

REGULAR MEETING
NOVEMBER 18, 2008

A Regular Meeting of the Arcadia City Council was held on November 18, 2008 at 6:00 p.m. in the Margaret Way Building at 23 North Polk Avenue. Council members attending were: Fazzone, Dixon, Goodman, and Heine. Absent due to illness: Johnson. Also in attendance: Administrator Strube; Attorney Henbest for Attorney Galvano; Special Projects Coordinator Hewett and Recorder Baumann.

Mayor Fazzone called the meeting to order.

The Invocation was given by Dr. Sharon Goodman, Councilwoman.

Pledge Allegiance to the Flag.

The Minutes of the Special Meeting of October 29, 2008 and the Regular Meeting of November 4, 2008 were adopted on a motion by Goodman; seconded by Dixon and carried.

Proposed Ordinance No. 943 providing for regulation of Temporary Sales of Motor Vehicles was presented for a third and final reading. Dixon moved to wave the rules and read proposed Ordinance No. 943 by title only; seconded by Heine and carried.

ORDINANCE NO. 943

AN ORDINANCE OF THE CITY OF ARCADIA, A MUNICIPAL CORPORATION, PROVIDING FOR REGULATION OF TEMPORARY SALES OF MOTOR VEHICLES; AND PROVIDING FOR AN EFFECTIVE DATE.

Goodman moved to adopt Ordinance No. 943 on third and final reading and that it become an Ordinance of the City of Arcadia; seconded by Heine. Mayor Fazzone called for comments from the public. There were none. The motion carried on roll call vote: Ayes: Dixon, Fazzone, Goodman and Heine. Nays: None.

ORDINANCE NO. 943

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA, A MUNICIPAL CORPORATION, PROVIDING FOR REGULATION OF TEMPORARY SALES OF MOTOR VEHICLES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Arcadia City Council (hereinafter "City Council") desires to amend the City Code to include regulation of temporary sales of motor vehicles within the City limits; and

WHEREAS, the City Council seeks to define the activities that constitute a temporary sale of motor vehicles; and

REGULAR MEETING
NOVEMBER 18, 2008
Continued

(Ordinance No. 943 Continued)

WHEREAS, the City Council seeks to impose restrictions to minimize any negative impact to the health, safety and welfare of the citizens of the City of Arcadia; and

WHEREAS, the City Council recognizes a compelling governmental interest in regulating temporary sales of motor vehicles; and

WHEREAS, the City Council seeks to establish a process for the issuance of a permit for the temporary sales of motor vehicles.

NOW, THEREFORE BE IT ORDAINED, by the City Council of the City of Arcadia, Florida:

Section 1. Amendment of the Code of Ordinances. The Code of Ordinances, City of Arcadia, Florida, is hereby amended to create a new Section 34-97 to read as follows:

SECTION 34-97 – Temporary Sales of Motor Vehicles:

- (a) The purpose of this section is to specify regulations applicable to temporary sales of motor vehicles because of their impact on surrounding land uses. Nothing herein shall relieve any person from complying with the requirements or provisions of any other applicable regulations of the City, the county, the state, or any other governmental entity exercising jurisdiction. However, where the provisions of this section conflict with the provisions of any other applicable City regulation, and where the two cannot be read to comply with each other, the provisions of this section shall control.
- (b) *Definitions.* For the purposes of this section the following terms shall have the meaning indicated:
1. *Motor vehicle* means any motorized vehicle including automobiles, trucks, motorcycles, all terrain vehicles, recreational vehicles, and watercraft.
 2. *Temporary sale of motor vehicles* means any temporary outdoor, parking lot, or tent sale of more than three motor vehicles at a location where motor vehicle sales are not regularly conducted by a resident merchant.
 3. *Itinerant merchant* means any person, firm, corporation, organization, or other entity who engages in the business of selling, delivering, displaying, or promoting the sale of motor vehicles and who is not a resident merchant. Said persons, firms, corporations, organizations, or other entities shall not be relieved from complying with the provisions herein by reason of temporary association with, as a part of, or in the name of any resident merchant.
 4. *Resident merchant* means any person, firm, corporation, organization, or other entity who regularly engages in the business of selling, delivering,

(Ordinance No. 943 Continued)

displaying, or promoting the sale of motor vehicles at a business location in the City of Arcadia and who possesses a valid occupational license for such purpose issued by the City of Arcadia.

