

MINUTES
CITY COMMISSION MEETING

October 10, 2011

The City Commission met this date in regular in the Commission Chambers. The Invocation was given by Commissioner Kelley after which the Pledge of Allegiance was recited. A quorum being present, the meeting was called to order at 6:00 PM with the following in attendance.

Mayor	:	John B. Arnold, Jr.
Commissioners	:	Heyward H. Strong, Jr.
	:	Thomas G. Miller
	:	Neal Shermer
	:	Diane Kelley
City Clerk	:	Tammy Johnson
City Administrator	:	Carl Scott
Police Chief	:	Joe Hart
Fire Chief	:	Mark Norris
City Attorney	:	Doug Wyckoff
Recorder	:	Lois Davis

Others in attendance: (Not inclusive) James Butler, Scott Jackson, Janie Garcia-Rios, Malcolm Robertson, Bill Smith, Greg Stewart, Terri Fedonczak, Rodney Nobles, Terry Griffin, Bob Bachelor, Bob Webb, Louise Graham, Herb Jones, Lyn Knowles, Don Caverly, Pat Hess, Joe Morgan, John Slingerland, Marion Cook, Anita D. Gates

Mayor Arnold welcomed the audience and their comments. He asked that anyone who wanted to be recognized should raise his/her right hand and should use the podium, which has a microphone.

Mayor Arnold stated that Mr. Petrey, City Engineer, was absent due to a medical emergency in his family.

1. CITIZENS' CONCERNS (non-agenda items) - Resident

Mr. Herb Jones, 366 Illinois Avenue, stated that he and his wife were gone out of town for four months and that everyday a police officer came by to check the residence. He stated that on one occasion an officer found the door open and brought it to Mr. Jones' attention. Mr. Jones stated that the problem was solved without any danger to the house and their belongings. He congratulated Chief Hart for the excellent Police Department. Mr. Jones further stated that they had their services turned off while they were gone, but Mr. Bennett and his staff got everything turned back on very promptly after they came home. He stated that Valparaiso is a good City and he thanked everyone for all the support they received from the City of Valparaiso.

1. CITIZENS' CONCERNS (non-agenda items) - Resident

Mr. Don Caverly, 113 Choctaw Cove, inquired about getting the Commission meeting minutes put on the website. Mayor Arnold stated that the City does not have the expertise in house to do this. Comm. Kelley stated that she had been talking with Ms. April Branscom At Niceville High School, who will work on the City's website. Mr. Caverly asked that Ms. Branscom? look at some of the capabilities.

2. CITIZENS' CONCERNS (non-agenda items) - Non-resident

There were no non-resident comments.

3. NEW BUSINESS - F-35 Update

Mayor Arnold stated that Mr. Bob Bachelor and Mr. Bob Webb would make a presentation on the Noise Committee. He stated that they have been meeting with Eglin AFB on the F-35 Project. Mr. Bob Bachelor, 154 Grandview Avenue, stated that another SEIS is coming. He stated that this new study is going to look at Karnes 3 Profile and will try to reduce engine power and play with the afterburner a little bit. Mr. Bachelor stated that the Air Force is expecting some minor reduction in noise, and he further stated that they let a contract with Wiley. He stated that they are waiting for flight operation information and expect this to be done in six to twelve months. Mr. Bachelor stated that they had a meeting with Ms. Ferguson last December, and he further stated that her office is in charge of signing the ROD. He stated that they looked at some of the profiles about noise impact. Mr. Bachelor then showed some slides depicting the arrivals (all red lines are different ground tracks) which are coming in to our area for these ground tracks. Shalimar, Valparaiso, Bluewater, and other cities were added. He then showed the departures and additional F-35 receptor points (Shalimar, Destin, Bluewater Bay, and etc., which are from the SEIS. Mr. Bachelor then showed a slide for the pattern work, which is supposed to be done at other places. He stated that 1100, 1200 or 1300 is the normal feet for pattern work for all aircraft.

Mr. Bob Webb stated that Mr. Bill Smith, who is from Niceville and is in attendance, is also a member of the Noise Committee. He stated that the last meeting of the Noise Committee was held on July 11th. Mr. Webb stated that the Air Force presented a synopsis of Eglin AFB noise reports, most of which were by prepared by the same people. He stated that they talked about how the noise was recorded, and that he and Mr. Bachelor submitted a new business item to extend the length of the Noise Committee another one to two years. Mr. Webb further stated that they were supposed to get a school tour. He stated that they are about to the end of their term of the Noise Committee, and he further stated that Eglin AFB maintains a noise data base. Mr. Webb stated that

Welcome
By
Mayor

Citizens'
Concerns
Resident

Citizens'
Concerns
Resident

Citizens'
Concerns
Non-
resident

F-35
Update

he has requested that they put instructions on the website, which they have been working since January. He stated that they will not allow Valparaiso City Hall to collect noise reports and pass the information along to them. Mr. Webb stated that he has proposed to put instructions for a noise compliant form on the City website. He stated that if you don't report the noise to Eglin AFB, it didn't happen. Mr. Webb then gave instructions for how to report noise to Eglin AFB. He stated that sometime after the first of the year they will be getting some additional flights. Mayor Arnold stated that it is important for the citizens to make a noise report when necessary so that Eglin AFB is aware of this. He stated that Valparaiso generated a form that they wanted to take to Eglin AFB, but Eglin AFB said they wanted to do it.

