Normal retirement" as used in this subsection shall be the current normal retirement date provided for under this system.

(5) *Reemployment of terminated vested persons.* Reemployed terminated vested persons shall not be subject to the provisions of this section until such time as they begin to actually receive benefits. Upon receipt of benefits, terminated vested persons shall be treated as normal or early retirees for purposes of applying the provisions of this section and their status as an early normal retiree shall be determined by the date they elect to begin to receive their benefit.

(6) *DROP Participants.* Members or retirees who are or were in the deferred retirement option plan shall have the options provided for in this section for reemployment following termination of employment.

SECTION 8: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Arcadia.

SECTION 9: All Ordinance or parts of Ordinance in conflict herewith be and the same are hereby replaced.

SECTION 10: 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 11: That this Ordinance shall become effective upon its adoption.

PASSED ON FIRST READING _____ FEBRUARY 7, _____ 2006.

PASSED ON SECOND READING _____ FEBRUARY 21, _____ 2006.

PASSED ON THIRD READING _____ MARCH 7, _____ 2006.

Regular Meeting
 March 7, 2006
 Continued

(Ordinance 918 continued)

ATTEST:

CITY OF ARCADIA, FLORIDA

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

By: /s/ ROBERT W. HEINE
 ROBERT W. HEINE
 MAYOR

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

Mayor Heine issued a proclamation declaring the City's appreciation to the Mennonite Disaster Service volunteers and Pine Creek Chapel Members for their dedication and untiring efforts repairing homes damaged by the 2004 Hurricanes and constructing new homes to replace those that were destroyed. Goodman moved to endorse this action; seconded by Fazzone and carried. No one was in attendance at this time to receive the proclamation.

Ronny Allen representing the DeSoto County School Board addressed Council to seek the Council's consideration to approve impact fees on new development for the purpose of constructing growth related infrastructure. The School Board must have permission from the Council and the County Commissioners in order to proceed. An Interlocal Agreement will be worked out with the County. Mr. Allen does not believe that the proposed impact fees would be in conflict with any impact fee that the City may consider implementing. Attorney Holloman stated that according to his understanding of the law regarding impact fees there is no statute dealing with them it is all case law. Fazzone moved to approve the School Board's request to implement impact fees for the purpose of constructing growth related infrastructure; Goodman seconded the motion, however she then withdrew her second in order to avoid the perception of a "conflict of interest". Attorney Holloman then read several sections that relate to a "conflict of interest" as two (2) Council Members are employed by the DeSoto County School Board. Attorney Holloman does not see that there is a conflict of interest as defined by the law. The motion as made by Fazzone was then seconded by Whitlock and carried.

The Police Activity Report for the month of February 2006 was presented.

Marshall Lee also presented a breakdown of Code Violations. It was noted that Lt. Rodgers is now the full time Code Enforcement Officer.

The Recorder's report of Revenues and Expenditures for the month of January 2006 was presented.

Regular Meeting
March 7, 2006
Continued

Steve Weeks, Grant Administrator, addressed Council and gave a report regarding the status of homes being constructed with grant funds. Mr. Weeks noted that he is having a hard time getting contractors to complete the City's obligations. He reported that we will not be able to build the projected additional seven (7) units with the County. The funds he thought would be available will now be needed to complete the homes the City is obligated for as the contractors are not able to build them for \$70.00 per square foot and are looking for \$85.00.

The February 2006 report of Arcadia Golf Course receipts and number of play was presented. It was noted that construction on the Pro Shop and Club House are still under way.

Administrator Strube addressed Council to give a status report on the City/County Fire Department Merger. He reported that the City did hold a Public Hearing to give a "Notice of Intent" to establish a Municipal Service Benefit Unit (MSBU) by Resolution No. 2006-3 which allows for assessments to be effective as of October 1, 2006. He then stated that County Administrator Coffee is drafting an Interlocal Agreement which should be ready in a couple of weeks.

Administrator Strube then presented a schedule for the implementation of the proposed merger pay plan. Fazzone asked if the City approves this pay plan would the County be obligated to pay employees at that rate when they transferred over to which Administrator Strube replied that they would. He then noted that the proposed pay plan is a joint effort between the City and County. Administrator Strube stated that he had been working on something of this sort before the merger talks as he felt an increase was needed in order to retain employees. By implementing this increase now it will help get everyone ahead of the curve and assist with a smoother transition. The hourly rates are correct; however there is some difference regarding incentive pay. The Fire Department has sixteen (16) positions with two (2) unfilled, the proposal is to take the savings from the unfilled positions and use it to implement the pay plan. Johnson moved to authorize the implementation of the pay plan as proposed and that it be effective as of March 1, 2006; seconded by Whitlock and carried.