5. The terms *Sales* and *Selling* shall include lease and lease-purchase transactions.

(c) *Applicability.* Any resident merchant or itinerant merchant that desires to conduct a temporary sale of motor vehicles shall be required to submit an application for and receive a temporary permit to do so in accordance with this section.

(d) *Limitations and requirements for temporary sale of motor vehicles.*

1. No applicant may receive a permit for the temporary sale of motor vehicles for longer than five (5) consecutive days, including set up and take down, nor more than two (2) permits in any calendar year.
2. The City will issue no more than eight (8) total permits for temporary sales of motor vehicles in any calendar year.
3. The City will not issue more than one (1) permit for a designated date and time.
4. Hours of operation shall be limited to 8:00 a.m. to 9:00 p.m., Sunday through Thursday, and 8:00 a.m. to 11:00 p.m., Friday and Saturday.
5. No temporary sale of motor vehicles shall be closer than one hundred (100) feet from any residentially zoned or used property. This restriction shall be in addition to any applicable zoning and land use regulations.
6. No permanent or temporary lighting may be installed without applying for and receiving an electrical permit and passing any applicable inspections. Temporary lighting used to illuminate the sale after dusk shall be designed and arranged to reflect away from adjacent properties.
7. Temporary structures, including a maximum of two (2) temporary signs advertising the sale, may be permitted on the property where the event will be held subject to permit and inspection requirements of all applicable City, county, and/or state agencies. No temporary structure may be erected more than three (3) days prior to the start of the event, and all temporary structures must be removed within forty-eight (48) hours after the conclusion of the event. In no case shall a temporary structure be erected or allowed to remain outside of the effective period of the permit in accordance with paragraph (d)1. above. In addition to complying with

REGULAR MEETING
NOVEMBER 18, 2008
Continued

(Ordinance No. 943 Continued)

any other applicable regulations, any signs may be no larger than thirty-two (32) square feet in sign area and no higher than ten (10) feet above the ground at its highest point, and all signs shall carry at a minimum the name, business address, and business phone number of the permit holder in characters at least three (3) inches high.

8. The site of the temporary sale of motor vehicles must be cleared of all debris prior to the expiration of the permit. A cash bond in an amount not to exceed two thousand dollars (\$2,000.00) or a signed contract with the City's garbage collection franchisee may be required as a condition of the temporary use permit. Failure to clean up the site within said time shall result in the forfeiture of any such cleanup bond, and any additional costs of cleanup in excess of the cleanup bond may be assessed against the permit holder and/or the property owner. No future temporary use permit will be issued to an applicant until any outstanding cleanup costs are paid in full.
9. All applications shall be reviewed by the City marshal to determine specific traffic control requirements to ensure public safety. Any such traffic control requirements must be arranged and paid for by the permit holder.

(e) *Additional requirements for itinerant merchants only.*

1. Before any temporary permit is issued to an itinerant merchant under this section, the applicant shall provide security to the benefit of the City and in favor of any person in a transaction who shall suffer any loss as a result of any violations of the conditions of this section by the itinerant merchant.
 - a. Said security shall be in the form of a surety bond issued by a surety authorized to do business in the State of Florida, an irrevocable letter of credit issued by a Florida financial institution, or a cashier's check made payable to the City.
 - b. Said security shall be in the amount of fifty thousand dollars (\$50,000.00).
 - c. Said security and amount shall be in addition to any other applicable security requirements, including without implied limitation the security bonding requirements of Chapter 320, Florida Statutes.
 - d. The conditions of such security shall be that:
 1. The applicant shall comply fully with all provisions of the Arcadia City Code and all other applicable City, state, or federal laws regarding the sale of motor vehicles;

(Ordinance No. 943 Continued)