Comm. Shermer stated that it sounds like Mr. Bachelor and Mr. Webb have been working hard on this and have made some significant progress. Mayor Arnold stated that Valparaiso is trying to achieve getting the F-35 training moved to Field 3 to get it away from the City. He reiterated that the residents should report any noise. In response to an unidentified resident concerning whether the East/West runway was closed, Mr. Bachelor stated that it was now open. Mayor Arnold thanked Mr. Bachelor and Mr. Webb for their report and hard work.

2. NEW BUSINESS - Ordinance No. 622 Election Date Change

Mayor Arnold conducted the first reading of Ordinance No. 622 an ordinance of the City of Valparaiso revising Article XII Electors and Elections, Section 7, of the Valparaiso Code of Ordinances and providing for (1) findings, (2) severability, (3) repeal of conflicting ordinances, and (4) an effective date. He stated that as a result of the Florida Legislature, the election will be moved to January 31, 2012. Mayor Arnold stated that this means that all candidates running for Commission must be qualified the week before Thanksgiving. He stated that the Supervisor of Election needs seventy-six days prior to the election to do what has to be done, mailing out and receiving ballots, and etc. Mayor Arnold stated that there is a \$4,000 to \$6,000 difference in the cost if this is simultaneous with the primaries. He proposed a change to the ordinance to swear in the new Commissioners at noon on the first Tuesday after the second Monday of the following month. The second and final reading will be conducted at the regular Commission meeting in November.

Ordinance
No.
622
Election
Date
Change
1st
Reading

3. NEW BUSINESS - Ordinance No. 623 Animal Control

Mayor Arnold conducted the first reading of Ordinance No. 623, an ordinance of the City of Valparaiso amending Article II, Section 10-41 of the Valparaiso Code of Ordinances to remove voice command as a form of animal control and providing for (1) findings, (2) repeal of conflicting ordinances, (3) severability and (4) an effective date. He stated that this would remove voice command as a form of animal control, an animal must be on a leash or inside a fenced area. In response to Mr. Morgan's inquiry concerning whether there had been a problem, Comm. Strong stated that he had received two calls on problems. Mr. Morgan asked if the animal under voice command had been a problem. He stated that he thinks the ordinance is valid when the residents are training dogs. Mr. Morgan stated that he does not see a problem with the ordinance. Mr. Terry Griffin, 253 Grandview Avenue, asked if he would be subject to a fine when he lets his dogs out in his own yard if his dog is under voice control. Chief Hart stated that most house dogs are under voice control. He further stated that this will take voice control away from them. Mr. Griffin stated that this is unreasonable what he can do with his dogs in his own yard. He stated that the ordinance precludes this. Mayor Arnold stated that they might have to fine tune the ordinance to do what Mr. Griffin said. The second and final reading will be conducted at the regular Commission meeting in November.

Ordinance
No.
623
Animal
Control
1st
Reading

4. NEW BUSINESS - City Auditor Evaluations

Due to a long delay in receiving the City Audit, it was the consensus of the Commission to ask for auditor evaluations. Mayor Arnold stated that it took from nine to twelve months after the fiscal year ended to receive the audit. He stated that Mrs. Johnson has received five responses to the ad for City Auditor. Mayor Arnold proposed that a Commission meeting be held on August 17th to discuss the evaluations, since the Commission has not had time to review them. In response to the Mayor's inquiry concerning the consensus of the Commission, Comm. Strong stated that he would prefer to wait and meet next Monday at 6:00 PM to select an auditor. Mr. Wyckoff suggested that in negotiation a contract, the City should include a delay damages provision that for every day the Auditor is late, they will have to pay a penalty. Mayor Arnold stated that if they do this, they would have to also have a companion clause indicating that if they were early, the City would have to pay a penalty. Mr. Wyckoff stated that if they fix a date in the contract, they should have a delay damage clause. Mayor Arnold stated that this was mentioned in a couple of the proposals. He stated that the Commission would meeting at 6:00 PM on Monday, October 17th to select an Auditor.

City
Auditor
Evaluations

5. NEW BUSINESS - 2011 Unspent Funds

Comm. Shermer stated that he thought they should take a look at ethicacy and utility of reinstating the merit increases. He stated that his understanding of the last conversation they had is that there are some monies in certain departments, and that the funds would roll over into the General Fund. Mayor Arnold stated that they rolled in \$77,000 in the General Fund for the existing budget. Comm. Shermer stated that Mrs. Johnson prepared the cost of a merit raise for 2012 for all employees on whether this is something that they can do. He stated that it is painful to him that

2011
Unspent
Funds

people working as hard as they are in the City and they are being denied a merit increase. Comm. Shermer stated that the City tells the employees when they start work that if they are a good employee, they will receive a merit increase after one year. He stated that these are small step increases. Comm. Shermer stated that for several reasons they have been under some budget restraints. He stated that he is over the Sanitation Department and Cemetery and Sanitation has quite a bit of roll over for wages that were not paid because employees left employment, and etc. Comm. Shermer stated that he thinks they should take a serious look at this. Mayor Arnold asked Comm. Shermer to hold this until next year. Comm. Shermer stated that he had asked Mrs. Johnson to prepare the cost information just as a starting point. Mayor Arnold stated that they are talking about merit raises for all the employees, which is \$75,500.

6 NEW BUSINESS - Okaloosa Legislative Delegation

Mayor Arnold reported that a legislative delegation meeting will be held on Thursday, November 10th in Building K at Northwest Florida State College. He stated that Representative Brad Drake states in his letter that no local bill can be presented to the Legislature unless it is considered at the delegation meeting. Mayor Arnold asked that the Commission let him know of any local bill they feel is needed. He stated that he plans to talk to the delegation about the amount of money the City receives for the citations issued by the Police Department, after the County takes its portion. Comm. Strong stated that the League of Cities is also working this issue.