Mayor Heine reported that he did attend a meeting to discuss the pay plan and he noted that County Administrator Coffee is looking for a May 1st date for the merger to take place.

Goodman stated that she is excited to see the process moving forward and glad to see that communication between the agencies and employees is taking place.

Bill Minnear with Air Cadia, Inc. addressed Council to invite them to attend the Second Annual Rods and Wings Classic Cars and Static Aircraft Display at the Arcadia Municipal Airport which is scheduled for Sunday, April 2, 2006 beginning at 8:00 AM. Mr. Minnear then asked for the use of four (4) golf carts and requests representation from the Police and Fire Department.

Regular Meeting
March 7, 2006
Continued

Goodman had previously requested that Council consider the development of a plan for replacing the City Administrator upon his retirement. Goodman noted that Administrator Strube is not retiring anytime soon; however she believes that the Council should have a plan of action in place as it is the Council's duty by Code. Goodman then moved to hold a special work session to develop a plan of action for replacing the City Administrator upon his retirement and to hold the work session on Tuesday, March 21, 2006 at 5:00 PM.; seconded by Fazzone and carried.

Goodman had also requested E-mail accounts for Council Members. Special Projects Coordinator Hewett requested that Council inform him how they want their name and what their password would be and he will get the accounts set up. It was noted that the City uses Cyber Street as a provider and that we do not have our own server. Ernie will contact Cyber Street to see how we can get hard copies of Council E-mails in order to comply with the State of Florida Public Records Requests and retention regulations. The City may need to purchase their own server in order to be in compliance. All Council Members were asked if they wanted an E-mail address to which only Goodman and Johnson wanted one.

Goodman then introduced Rev. and Mrs. Norris as the new Pastor of Shiloh Missionary Baptist Church. Pastor Norris addressed Council stating that he is enjoying his tenure at the "Best Small Town in Florida". Pastor Norris then inquired about the lack of rebuilding and removal of dilapidated homes. Mayor Heine stated rebuilding is slow due to the lack of contractors and the high price of building materials. Administrator Strube stated that the City did have a request in with the State and FEMA to assist the City with the removal of approximately seventy (70) homes. The removal will be a considerable expense, one that the City can not do on their own. In the past FEMA did assist communities with this process which would then place a lien on the property. As it stands now the responsibility for removal is with the property owner. The City has gone on record that they are attempting to work with the State to get this done.

Goodman asked that a copy of the Community Development Report be sent to Mr. Sam Morgan who is the President of the local National Association for the Advancement of Colored People (NAACP). Mr. Morgan was handed a copy.

Johnson reported that he will attend the Ridge League meeting on Thursday in Bartow. He also reminded everyone that March 29th is Legislative Day in Tallahassee.

Whitlock reported that tomorrow he will attend the Central Florida Regional Planning Council meeting.

Fazzone asked what the City currently pays for tipping fees at the landfill to which he was informed it is \$42.00 per ton. He then ask that staff find out if the County charges themselves the same rate.

Mayor Heine reported that the sidewalk at the Pentecostal Church was poured today.

Regular Meeting
March 7, 2006
Continued

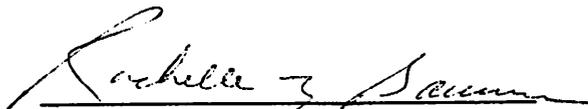
Special Projects Coordinator Hewett addressed Council and gave an update on construction at the Airport noting that the 1st Hanger is almost done and that the old maintenance hanger has been removed and they are ready to rebuild it.

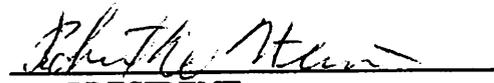
Special Projects Coordinator Hewett then reported that the contractor currently has a dispute with Florida Department of Transportation (FDOT) regarding the replacing of the lights around Lake Katherine. Ernie will get Don Waters to remove the current lights and put in storage at the City garage.

Mr. Hewett then noted that currently the Fire Department issues all new addresses in the City and he inquired how this would be handled when the Department merges with the County. The City could turn over the addressing to Doug Christ in the County Emergency Management Department; Council was not in favor of doing that. Mr. Hewett will have a proposal for Council to review regarding addresses in the Ridgewood and Royal Howard Subdivisions.

Johnson asked about new street signs to which Mr. Hewett stated that the North East and South West sections have come in and are now being installed. Johnson than thanked Mr. Hewett for his assistance and help with a citizen complaint regarding the removal of tree limbs.

There being no further business the meeting was adjourned.


CITY RECORDER


PRESIDENT