

SPECIAL MEETING  
OCTOBER 29, 2008

Mayor Fazzone called a Special Meeting of the Arcadia City Council to order at 5:00 p.m. The Meeting was held in the Margaret Way Building at 23 North Polk Avenue. Council members attending: Fazzone, Dixon, Johnson, Goodman, and Heine. Also in attendance were: Administrator Strube, Attorney Galvano, Parks & Recreation Supervisor Waters, Special Projects Coordinator Hewett, DeSoto County Commissioner Neads, and Recorder Baumann.

Mayor Fazzone stated that the Special Meeting was called by Deputy Mayor Lorenzo Dixon based on City Code Section No. 2-32 *Special Meeting* which allows for a Special Meeting of the City Council to be called by a petition to the Mayor signed by three (3) City Council Members. City Council members signing the petition were Deputy Mayor Lorenzo Dixon, Dr. Sharon T. Goodman and Dr. Roosevelt Johnson.

Mayor Fazzone stated that the purpose of this Special Meeting is to discuss changes made by the DeSoto County Commission to the Landfill Tipping Fee Agreement presented to and approved by the City Council on October 7, 2008, and the request of Deputy Mayor Dixon for the resignation of City Administrator Strube.

Councilman Dixon stated that the agreement with the County regarding a reduction in landfill tipping fees which was approved by the Council on October 7, 2008 had been modified. He stated that the DeSoto County Commissioners had added an additional term to the four (4) that were on the original approved agreement. The new term would prevent the City Council from increasing residential garbage rates during the term of the agreement. County Attorney Holtzendorf sent a letter to Administrator Strube on October 14, 2008 with the revised contract. Councilman Dixon stated that he had heard that the document was being changed by the County prior to the Council's October 21, 2008 meeting. He questioned why Administrator Strube did not bring the modified agreement back to the Council for their review and approval noting he would not have signed the agreement since it was not what the Council had voted on. Councilman Dixon stated that he met with Administrator Strube on October 22, 2008 to ask him if the City had received a modified agreement and at that time he found out that the agreement had been signed by Mayor Fazzone and other staff members, and was in the outgoing mail. Councilman Dixon stated that he called Attorney Galvano to let him know that the agreement was not the same as was originally approved.

Councilman Dixon feels that there was no "hidden" agenda by the County Commission; however he does not like the County attempting to tell the City what they can do. He stated that he will not let anyone including the County dictate or tell the Council as an elected body, what can and cannot be done. Councilman Dixon reported that he appeared before the County Commission on October 28, 2008 and informed them that the changes

SPECIAL MEETING  
OCTOBER 29, 2008  
Continued

were not authorized by the Council. Councilman Dixon believes that Administrator Strube had over stepped his authority by attending the County Commission meeting on October 28, 2008 without the Council first having met to discuss the changes beforehand. Councilman Dixon stated that the Commission felt that the agreement should go back before the Council to be voted on again. Councilman Dixon believes that the City Administrator did not follow proper procedures in handling this agreement and he withheld information from the Council. Councilman Dixon stated it was very plain by the coversheet on the returned agreement that County Attorney Holzendorf stated to "please find this agreement as modified". Councilman Dixon asked the Council to stand firm on the original vote and not approve the added language of statement number five (5).

Mayor Fazzone asked Councilman Dixon if he represented the Council regarding negotiations with the DeSoto County Commissioners to which Councilman Dixon stated he did noting that he had asked to be appointed to the committee.

Councilman Dixon stated that he believes that the City Administrator intentionally withheld information from the Council and he feels that this is a very serious concern.

Mayor Fazzone stated he believed Councilman Dixon was equally guilty of withholding information if he knew about the contract being changed and did not bring it up before the Council.

Councilman Dixon stated that his information was "hearsay" and that Administrator Strube had the actual changed document.

Mayor Fazzone stated that he believes that Councilman Dixon has a personal vendetta against himself and Administrator Strube. He read in full Councilman Dixon's petition to call a "special meeting" which accuses the Mayor and Administrator of unauthorized practices. Mayor Fazzone stated that he felt it was inappropriate to call a "special meeting" to discuss this matter, noting that it could have been placed on the Council's agenda for their November 4, 2008 meeting.

Councilman Dixon stated that the unauthorized practice was that the Mayor signed a contract that the Council had not approved.