1. OLD BUSINESS - Gulf Power Franchise Update

Comm. Miller stated that they have nothing new to report and have asked Gulf Power to attend tonight's meeting. He stated that his concern is the pole attachment fee, which FCC ruled against Gulf Power, but Gulf Power appealed it. Comm. Miller stated that he would like Gulf Power to tell Valparaiso when the Pole Attachment Agreement will be signed. Mr. Wyckoff has reviewed the information and stated that he has had several conversations with Attorney Cinnamon Mueller. He stated he asked for calculations, which is a little over \$7 per pole per year, but there are still some issues to be resolved. Comm. Miller stated that they have escrowed a significant amount of money for the pole attachment fees. He stated that they need to get it moving.

Mr. Scott Jackson, Local Office Manager from Niceville, stated that this has been an ongoing issue. He further stated that the statements made are certainly correct. Mr. Jackson stated that on January 19, 2012, the issue with the appeal for the pole attachment fee will be heard in Washington, DC. He stated that he does not know if the issue will be resolved at this time. In response to Mr. Wyckoff's inquiry, Mr. Jackson stated that they are still in litigation and that Gulf Power feels that there is some merit with the case and they are trying to move forward with it. Mr. Jackson stated that he had conversation with legal counsel and that they tried to look at this on the local level. He stated that this has gone to the executive level and beyond. Mr. Jackson stated that they are here today to provide good customer service at a fair price. Mayor Arnold stated that some of the people may have a negative opinion on Gulf Power trying to work with Valparaiso. He stated that Valparaiso asked about buying the poles and they were told that they would have to pay \$200,000 for an appraisal. Mayor Arnold stated that he does not think that the good working relationship they had is in place. Mr. Jackson acknowledged that they did receive a letter from the City recently. Mayor Arnold stated that the existing franchise is no longer in effect.

Mr. Jackson stated that they are looking at standardization of franchises across the board and if they start taking each one and customizing it, it would not be fair. He stated that it is Gulf Power's contention that if they cannot come to a standard franchise agreement, they will have to let the legal department take over. Mr. Scott stated that the figures came from the legal department, and indicated that an appraisal for the poles would take a two year study and would cost close to a half million dollars. He stated that in October 2010, Comm. Miller said that he wanted to get this resolved before the Gulf Power Franchise Agreement franchise expired, but it has expired, and it is in same place.

Mr. Jackson then thanked Chief Hart and Chief Norris for responding to a recent 911 call at Gulf Power.

3. OLD BUSINESS - Sidewalk Update

Mr. Scott stated that the contract change order for one hundred pine straw bales, and two thousand square yards of seeding and mulching (common Bermuda/with rye mix) has to be done in concurrence with FDOT. COMM. STRONG MADE A MOTION TO APPROVE THE CONTRACT CHANGE ORDER FOR CITY OF VALPARAISO FDOT SIDEWALK DESIGN, CHANGE ORDER NO. 1 FOR ONE HUNDRED BALES OF PINESTRAW AND TWO THOUSAND SQUARE YARDS SEEDING AND MULCHING (COMMON BERMUDA/RYE MIX, FOR A SUM OF \$1,800. COMM. KELLEY SECONDED THE MOTION.

Comm. Shermer stated that the item was not on the agenda, and it should be put on next Monday's agenda, and should be advertised. Mayor Arnold stated that he considers this as part of the sidewalk update; however, he does not think that it will tie up things too much to wait until the Monday meeting. Mr. Wyckoff stated that according to the policy they adopted, there needs to be a motion and second to add to the agenda and that it should have been at the beginning of the meeting. THE MOTION AND SECOND WERE WITHDRAWN.

Comm. Miller stated that he has heard some requests from residents about Tennessee and Poinciana, which are all dirt roads and have only five houses on them. He stated that he told the

Okaloosa
Legislative
Delegation

Gulf
Power
Franchise
Update

Sidewalk
Update

residents that he would bring it up. Mayor Arnold stated that the money cannot be used elsewhere. He further stated that this is a contract change and the City has signed the contract. Mayor Arnold stated that he does not know whether it will be too late or not. He stated that he also gets concerned that they have had several public hearings and asked for input, but it wasn't until after they signed the contract that people want to make another changes. Mayor Arnold stated that his recommendation is to continue with the current contract.

Mrs. Pat Hess, 199 Grandview Avenue, stated that it would appear to her that they have no value to the City of Valparaiso. She stated that she would like to address Comm. Miller and stated that putting one sidewalk down Grandview Avenue could have been done the same as two. Comm. Miller stated that it was all done. Mrs. Hess then addressed the Mayor and asked why, when they are the steward with the money, putting the money down a dirt road. She stated that she is not opposed to the sidewalks, but she is opposed to having two sidewalks. Mrs. Hess stated that putting sidewalks on both sides was a waste of money. Mayor Arnold stated that the sidewalks are around the school, but Mrs. Hess stated that the school children do not come down the dirt road. Mayor Arnold stated that this is federal dollars. He further stated that that this Commission bent over backwards concerning the sidewalks. Mayor Arnold stated that they had the final plans and specifications and then had two meetings and received very little comment. Mrs. Hess stated that it would have been nice if each of the Commissioners and Mayor would be a better steward of her tax payer dollars.