2. The applicant has settled any claims or paid all judgments and costs that may be recovered against said applicant, by any persons or parties, for damages from any misrepresentation or deceptive practice during the transacting of such business in the City of Arcadia; and
 3. The applicant has mitigated any damages or impacts caused or created by the temporary sale.
- e. The security shall be released no sooner than ninety (90) days following the conclusion of the sale and only upon the submittal of an affidavit from the permit holder to the City administrator (or his or her designee), and the acceptance of said affidavit by the City, that all conditions of the security have been met.
2. Before any temporary permit is issued to an itinerant merchant, the itinerant merchant must furnish the City with a copy of a current motor vehicle dealer or recreational dealer's license as required by Chapter 320, Florida Statutes.
- (f) *Application and fees.*
1. All applications shall be submitted to the City Council a minimum of thirty (30) days prior, but no sooner than sixty (60) days prior, to the proposed use.
 2. Applications shall be taken up by the City Council in the order in which they were marked received by the City.
 3. The application shall be made on a form acceptable to the City administrator (or his or her designee) and approved by the City Council and shall include the following:
 - a. The name, address and telephone number of the person applying for the permit and the business or corporation he/she represents, if applicable, and the name, address and telephone number of all owner(s) of the property where the event is to be held. For purposes of this section, the person applying for the permit, the business or corporation he/she represents, and all property owner(s) shall be deemed applicants/permit holders;
 - b. The address and legal description of the property where the event is to be held;
 - c. The planned date(s) of the event;
 - d. The planned hours of operation;
 - e. The tax identification number of the applicant, if applicable

REGULAR MEETING
NOVEMBER 18, 2008
Continued

(Ordinance No. 943 Continued)

- f. A plan, drawn to scale, indicating the following:
1. Vehicular access onto the property.
 2. Location and use of any permanent buildings and uses existing on the property, including but not limited to any impact on required parking for any businesses located on the property where the event is to be held and which will be affected by the temporary sale.
 3. Adequate sanitary facilities.
 4. Location and amount of parking areas designated for the temporary sales event.
- g. All applicants, including the person applying for the permit, an authorized representative of any business or corporation to whom the permit is to be issued, and all property owners, shall sign the application, certifying that all information provided is true and accurate and that all applicable laws and regulations have been and will be followed (including but not limited to this section).
4. The City Council hereby imposes a non-refundable application fee of Five Hundred and No/100 Dollars (\$500.00). The City Council may at any time impose a permit fee and/or adjust the application fee by resolution.
 5. Within ten (10) days subsequent to filing the application, the City administrator shall review the application, inspect the property, and recommend to the City Council either a approval or denial of the permit. The City Council may grant, deny, or grant subject to suitable conditions, safeguards, and stipulations any application for a temporary sale permit. Approval of the application by the City Council shall result in the issuance of the temporary sale permit upon payment of any applicable permit fee. Reasons for rejection shall be in writing to the applicant.
 6. The temporary sale permit shall be non-transferable.
- (g) *Permit termination and/or revocation.* Any issued permit shall be automatically revoked and rendered void upon the occurrence of any of the following:
1. If the City determines that the permit application contained any false or misleading information, failed to disclose any material information requested by the application, or was not properly executed by all applicants;
 2. If the permit holder fails to maintain compliance with this section at any time prior to the permit's expiration.

(Ordinance No. 943 Continued)

Section 2. Severability. If any subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed separate, distinct, and independent provision and such holding shall not affect the validity of the remainder of this Ordinance.

Section 3. Effective Date. This Ordinance shall become effective at the expiration of ten (10) days after adoption pursuant to Chapter 73-403, Laws of Florida.

PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA,
on this 18 day of November 2008.

ATTEST:

CITY OF ARCADIA, FLORIDA

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

s/s RICHARD P. FAZZONE
RICHARD P. FAZZONE
MAYOR

PASSED ON FIRST READING October 21, 2008

PASSED ON SECOND READING November 4, 2008

PASSED ON THIRD READING November 18, 2008

APPROVED AS TO FORM:

s/s WILLIAM S. GALVANO, CITY ATTORNEY
WILLIAM S. GALVANO, CITY ATTORNEY

Proposed Ordinance No. 944 amending the Capital Improvements Element of the Comprehensive Plan was presented on third and final reading. Goodman moved to waive the rules and read by title only; seconded by Dixon and carried.