Councilman Heine stated the agreement was in the mail to the City Attorney and he is paid to review agreements and to provide Council members with guidance and legal advice, he believes that the Attorney would not have signed the agreement if there were a problem with it.

SPECIAL MEETING  
OCTOBER 29, 2008  
Continued

Administrator Strube stated that he did have the amended contract with him at the Council meeting of October 21, 2008; however he did not have time to meet with Attorney Galvano prior to or after the meeting to discuss it. He stated that he never instructed the Mayor or City Recorder to sign the document; it was in the suspense file. He noted that he had pointed out a mistake in the second agreement to County Attorney Holtzendorf which would have prohibited the City from increasing any garbage rates not just residential as was the County's intent with the change. Administrator Strube stated the next day, October 22, 2008 he had put it in an envelope to be mailed to Attorney Galvano for review when Councilman Dixon came in looking for it. Administrator Strube then retrieved it from the outgoing mail. Administrator Strube stated that he did not feel that the change was a "material" issue noting that paragraph # 5 was the premise for the agreement in the first place. He then stated that Councilman Dixon has a problem with communication because if you had a problem with it then how come you didn't tell me about it after you had discussed it with County Commissioner Langford at Wheeler's. Administrator Strube stated that he feels that Councilman Dixon's conversation with Commissioner Langford regarding this agreement could be a violation of the Sunshine Law.

Councilman Johnson asked what the normal procedure would be for getting the attorney to sign contracts to which Administrator Strube stated that staff usually prepares the document and the attorney approves the form and content.

Attorney Galvano stated that there are two (2) items on the agenda and feels that they need to be addressed. He stated that at this time the agreement had not been entered into. He stated that he would have reviewed the agreement and would have then brought it back before the Council for discussion. The legal effect remains the same whether the document was signed by the Mayor or not. He stated that it is his responsibility to review documents and because he had participated in this issue he would have seen it a "material issue".

Councilman Heine asked Attorney Galvano for clarification of the Sunshine Law as it applies to the discussion of Councilman Dixon and Commissioner Langford. Attorney Galvano stated if a special meeting was held to discuss policy and procedures, this would be in violation. However, a chance meeting could not be considered a violation.

Mayor Fazzone stated that he has seen some Attorney General Opinions' and believes this to be a violation of the Sunshine Law and will call for an investigation.

Mr. Keith Markey questioned Attorney Galvano, asking if indeed the contract was not considered a contract until signed by the Attorney. Attorney Galvano stated that was correct.

SPECIAL MEETING  
OCTOBER 29, 2008  
Continued

Councilwoman Goodman asked Attorney Galvano what needed to be done at this time to move this item ahead. Attorney Galvano stated a counter offer to accept or deny the modified agreement. Councilman Goodman asked if the County is in agreement to leave out the modification number five (5) to which County Commissioner Nead's stated the County had no problem with the agreement remaining in its original form. He stated that the modification had not been meant to cause problems or disruptions. Goodman then moved to approve the agreement as it was on October 7, 2008 without item number 5; seconded by Johnson and carried.

Administrator Strube stated that he did not want this agreement to be a "roadblock" between the City and County noting that there were no negative thoughts between the City and County as some might have believed.

Councilman Johnson suggested that the Council have a workshop on conflict resolution. He reported that he received a lot of phone calls regarding this meeting. Councilwoman Goodman stated that she also received calls.

Councilman Dixon asked if the calls were regarding an individual to which Councilman Johnson stated that they were concerning the administrator.

Councilman Dixon stated he is standing firm on his request for Administrator Strube's resignation noting that he was the one who had previously made the motion to ask him to stay. He stated that he does not feel that this is working and that citizens have also asked for this as well. He stated that he will ask for Administrator Strube's resignation and if not then he will make a motion to terminate him.

Mayor Fazzone then called for comments from the public.

Several members of the public agreed with Councilman Dixon that Administrator Strube had been in the position of City Administrator long enough and someone with new ideas was needed. Other members of the public spoke in favor of Administrator Strube and suggested a cool down period before acting.

Councilwoman Goodman proposed an evaluation of Administrator Strube be done. Goodman then moved to have each Council member do an evaluation of Administrator Strube prior to the next Council meeting of November 4, 2008; seconded by Heine, carried with a four to one vote, Councilman Dixon being the dissenting vote.

There being no further business the meeting was adjourned.

  
CITY RECORDER

  
PRESIDENT