Mr. Fred Hess, 199 Grandview Avenue, stated that a petition was drawn up and it went around, but the Commission turned us down.

Mrs. Garcia-Rios, 206 Grandview Avenue, stated that she would like to preface what she has to say by some complementary words. She thanked Mr. Valandingham and Mr. Scott. Mrs. Garcia-Rios stated that due to health and other issues she did not come to the meetings, but she has addressed the issue with Mr. Scott. She stated that she was not aware until they started the project that there would be such devastation to her property; however, she is aware of the right of way. Mrs. Garcia-Rios stated that she does not think they realized that they would be that destructive in an aesthetic way, and what it would be to the azaleas. She stated that she had addressed this issue with Mr. Sims and Mr. Fleming on Friday, and she further stated that Mr. Fleming has been extremely courteous when she discussed with them about trimming back the azaleas. Mrs. Garcia-Rios stated that she knew that the azaleas had grown into the right of way and they had not complained. She stated that they told her that they would take an electric saw to trim them. Mrs. Garcia-Rios stated that she woke up at 7:15 AM and she saw this bulldozer destroying all the azaleas. She stated that they tried to dig up the few that were left and she asked them to put them back on the property. Mrs. Garcia Rios stated that she understood that there had been money that was supposed to be for repair or replanting. She stated that she thinks it is most unfortunate and she thinks that the person that wrote the grant lives on Bayshore Drive. Mrs. Garcia-Rios stated that they have some people getting sidewalks on one side and some people are not getting anything. She stated that the right hand side of Mississippi Avenue will not have anything. Mrs. Garcia-Rios stated that they still have a bad speeding problem down Mississippi, and that they will not be having a sidewalk on the side where the soccer field is at the school. She stated that she wants to express her concern that if they do any projects in the future, the sensitivity issue may have been overlooked. Mrs. Garcia-Rios stated that if only the City would have come to the door and explained what was going on. She stated that when she took her measuring tape, which she did yesterday, she measured the distance from the edge of the road to the edge of sidewalk. Mrs. Garcia-Rios stated that there are people who petitioned, i.e., Indian Shores and Bayshore Drive, and they were honored. She stated that she really knows that there is concern and they want beautification. Mrs. Garcia-Rios stated that there are some dumps in the City and she further stated that there is a big hole by the road where you turn from Mississippi onto John Sims Parkway. She stated that sidewalks are great and they may be used. Mrs. Garcia Rios stated that she hopes that there will be some money for restoration/repairs. She stated that it will cost her over \$1,000 to take care of the plants that were taken out.

Mayor Arnold stated that they were assured that restoration would be made. He stated that they will take into consideration to be more proactive. In response to Mrs. Garcia-Rios' inquiry about Amendment 21 attached to this grant, Mayor Arnold and Mr. Scott do not know what this about. Mayor Arnold stated that they will ask Mr. Petrey if he knows anything about this and try to get an answer.

Mr. Knowles asked Comm. Miller if he was going to make a recommendation and motion. Mayor Arnold stated that at the last meeting they gave the City Engineer and Comm. Miller authority to handle field changes. Mr. Knowles stated that the issue was to take Rose Court and Vine Street out of the project all together. **COMM. MILLER MADE A MOTION TO DELETE ROSE COURT AND VINE STREET FROM THE SIDEWALK PROJECT, IF FDOT CONCURS; OTHERWISE THE MOTION IS VOID. COMM. STRONG SECONDED THE MOTION.** Comm. Miller stated that he asked Mrs. Johnson to add this item to the agenda. Mayor Arnold stated that it concerns him that they are in the middle of the program and that they are still bringing requests to change. He stated that if they delete Rose Court and Vine Street, there will be others that come back. Mr. Morgan stated that this has been under discussion way back. He stated that

these were already under study by Mr. Petrey. Mr. and Mrs. Hess stated that they would like to request that Tennessee Avenue be taken out of the project. Mayor Arnold then stated that the decision was made that they would not take this up until next Monday, but Mrs. Hess stated that next Monday would be too late. Mayor Arnold asked what objection she had. Mr. Wyckoff stated that they have a motion and second. **THE VOTE WAS HELD ON THE MOTION, WHICH PASSED WITH A VOTE OF 4 -1 WITH MAYOR ARNOLD VOTING IN THE NEGATIVE.**

Mrs. Hess asked if they could delete Tennessee out of the sidewalk project. Mayor Arnold stated that unless the contractor agrees to delay, they will have the sidewalk in. Mrs. Hess then asked if they could put the sidewalk on the other side of Tennessee. She stated that if they are looking at a safety feature, it will be difficult to see a small child right behind her car when she backs out of the driveway. Mrs. Hess then asked if the Commission would just grant her one request and just put the sidewalk on the other side of the street. Mr. Scott stated that to delete a street would be much easier than moving the sidewalk across the street. Mrs. Hess stated that she is not a second class citizen. Mr. Morgan stated that he felt that they should at least ask for a delay until Mr. Petrey can look at it. Mayor Arnold stated that he will ask Mr. Petrey. Mr. Wyckoff stated that there needs to be a motion, second, and vote to take any action to direct the City Engineer. Mr. Scott stated that if they are going to delay putting in the sidewalks, they better move on it.