ORDINANCE NO. 944

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA, AMENDING THE CAPITAL IMPROVEMENTS ELEMENT OF THE COMPREHENSIVE PLAN, SAID AMENDMENT BEING KNOWN AS "AMENDMENT #08-01-CIE CAPITAL IMPROVEMENTS ELEMENT", SPECIFICALLY, AMENDING THE ADOPTED CAPITAL IMPROVEMENTS ELEMENT AND UPDATING THE 5-YEAR CAPITAL IMPROVEMENTS PLAN; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REGULAR MEETING
NOVEMBER 18, 2008
Continued

Heine then moved to adopt Ordinance No. 944 on third and final reading and that it become an Ordinance of the City of Arcadia; seconded by Goodman. Mayor Fazzone called for comments from the Public. Mrs. Jennifer Codo-Salisbury with the Central Florida Regional Planning Council (CFRPC) addressed the Council stating that the Plan would be sent to the State and it would be about forty-five (45) days before hearing if the State has approved the plan. Ms. Codo-Salisbury then noted that a sign up list is at the back of the room for anyone who wants to be notified about the amendment. Attorney Henbest asked Mrs. Codo-Salisbury if the language contained in Policy area 2.2 and Policy area 2.9 were duplicated to which she stated it was not, noting that it was prepared using the language as required by the state. The motion carried on a roll call vote: Ayes: Fazzone, Dixon, Goodman and Heine. Nays: None.

ORDINANCE NO. 944

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA, AMENDING THE CAPITAL IMPROVEMENTS ELEMENT OF THE COMPREHENSIVE PLAN, SAID AMENDMENT BEING KNOWN AS "AMENDMENT #08-01-CIE CAPITAL IMPROVEMENTS ELEMENT"; SPECIFICALLY, AMENDING THE ADOPTED CAPITAL IMPROVEMENTS ELEMENT AND UPDATING THE 5-YEAR CAPITAL IMPROVEMENTS PLAN; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, pursuant to Section 163.3184, Florida Statutes, the Planning and Zoning Board and City Council of City of Arcadia held meetings and hearings on Amendment # 08-01-CIE with due public notice having been provided, to obtain public comment, and considered all written and oral comments received during public hearings, including support documents; and

WHEREAS, in exercise of its authority the City of Arcadia City Council has determined it necessary to adopt this **Amendment # 08-01-CIE to the Comprehensive Plan**, which is marked as Exhibit "A" and is attached and made a part hereof, to insure that the Plan is in full compliance with the Laws of the State of Florida; to preserve and enhance present advantages; encourage the most appropriate use of land, water and resources consistent with the public interest; and deal effectively with future problems that may result from the use and development of land within City of Arcadia;

NOW, THEREFORE BE IT ORDAINED that the City of Arcadia City Council amends its Comprehensive Plan in the following specific manner: the Capital Improvements Element is amended, including the annual update of the 5-Year Capital Improvements Plan (CIP); and which is attached as Exhibit "A".

Severability: If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

REGULAR MEETING
NOVEMBER 18, 2008
Continued

7105

(Ordinance No. 944 Continued)

Effective Date: The effective date of this plan amendment shall be: The date a final order is issued by the Department of Community Affairs finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S., or the date a final order is issued by the Administration Council finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.

A certified copy of this enacting ordinance and certified copy of the City of Arcadia Comprehensive Plan shall be located in the Office of the City Recorder of City of Arcadia. The City Recorder shall also make copies available to the public for a reasonable publication charge.

UNANIMOUSLY PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, on this 18th day of November, 2008.

CITY OF ARCADIA, FLORIDA

ATTEST:

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

.s/s RICHARD P. FAZZONE
RICHARD P. FAZZONE
MAYOR

PASSED ON FIRST READING October 21,, 2008.

PASSED ON SECOND READING November 4,, 2008.

PASSED ON THIRD READING November 18,, 2008.

Approved as to Form:

s/s WILLIAM S. GALVANO, CITY ATTORNEY
WILLIAM S. GALVANO, CITY ATTORNEY

REGULAR MEETING
NOVEMBER 18, 2008
Continued

(Ordinance No. 944 Continued)

EXHIBIT "A"

**I. AMENDED
CAPITAL IMPROVEMENTS ELEMENT**

II. UPDATED 5-YEAR CAPITAL IMPROVEMENTS PLAN

(Ordinance No. 944 Continued)

Exhibit "A"

(New language underlined; Removed language ~~stricken~~)

Capital Improvements Element
Goal, Objectives, and Policies
City of Arcadia Comprehensive Plan
Amended July 21, 1992
Update Adopted November 18, 2008

GOAL: ~~To promote compact urban growth and to enhance the fiscal integrity of the city, Arcadia shall provide public facilities in a timely and efficient manner at the established level of service standards.~~
The goal of this element is the provision of public facilities and services in a timely, efficient, and fiscally sound manner in order to meet current and future needs of the community.