Mr. Hess stated that primarily they want it deleted. **MAYOR ARNOLD MADE A MOTION TO ASK THE CONTRACTOR IF TENNESSEE CAN BE DELETED FROM THE SIDEWALK PROJECT, AND IF IT CANNOT BE DELETED, CAN THE SIDEWALK BE PUT ON THE OTHER SIDE OF THE STREET. COMM. STRONG SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.**

Mr. Hess stated that the sidewalk on Tennessee will be delayed a short while because they have roofers coming on October 17th and the contractor knows about it. Mayor Arnold stated that they are now using Tennessee as a staging area.

4. OLD BUSINESS - School Charter Study Status

Comm. Shermer stated that the Community Application Review Board met Thursday and voiced their recommendation for approval of Academica's application for a charter school, which will go on to Dr. Tibbetts. He stated that it is not site specific, but it gives Academica the right to operate a charter school somewhere in the County. Comm. Shermer stated that it is projected to be on the October 24th School Board Agenda.

At 7:36 PM, Mayor Arnold stated that there would be a ten minute recess. 10 minute recess. The meeting reconvened at 7:43 PM.

5. NEW BUSINESS - Resolution No. 11-10-10-11 Amend Employee Handbook

Mrs. Johnson read Resolution No. 11-10-10-11 a resolution amending the City of Valparaiso personnel policies and providing an effective date. She reviewed the changes made in the resolution. Mr. Wyckoff stated that the information on the Family Medical Leave Act was suggested by the attorney. He then pointed out that an employee must have worked for the City for at least twelve consecutive months and at least 1,250 hours during the preceding twelve months prior to the request for leave. **COMM. STRONG MADE A MOTION TO ADOPT RESOLUTION NO. 11-10-10-11 AMENDING EMPLOYEE HANDBOOK. COMM. MILLER SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.**

6. OLD BUSINESS - Ordinance No. 619 New Zoning District Public Institutional

Mayor Arnold stated that tonight would be the second and final reading of Ordinance Numbers 619, 620, and 621. He stated that attestment was received from the Daily News, which appeared in the paper on September 30, 2011. Mayor Arnold then read the notice. Ordinance No. 619 (Attorney Recommendation) an ordinance of the City of Valparaiso creating a new zoning district, Public Institutional, with sub-categories, and providing for (1) findings, (2) repeal of conflicting ordinances, (3) severability and (4) an effective date.

7. OLD BUSINESS - Ordinance No. 620 Land Use Change

Ordinance No. 620 (Attorney Recommendation) an ordinance of the City of Valparaiso, Florida amending its adopted Comprehensive Plan; providing for purpose; providing for land use change to 13 acres of land MOL; providing for Future Land Use Map amendment, and providing for an effective date.

8. OLD BUSINESS - Ordinance No. 621 Rezone Valparaiso Elementary School

Ordinance No. 621 (Attorney Recommendation) an ordinance of the City of Valparaiso, Florida amending its Zoning Map; providing for a purpose; providing for a zoning change to 13 acres MOL of land from C-1 Commercial District Limited to Public Institutional P/I, Elementary School E/S, providing for Zoning Map amendment, and providing for an effective date.

Mayor Arnold asked for counsel from the City Attorney. He stated both versions of each ordinance (Planning Commission and the City Attorney). He asked Mr. Wyckoff which version were they talking about. Mr. Wyckoff stated that it is the law in the State of Florida that a proposed ordinance can be changed up to or right before the vote. He stated that the charge that the Commission gave him was to pursue to preserve Valparaiso Elementary as an elementary school, as it has been since 1953. Mr. Wyckoff stated that the Planning Commission is a recommending body; therefore, they had a public hearing and the quasi-judicial proceeding on August 16, 2011. He

School
Charter
Study
Status

Resolution
No.
11-10-10-
11
Amend
Employee
Handbook

Ordinance
No.
619
New
Zoning
District
Public
Institu-
tional
Final
Reading
Attorney
Recommen-
dation
Ordinance
No. 620
Land Use
Change
Final
Reading
Attorney
Recommen-
dation

Ordinance
No.
621
Rezone
Valparaiso
Elemen-
tary
School
Final
Reading
Attorney
Recommen-
dation

stated that they have the original DVD, and the two versions of each ordinance because what the Planning Commission came out with does not do what he was charged to do. Mr. Wyckoff stated that he recommends the Commission adopt Ordinance No. 619, which is stamped Attorney Recommendation, and includes Public Institutional P/I. He stated that the sole responsibility in zoning matters is for the Commission to protect health, safety, and welfare of the City of Valparaiso. Mr. Wyckoff stated that the ordinance creates a category of zoning called Public Institutional and sub districts called Elementary Schools, Community Recreation, Public Parks, Playgrounds, etc. He further stated that the property is currently zoned Commercial Limited and would allow for a whole range of commercial type uses, which would be a departure of what has existed on that site.

Mr. Wyckoff stated that Comm. Shermer was in front of the Planning Commission, the School District was there (Mr. Nobles, Mr. Jeff McInnis, and Dr. Smith). He stated that Mr. McInnis made a presentation and provided two letters from Superintendent Tibbetts to the Mayor. As a basis for consideration, Mr. Wyckoff stated that he would summarize the evidence, because they had a quasi judicial proceeding, and it is closed. Mr. Wyckoff stated that there will be no further evidence on which to base their findings. He stated that the witnesses included Comm. Shermer, Miss Shermer, and Mr. McInnis. Mr. Wyckoff stated that Mr. Rolando Llanes, an architect, testified and gave expert testimony. He stated that Mr. Llanes is an expert in design of schools and he referenced a number of materials used. Mr. Wyckoff stated that Mr. Llanes has been a registered architect since 1990 and has owned his firm since 2003. He then summarized some of Mr. Llanes working and educational experiences. Mr. Wyckoff stated that one of the points made in Why Johnny Can't Walk to School, as brought out in Mr. Llanes' testimony, is exactly what these ordinances do. He stated that Valparaiso is trying to protect the integrity of the community. Mr. Wyckoff stated that Mr. Llanes testified that if people would be bringing children to school, it would increase traffic for local businesses. He stated that other than the two letters, the School Board did not give any testimony. Mr. Wyckoff stated that it is arbitrary and capricious to speak against the evidence, and that this needs to be in the minutes to have a valid basis for the Commission's vote.

Mr. Wyckoff stated that Miss Shermer, who lives on John Sims Parkway testified and referenced childhood obesity and stated that walking to school was good for children. He stated that Mr. McInnis, representing the School Board, said that the objection he made was that it was done without input, appropriate zones are not given any time. One of the letters from the School District says they have no current plan to use the property for anything in particular. Mr. Wyckoff stated that they had a variety of expert information. He stated that there a lot of beautiful designs on the DVD that Mr. Llanes has done and he then showed some of the pictures. Mr. Wyckoff stated that the City also has the return receipt certified mail notices. He further stated that the School Board (Mr. Nobles and Dr. Smith) are here tonight. Mr. Wyckoff stated that at this point, under Roberts Rules, there needs to be a motion and a second before there is discussion on Ordinance No. 619. He stated that his recommendation is to adopt the Attorney recommendation for Ordinance No. 619. **COMM. SHERMER MADE A MOTION TO ADOPT THE ATTORNEY VERSION OF ORDINANCE NO. 619, AN ORDINANCE OF THE CITY OF VALPARAISO CREATING A NEW ZONING DISTRICT, PUBLIC INSTITUTIONAL, WITH SUB-CATEGORIES, AND PROVIDING FOR (1) FINDINGS, (2) REPEAL OF CONFLICTING ORDINANCES, (3) SEVERABILITY AND (4) AN EFFECTIVE DATE. COMM. MILLER SECONDED THE MOTION.** Comm. Kelley stated that she will make the same points as she previously stated. She stated that she feels they do have a letter from the School Board, and that they are asking the City to hold off. Comm. Kelley stated that she would in turn like to see us consider the Planning Commission version that we gave them the duty and responsibility to look into and make a recommendation to this board. We have now denied and turned our back on the very entity that we gave the authority to make a recommendation to us. Mayor Arnold stated that he feels that it is not prudent to rezone today without the Air force data that is due next year. He suggested that they wait until the data is made available. Mayor Arnold stated that the proposed ordinance does not guarantee an elementary school. He stated that until the final EIS and ROD are published by the Air Force, he thinks it is premature and not prudent. Mayor Arnold asked what the three ordinances were doing for the City. He stated that there has been no indication that the School Board is going to do anything with the property. Comm. Shermer stated that this is not true. He stated that they do not preclude the School Board from doing anything. He stated that they can do whatever they want, but they have to apply for a zoning change. Comm. Shermer stated that they need to talk and see what they plan for thirteen acres in the middle of the City. He stated that they need to meet openly in the Sunshine with attorneys. Comm. Shermer stated that that it does not preclude the School Board, but it just insures that they will talk with the City first. Mayor Arnold disagreed. Comm. Shermer stated that as far as the assertion that they disregard the Planning Commission is "Hogwash". He stated that they listened to the Planning Commission and they incorporated their ideas into the Attorney recommendation. Comm. Kelley stated that one of the Planning Commission members gave their resignation. Mayor Arnold stated that the Planning Commission vote was 3 - 2 and two members abstained. Comm. Shermer stated that the assertion that the ordinances restrict the School Board from performing their duties is false.

Mr. Greg Stewart, Attorney with Nabors, Giblin and Nickerson, Tallahassee, Florida, stated that he was appearing on behalf of the School Board. He stated that with all due respect, the Planning Commission rejected this concept that it should be limited to an elementary school. Mr. Stewart stated that the School Board should have the flexibility for things that could best serve the community. He stated that they would ask the Commission to approve the Planning Commission recommendation. Mr. Stewart suggested that the Attorney's recommendation version is really a repackaging of the same ordinance rejected by the Planning Commission. He stated that the Commission has the power to do any act as long as it is not inconsistent (power for cities within the state). Mr. Stewart stated that it clearly gives the School Board power to establish schools and attendant zones and Florida Statutes provides that School Boards have power to determine what building will be used for what purposes. He stated that the School Board cannot come to Valparaiso and tell them what they have to do. Mr. Stewart stated that what the City has done and expressly said what they are trying to do is to say that they must put an elementary school on the property. He stated that they can put reasonable restrictions, but not to dictate a particular use. Mr. Stewart stated that the Attorney is trying to do this, and it is clearly overstepping the bounds of Government. He stated that this is what is being done by the Attorney recommendations. Mr. Stewart stated that he understands about the elementary school closing, but under their system of laws, they have to respect the power and authority given to others; the attorney's recommendation ignores this. He stated that we ask that you approve the ordinances recommended by the Planning Commission; the School Board agrees and upholds that these are appropriate. Mr. Stewart stated that Dr. Smith and Mr. Nobles would be happy to answer any questions.