Objective 1:

The Capital Improvements Element shall direct the provision of public facilities for the purpose of accommodating existing development and desired future growth and replacing ~~exhausted~~ obsolete or worn out facilities. [9J-5.005(3)(b)1]

Policy 1.1: ~~By August 1, 1991, and annually thereafter, the City Administrator, City Recorder and departmental directors~~ The City shall evaluate and rank proposed capital improvements projects for inclusion in and amendment to the Five-Year Schedule of Capital Improvements.

Policy 1.2: ~~By August 1, 1991, proposed~~ Capital improvements projects shall be ranked and evaluated based on the following criteria:

- a. The project protects public health and safety, achieves maximum usage of existing facilities or fulfills the City's legal obligation to provide facilities and services;
- b. The project increases the efficiency of existing facilities or promotes infill development;
- c. The project represents the logical extension of facilities and services consistent with the Future Land Use Element, or is compatible with the plans of State agencies and the Southwest Florida Water Management District;
- d. Other priority criteria, as established in other elements of this comprehensive plan, shall be incorporated into the annual capital improvements prioritization; and
- e. Capital improvement projects shall be consistent with this Comprehensive Plan, including the Future Land Use Map Series and Future Traffic Circulation Map Series, shall be demonstrated to be financially feasible, and shall be consistent with debt management

REGULAR MEETING
NOVEMBER 18, 2008
Continued

(Ordinance No. 944 Continued)

practices as established in Policy 2.5 of this Element.
[9J-5.005(3)(c)1a-g]

Policy 1.3: City Council or its designee shall be responsible for ensuring that the City's fiscal policies are consistent with this Comprehensive Plan. [9J-5.005(3)(c)9]

Objective 2:

Upon adoption of the City of Arcadia Comprehensive Plan, Arcadia will coordinate land use decisions with the Five-Year Schedule of Capital Improvements and other projected resources. Arcadia shall ensure that established levels of service standards are maintained, and that needed capital improvements are provided for future development and redevelopment. [9J-5.005(3)(b)3]

Policy 2.1: Arcadia establishes the following level of service standards for new development and redevelopment: [9J-5.005(3)(c)4]

Facility	Level of Service
Sanitary Sewer	171 gallons per capita per day, Four million gallon hydraulic peak flow design capacity
Potable Water	102 gallons per capita per day average daily flow, 160 gallons per capita per day peak daily flow 50% of average daily flow for water storage capacity (1995); 20 psi water pressure
Solid Waste	4.8 pounds per capita per day
Principal Arterials	C
Minor Arterials	D
Collectors	D
Backlogged Facilities	Maintain and Improve
Recreation and Open Space	4 acres per 1,000 people
Drainage	Arcadia establishes a drainage level of service for new development equal to a 25-year 24-hour storm event. Stormwater treatment and disposal facilities shall meet the design and performance standards established in Section 17-25.025, F.A.C. The first inch of stormwater run-off shall be treated on-site, pursuant to Section 17-3.051, F.A.C. Stormwater discharge facilities shall be designed such that the receiving water body shall not be degraded below minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 17-3, F.A.C. These standards shall apply to all new development and redevelopment. For existing development, the City establishes an interim level of service to manage the 10-year 60 minute storm event.

Goal, Objectives and Policies

Capital Improvements Element

City of Arcadia Comprehensive Plan

Amended 7/21/92; Update adopted 11/18/08

REGULAR MEETING
NOVEMBER 18, 2008
Continued

(Ordinance No. 944 Continued)

In order to ensure the City meets levels of service, the following population projections shall be referred to, and shall be updated or revised as necessary when the Capital Improvement Plan is being drafted each year. The population projections were derived from historic compounded annual growth rates. The 2007 population estimate was provided by BEBR. The historic growth rates were applied to the 2007 population estimate to create the population forecast.

Population Projections:

2009	6,632
2010	6,640
2011	6,648
2012	6,656
2013	6,664

Policy 2.2 The City of Arcadia hereby adopts, by reference, the Five-Year Schedule of Capital Improvements as formally adopted by the DeSoto County School Board, the Southwest Florida Water Management District, and the Florida Department of Transportation into the City's Five-Year Schedule of Capital Improvements.

Policy 2.33: Development orders and permits will be granted only when public facilities are operating at the established level of service, or will be available concurrent with the impacts of the development. [9J-5.005(3)(b)6]

Policy 2.34: Proposed amendments to the Future Land Use Element and/or the Future Land Use Map of the City of Arcadia Comprehensive Plan shall consider the need for capital improvements to support the proposed amendment, and shall coordinate with the Capital Improvements Element and Five-Year Schedule of Capital Improvements to identify sources of revenue and demonstrate financial feasibility.

Policy 2.45: ~~Beginning with the 1991-92 fiscal year,~~ The City of Arcadia shall annually adopt a capital budget. This budget shall prioritize all capital projects in the City, indicate the funding source for each capital project, and shall form the basis for determining what shall be included in the annual amendment to the Five-Year Schedule of Capital Improvements.

Policy 2.56: The City of Arcadia shall manage debt such that annual debt service of all long-term obligations shall not exceed 20 percent of annually budgeted revenues.

REGULAR MEETING
NOVEMBER 18, 2008
Continued

(Ordinance No. 944 Continued)

Policy 2.67: The City of Arcadia shall annually review the status of all public facilities. This review shall consider available and projected capacity for purposes of concurrency management, and shall assess the need for the replacement or renewal of capital facilities. Identified needs shall be prioritized, and included in the City's capital budget and/or Five-Year Schedule of Capital Improvements as appropriate. Funding sources for identified capital improvements shall also be identified. This annual review shall consider adopted policies and amendments of all other elements of this comprehensive plan.

Policy 2.8: The City shall not allow exceptions for developments of de minimus impact.

Policy 2.9: The City hereby adopts by reference, the DeSoto County School District 5-year Facilities Work Program, as approved by the DeSoto County School Board for the years 2008/09 through 2012/13 and subsequent annual updates thereto, as part of its Schedule of Capital Improvements.

Objective 3:

In order to maintain established level of service standards, future development shall bear a proportionate cost of facility improvements necessitated by the impacts of the development. [9J-5.005(3)(b)4]

Policy 3.1: ~~Beginning August 1, 1992,~~ Arcadia shall analyze the suitability of impact fees or other user fees for the provision of sewer and water services. Collected impact fees shall be equitably allocated to the specific group(s) which will directly benefit from the capital improvement, and the assessment levied must fairly reflect the true costs of these improvements. [9J-5.005(3)(b)3]

Policy 3.2: As a requirement of land subdivision or land development, Arcadia shall require land dedication, or payment in lieu of dedication, or some other form of exaction, as appropriate, to retain easements for utilities and roadways. This is required to maintain the established level of service standards and to pay for public facility improvements necessitated by new development. [9J-5.005(3)(c)8]

Policy 3.3: Arcadia shall continue to apply for and secure grants or private funds when available to finance the provision of capital improvements.

Objective 4:

Arcadia will ensure that the needed capital improvements are provided for previously issued development orders. [9J-5.005(3)(b)5]

REGULAR MEETING
NOVEMBER 18, 2008
Continued

(Ordinance No. 944 Continued)

Policy 4.1: Immediately after adoption of the City of Arcadia Comprehensive Plan, Arcadia shall inventory all development orders issued prior to the plan's adoption and that have not yet requested or been granted a certificate of occupancy. An assessment shall be made of public facility needs. Public facility capacity shall be allocated to these developments for a period of one year, after which time they must adhere to level of service, concurrency and fair share standards established in this plan. Unless terms of the development order state otherwise, it shall be the responsibility of the City of Arcadia to ensure that adequate public facilities are available for such development. [9J-5.005(3)(c)5]

REGULAR MEETING
 NOVEMBER 18, 2008
 Continued

(Ordinance No. 944 Continued)