Mr. Herb Jones, 366 Illinois Avenue, stated that the zoning in C-1 impacts the value of his home in many ways. He stated that he does not think that the School Board should be allowed to put anything but a school on the property. Mr. Jones stated that a school will help the City of Valparaiso. He stated that it would be great if the School Board would put a school on the property, but with C-1, they could put a dumpster in there. Mr. Jones stated that he urges the Commission to vote for the Attorney recommendation.

Mr. Rodney Nobles, Deputy Superintendent for the School Board Operations Crestview, stated that he would like to clarify Mr. Jones' concerns. He stated that the School Board is in favor of the Planning Commission's recommendation and he further stated that Mr. Wyckoff read off some of the things that could go there and none of them negatively affect the property. Mr. Nobles stated that he sees no defamation of anyone's property value.

Mrs. Diane Miller, 2 Hickory Lane, stated that the School Board cannot be depended on. She stated that she has been to numerous meetings and she further stated that you cannot trust the School Board. Mrs. Miller stated that the City wants the property to be allowed for a school only and that if they do not change it, the School Board can do anything with the property. She stated that the area is for children. In response to Mrs. Miller's comment concerning Comm. Kelley being in the DROP Program, Mr. Nobles stated that once she is in the DROP, your retirement is set and it cannot be changed. Mr. Nobles stated that he would like to clarify that they are not against Public Institutional zoning, which allows only public things to be put on the property. He stated that again, as a property owner, he sees no detriment to anyone's property. Mr. Nobles stated that Public Institutional rezoning will do exactly what Valparaiso is asking for. He stated that they are opposed to Public Institutional Elementary School only. Mr. Nobles stated that it limits the School Board. In response to Mrs. Miller's inquiring concerning whether this was in writing, Mr. Noble stated that it was in the rezoning law.

Ms. Marion Cook, Eglin Planner, asked if this was only on Ordinance 619. She stated that she would hold her comments until later.

Mrs. Fedonczak stated that she was representing Valparaiso Realty and that when her Grandmother sold to the School Board for \$5,000, she intended that it be used as an elementary school. She stated that as a former student at Valparaiso Elementary, she thinks the charter school is a great idea. Comm. Strong asked what the School Board was going to put in there and he further stated that it looks like they will approve a charter school and he asked if it would be at the Valparaiso Elementary School location. He asked what were the recommendations from the School Board. Comm. Strong asked if they were going to put an elementary school back on the property. Comments from the School Board representatives were that no one has stepped forward to lease the property and further there is talk about a science teacher training facility or a STEM Program being there. It was further stated that there has been other charter schools that has approached the School Board. Mr. Wyckoff reminded everyone that the evidentiary portion has been over for two months. In response to Comm. Strong's inquiry concerning whether the School Board can do everything they want with the attorney's recommendation, Mr. Nobles stated "No". Comm. Strong stated that the School Board just have to come before the Commission for approval. Mr. Nobles stated that there lays the problem. **THE VOTE WAS HELD ON THE MOTION, WHICH PASSED WITH A 3 - 2 OF THE COMMISSION, WITH MAYOR ARNOLD AND COMM. KELLEY VOTING IN THE NEGATIVE.**

Ordinance No. 620 amends the adopted Comprehensive Plan and for Future Land Use Map amendment, with this new category. Mr. Wyckoff stated that just as they went over Ordinance No. 619, the recommended version of the Planning Commission did not satisfy the will of the

Commission to preserve the property as an elementary school. Therefore, this proposed Ordinance No. 620 amending the Comprehensive Plan MOL 13 acres of land and Future Land Use Map amendment accomplished what the Commission charged be done many months ago. Mr. Wyckoff stated that this will change the parcel designation in the Future Land Use Map to Public Institutional Elementary School.

COMM. MILLER MADE A MOTION TO ADOPT THE ATTORNEY RECOMMENDATION OF ORDINANCE NO. 620, AN ORDINANCE OF THE CITY OF VALPARAISO, FLORIDA AMENDING ITS ADOPTED COMPREHENSIVE PLAN; PROVIDING FOR PURPOSE; PROVIDING FOR LAND USE CHANGE TO 13 ACRES OF LAND MOL; PROVIDING FOR FUTURE LAND USE MAP AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE, AND TO INCLUDE THE CHANGE AT THE TOP OF PAGE 2, "FROM C-1 COMMERCIAL" COMM. SHERMER SECONDED THE MOTION. Comm. Kelley stated that she would like to go on the record that she thinks that the litigation could break our little City, we cannot afford this and it is not the right thing to do. Comm. Shermer stated that he would like to go on record and said that what Mrs. Miller pointed out and what Comm. Kelley responded to are the grounds that are needed to prove there was a technical legal conflict of interest by Comm. Kelley. Comm. Kelley stated that she is a retiree, has already signed the contract, her terms are in the contract. Mayor Arnold stated that Comm. Kelley voices the same concern as he did before. He stated that he thinks this is premature. Mayor Arnold stated that they need the Air Force study showing the noise guide for the F-35, and that until they have it, they are not making headway.

Mr. Stuart stated that he would like to incorporate his comments into both Ordinance Numbers 620 and 621.

Ms. Marion Cook, Eglin AFB, stated that concerning the land use change, the Western portion of the playground is in the Accidental Potential Zone 1, and is not compatible. She stated that the proposed category only allows an elementary school, but other uses would be allowed in an Accidental Potential Zone. In response to Ms. Cook's comment, Mr. Wyckoff stated that it changed the land use category. Ms. Cook stated that in looking at it, C-1, is not a land use category. Comm. Shermer stated that the playground is not in APZ 1, indicating that the area has been utilized as a baseball field. He stated that only the upper level area is in APZ 1, and that the City is aware of this. Mayor Arnold stated that it is still part of the parcel.