FIVE YEAR CIP - ARCADIA

Project Number/Category	Project Name	FY09-09	FY10-10	FY11-11	FY12-12	FY13-13	Total Project Cost	Comp Plan
TRANSPORTATION	Citywide Streets Improvements	\$150,000 City Funds	\$150,000 City Funds	\$150,000 City Funds	\$150,000 City Funds	\$150,000 City Funds	\$750,000	Yes
Transportation Total		\$150,000	\$150,000	\$150,000	\$150,000	\$150,000	\$750,000	
WASTEWATER	Stewer Total	\$0	\$0	\$0	\$0	\$0	\$0	
POTABLE WATER	Water Distribution Install New Valve System Wide (Phase II)			\$1,200,000 FEMA Project #1538-77-R			\$1,200,000	Yes
Potable Water Total		\$0	\$0	\$1,200,000	\$0	\$0	\$1,200,000	
PARKS	Lava Kaihaine Inclusionary Park Playground			\$340,000 50% Private Grant Funds			\$340,000	Yes
Parks Total		\$0	\$0	\$340,000	\$0	\$0	\$340,000	
SANITATION	Sanitization Total	\$0	\$0	\$0	\$0	\$0	\$0	
STORMWATER DRAINAGE	Stormwater Drainage Total	\$0	\$0	\$0	\$0	\$0	\$0	
TOTAL ALL CATEGORIES		FY 09-09 \$150,000	FY10-11 \$150,000	FY11-12 \$1,690,000	FY12-13 \$150,000	Total Projects \$2,290,000		

REGULAR MEETING
NOVEMBER 18, 2008
Continued

Ms. Nan Nahum of Able Body Labor addressed the Council and gave an overview of the various services offered by Able Body Labor. They do disaster recovery, event staffing and light industrial staffing. She noted that an office has been in Arcadia for two or three years. The company owns 176 offices nationwide with 35 located in Florida.

The Fines and Forfeitures Report for the month of October, 2008 showing Fines in the amount of \$1,672.80 was presented.

City Recorder Baumann reported that the Auditors are currently working on the FY 2007/2008 annual audit.

Attorney Henbest addressed the Council stating that Attorney Galvano had reviewed the Contribution Agreement with Selby House and added modifications to paragraph 6 and 8 of the agreement. Dixon moved to approve the agreement as modified; seconded by Goodman and carried.

Evangelist Michael Dyesk of the Church of Christ provided by letter the dates of February 1-12, 2009 and February 13-27, 2009 when the Sojourners will be parking their RV's on church property. It was noted that the Council had granted permission at the September 16, 2008 Council Meeting; however at that time the actual dates were not known.

Mayor Fazzone asked if anyone from the public had anything they wished to address with Council, no one spoke.

Mayor Fazzone then addressed the Council and gave a summary of Administrator Strube's evaluation which had an overall score of four (4) which is considered very good.

Administrator Strube then addressed the Council and read in full a memo that he presented to each member regarding his request to re-submit his February 19, 2008 notice of intent to retire effective December 31, 2008 along with proposed retirement agreement provisions.

"As the Council is aware, on February 19, 2008 I had submitted and the Council had accepted my Notice of Intent to Retire in December 31, 2008. The Council's action set into motion a plan to advertise, interview, and hire a City Administrator with a projected start date of October 1, 2008 along with a three month transition period. On July 1, 2008, at the request of the Council, I withdrew my notice of intent to retire thus halting the process to hire a new Administrator.

I greatly appreciated the opportunity these last two weeks to meet with each Councilmember to discuss my evaluation. In my opinion the overall evaluation was very constructive for both parties, I believe it truly reflects my performance, my commitment, and the relationship that we have developed over the years. But, more importantly it provided an opportunity to step back and calmly assess the current situation and our expectations of each other. Based on these discussions I believe that my continued employment as City Administrator would be possible, but it would not be reasonable, because at this stage in my career and life, my health is more important

REGULAR MEETING
NOVEMBER 18, 2008
Continued

Administrator Strube's memo to the Council in full cont.