Mrs. Miller stated that the same token about the Valparaiso Elementary School property being in the APZ 1, Cherokee Elementary School is also in the APZ zone.

Mr. Joe Morgan, 289 South Bayshore Drive, stated that he is thoroughly disappointed by your previous vote. Comm. Shermer and Mr. Wyckoff, I think you have hijacked this meeting, we decided that we could not proceed any further and could not listen to a letter presented by the School Board. He stated that there is something that is inherently wrong. Mr. Morgan stated that the Mayor has stated the reasons that they should not do this now, and as a citizen, he cannot understand this. He stated that these are ordinances, they have a profound impact and expose the City to liability. Mr. Morgan stated that he would wish that the Commission in their ability to look at the facts and consequences in proceeding or not proceeding. He stated that there is no cost in delaying this.

THE VOTE WAS HELD ON THE MOTION, WHICH PASSED WITH A 3 - 2 VOTE OF THE COMMISSION, WITH MAYOR ARNOLD AND COMM. KELLEY VOTING IN THE NEGATIVE.

Mr. Wyckoff stated that the decision concerning Ordinance No. 621 has to be based on the record. He stated that the School Board did not call any witnesses and only mentioned the two letters to the Mayor. Mr. Wyckoff stated that it would be arbitrary and capricious not to adopt Ordinance. He stated that on the fourth line from the bottom of Page 1, Attorney recommended Ordinance No. 621 Rezone Valparaiso Elementary School, PUBLIC INSTITUTIONAL, should be deleted and ES on the third line from the bottom should be deleted. COMM. SHERMER MADE A MOTION TO ADOPT THE ATTORNEY RECOMMENDED ORDINANCE NO. 620 AS AMENDED. COMM. MILLER SECONDED THE MOTION. Ms. Cook stated the western portion of the property is in Accidental Potential Zone 1. She stated that she understands that there are different type parks in this property and she would ask that the Commission look at this. THE VOTE WAS HELD ON THE MOTION, WHICH PASSED WITH A 3 - 2 VOTE OF THE COMMISSION WITH MAYOR ARNOLD AND COMM. KELLEY VOTING IN THE NEGATIVE.

Mayor Arnold thanked everyone for participating and further stated that the discussion has gone on for many months. He stated that he thinks there is a big gap in the communication and discussion with the School Board, as well as the mistrust of some of the School Board members.

1. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - TPO/DOT

TPO/DOT

Comm. Miller stated that FDOT will be conducting a public hearing in Milton seeking input on the Five Year Work Program.

2. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Stormwater

Stormwater

There were no stormwater issues.

3. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Legal Activities

Legal Activities

Mr. Wyckoff stated that they have what should be the finals in the Bradley litigation. Mayor Arnold, Mrs. Johnson, and Mrs. Rhodes have given depositions in the Pam Ives case, which Mr. Wyckoff stated was going no where fast.

4. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS – Planning Commission Vacancy

Mayor Arnold stated that there is a vacancy on the Planning Commission and they are looking for applicants.

6. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Okaloosa League of Cities Meeting October 18, 2011 6:00 pm

Mayor Arnold reported that the quarterly meeting of the League of Cities will be hosted by Fort Walton Beach and will be held at Two Trees Restaurant on October 18, 2011. He asked that anyone attending should notify Mrs. Johnson.

7. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Etc. - USDA Grant

In making application for a USDA Grant for the Nordberg lift station, Mr. Scott stated that he was advised that there was \$100,000 available and it might be something that the City could use for renovating/upgrading City Hall. Mr. Scott asked the Mayor to discuss this item at the special meeting to be held on October 17th.

1. ADMINISTRATIVE ITEMS - Minutes

Mayor Arnold recommended that the verbatim portion of the minutes of September 6, 2011 should be summarized in one sentence which indicates that Comm. Shermer was concerned with some performance activities of Mr. Scott. Comm. Shermer disagreed and stated that they need to leave the minutes the way they are. COMM. STRONG MADE A MOTION THAT THE MINUTES OF SEPTEMBER 6, 2011 BE APPROVED AS WRITTEN. COMM. STRONG SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.

COMM. STRONG MADE A MOTION THAT THE MINUTES OF SEPTEMBER 12, 2011 BE APPROVED AS WRITTEN. COMM. KELLEY SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.

COMM. SHERMER MADE A MOTION THAT THE MINUTES OF SEPTEMBER 19, 2011 BE APPROVED AS WRITTEN. COMM. KELLEY SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.

2. ADMINISTRATIVE - Bills Payable

COMM. STRONG MADE A MOTION TO PAY THE REGULAR BILLS AND VCA BILLS AS OUTLINED IN THE FINANCIAL STATEMENT(S). COMM. SHERMER SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.

ADJOURN

There being no further business to be brought before the Commission, the meeting adjourned at 9:04 PM.

John B. Arnold, Jr.
Mayor

Thomas G. Miller
Chair, VCA

ATTEST:

Tammy Johnson, CMC
City Clerk

October 10, 2011

The DVD labeled October 10, 2011 contains the audio and video of this meeting and will be kept as a permanent part of these minutes.

Planning
Commis-
sion
Vacancy

Okaloosa
League of
Cities
Meeting

USDA
Grant

Minutes
06
September
2011

Minutes
12
September
2011

Minutes
19
September
2011

Bills
Payable

Adjourn