Therefore, after much thought and my own evaluation of events these past four months since July 1, 2008, I believe it would be in my and the City's best interest for me to resubmit my February 19, 2008 Notice of Intent to Retire as of December 31, 2008 and for the Council to again consider a schedule to hire a new Administrator subject to the following:

- 1. The Council authorizing the City Attorney and I to prepare a proposed retirement agreement containing retirement benefit provisions commensurate with my employment agreement and my 26 plus years as City Administrator on the terms set forth in the attached retirement agreement term sheet, and the Council approving said agreement, and;*
- 2. An advertising, interview, selection, hiring, and transition plan being approved by the Council projecting a new Administrator to be hired on or about March 1, 2009.*

Retirement Agreement

- A. Effective December 31, 2008 ("Retirement Date") Strube retires from all positions.*
- B. Strube is to be indemnified, including the provision of his own counsel and all costs, for legal matters arising out of employment, including the negotiation and execution of this agreement and matters related to it.*
- C. Strube will release City for all of his rights under the employment contract, effective upon payment of all sums owed to him as set forth below.*
- D. Strube will continue to cooperate fully in regards to ongoing and future litigation and/or other reasonable requests of the City.*
- E. Based on an advertising, interview, selection, hiring, and transition plan projecting a new administrator to be hired on or about March 1, 2009, Strube will consider entering into a separate agreement as of January 1, 2009 to perform the duties of City Administrator until a new Administrator is hired; assist the Council in the hiring of a new Administrator; and provide advisory services during a reasonable transition period.*
- F. Effective January 1, 2009 Strube will be placed in a paid leave status for purposes of receiving weekly payments rather than a lump sum disbursement of all previously accrued vacation and sick leave balances earned but not used during his 26 years of employment as City Administrator.*
- G. Strube will receive weekly payroll disbursements against credited hours for employment agreement severance pay of 60 working days, plus 100 percent of accrued vacation and sick leave hours, along with associated payroll costs and matching retirement contributions using a standard 40 hour week and current hourly rate of pay of \$35.85 until fully paid out. Since the Administrator will be*

REGULAR MEETING
NOVEMBER 18, 2008
Continued

Administrator Strube's memo to the Council in full cont.

in a paid leave status during the period of disbursement, additional equivalent accrual hours (vacation, sick, holidays, longevity, and 1 weeks salary bonus) along with associated payroll costs and matching retirement contributions will also be earned and added to the credited hours and disbursed on a weekly basis until fully paid out.

- H. *Strube and his spouse will be entitled to participate in the City's Post retirement group health insurance as a retirement benefit in accordance with Section 14.25 of the City Personnel Manual with premiums for such insurance paid 100% by the City.*

City Administrator Advertisement, Interview, Selection and Appointment Schedule
Days

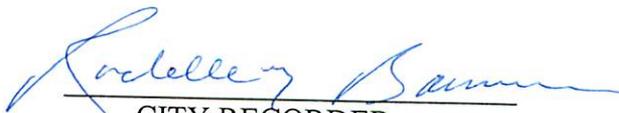
<i>Advertise the position</i>	<i>December 1, 2008 to January 15, 2009</i>	<i>45</i>
<i>Set deadline to submit applications</i>	<i>January 15, 2009</i>	
<i>Review applications, develop short list Schedule and conduct interviews</i>	<i>January 15, 2009 to January 31, 2009</i>	<i>15</i>
<i>Rank applicants, make job offer, negotiate/approve contract, determine start date</i>	<i>February 1, 2009 to March 1, 2009</i>	<i>30</i>
<i>Report to work, transition</i>	<i>March 1, 2009 to May 31, 2009</i>	<i>90"</i>

Deputy Mayor Dixon moved to accept Administrator Strube's resignation effective immediately and that he be paid through December 31, 2008; seconded by Heine. Heine questioned if Administrator Strube would be working through December 31, 2008 to which Deputy Mayor Dixon stated no, he would be terminated immediately. Heine then withdrew his second and the motion died for lack of a second.

Goodman then moved to approve the request as the Administrator has set out in his memo, his request to resubmit his resignation with his intent to retire as of December 31, 2008, and for the Council to again consider a schedule to hire a new Administrator subject to the following items 1 & 2 as set forth in Mr. Strube's memorandum to the Council; seconded by Heine and carried.

Several members of the public addressed the Council complementing their previous working relations with Administrator Strube.

There being no further business the meeting was adjourned.


CITY RECORDER


PRESIDENT