

MINUTES  
CITY COMMISSION MEETING  
February 11, 2013

The City Commission met this date regular session in the Commission Chambers. The Invocation was given by Comm. Strong 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.
	:	Kay Hamilton
	:	Joe Morgan
City Clerk	:	Tammy Johnson
City Administrator	:	Carl Scott
Interim Police Chief	:	David Bruckelmeyer
Fire Chief	:	Mark Norris
City Attorney	:	Hayward Dykes
City Engineer	:	Roy Petrey
Public Works Director:	:	James Valandingham
Library Director	:	David Weatherford
Recorder	:	Beth Millsaps

Others in attendance: (Not inclusive) Joan Morse (camera), Daniel Elsesser (Bay Beacon), Clark T. Browning, Rob Holloway, Joe Cobb, Don Caverly, Steve Griner, Vivian Justice, Della Rhodes

Mayor Arnold welcomed the audience and stated that Comm. Diane Kelley would not be attending this evening due to previous meeting obligation. Mayor Arnold also recognized Interim Police Chief Bruckelmeyer who will be our Police Chief while we are looking into Chief Hart's replacement. He asked that anyone wanting to make any comments should raise his/her right hand to be recognized and use the microphone at the podium to address the Commission.

1. **ADDED AGENDA ITEMS**

Comm. Hamilton asks to add two items to the current agenda. One being a discussion regarding business tax receipts. She would also like to have an open discussion regarding the property behind the Compass Rose and the property ownership. It has been asked of her to make sure there are no issues when the building permit is applied for. Mayor Arnold asked if anyone had any problems with the additions, there were none.

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

Mr. Lynwood Knowles, 253 Bayshore Drive, he said he would like to recognize and thank our fire department. They had an emergency at their home early Saturday and he wanted to publicly thank Chief Norris and the fire department crew for their rapid response and assistance.

2. **CITIZENS' CONCERN (non-agenda items) – Non-resident**

There were no non-resident comments.

2. **NEW AGENDA ITEMS – Utility Bill Mailing**

Comm. Hamilton said she has been speaking with a customer who was very unhappy with our utility mailing situation. She said apparently our bills are mailed from Arizona which puts them pretty late for getting their bills paid on time and last month there was some type of glitch that put them even later and made it almost impossible to get paid in a timely fashion. Comm. Hamilton suggests we should look at this locally or in house, there are some companies locally that do this as she has researched. Mayor Arnold said he understood that the problem was coordinating the cable TV billing along with utility billing. Comm. Hamilton said that it has been awhile and maybe look into sending it out for a bid for someone to do locally, it is easily done. Mayor Arnold said bills are all due so many days after mailing. Comm. Hamilton said her thought is why we not have billing online or exploring that, is that feasible. Mrs. Johnson said next month she has a meeting to discuss online payments and the people who do our billing she had talked to them about emailing billing to the customers. She said that as far as changing the billing due date she didn't think that was a good idea, we do not know what happened with last month bills it is the first time this has happened. Mrs. Johnson said she had been told this months bills had been received around the 1<sup>st</sup> and 2<sup>nd</sup> of the month which is the normal. Last month we did extend the due date by a week. Mayor Arnold asked if we would like to delay any action until we hear back about the paying online options, Comm. Hamilton said absolutely she just wanted to bring it up so that we could be working toward a more efficient method and she thinks we should look into doing it locally, support our local businesses. Mr. Dykes said that we would need to pull the contract to make sure of what the terms are with who we use now.

3. **NEW AGENDA ITEMS – Ordinance No. 637 Fences & Retaining Walls**

Mayor Arnold conducted the first reading of Ordinance No. 637 an ordinance Amending chapter 98, Article VIII, Division 2, Section 98-174 of the Valparaiso Code of Ordinances and providing for (1) findings, (2) repeal of conflicting ordinances, (3) severability and (4) an effective date, he said this is an Ordinance cleaning up the existing ordinance and bringing things up to date, the seconded and final reading will be March 11<sup>th</sup>. Comm. Morgan asked if this Ordinance had gone through the Planning Commission, Mayor Arnold said no it is a rehab of what we already have on the books. Comm. Morgan said but at the same time there

Welcome  
by Mayor

Added  
Agenda  
Business  
Tax  
Receipts/  
Compass  
Rose

Citizen  
Concerns'  
Resident

Citizen  
Concerns'  
Non  
Resident

Utility  
Bill  
Mailing

Ordinan  
ce No. 637  
Fences &  
Retaining  
Walls

were deletions and changes, he feels procedurally this should go through the Planning Commission first. He said especially since we are trying to look with the Vision Committee and the Planning Commission on how we want Valparaiso to grow and those Ordinances that affect it. Comm. Morgan said he understands we are also trying to address the zero lot line that we put the moratorium on but he doesn't see the rush to do this when we have a Planning Commission that this affects. Mr. Browning answered the Mayor's question yes, he would take this to the Planning Commission. COMM. MORGAN MADE A MOTION TO POSTPONE THE FIRST READING OF ORDINANCE 637 FENCES & RETAINING WALLS UNTIL THE PLANNING COMMISSION HAS TIME TO REVIEW AND COMMENT BACK TO THE COMMISSION, COMM. HAMILTON SECONDED THE MOTION, WHICH PASSED WITH A 4 TO 0 VOTE OF THE COMMISSION.

**4. NEW AGENDA ITEMS – Audit Schedule**

Mayor Arnold said that the final audit will be delivered on March 11, 2013 the next Commission meeting.

Audit  
Schedule

**5. NEW AGENDA ITEMS – N Bayshore Drive Utility Lines**

Comm. Strong said he has worked with Mr. Petrey and Mr. Valandingham and the budget estimate worst case we are looking at 49k to extend water and sewer to N. Bayshore Drive. Mrs. Johnson said she had emailed the bond council to use unspent money from the bond and they wanted to know exactly what we want the money would be used for. Comm. Strong said he thinks we are very close on budget if we are short a little bit he would like to recommend to the Commission we could borrow not more than 10k from general fund reserves and pay back as the deposits come in. Comm. Strong said that would cover the cost but he didn't know the schedule. Mayor Arnold said he is concerned with the schedule because there is a house that is almost complete. Comm. Strong said the most critical is the sewer improvements we have broken it into two parts extend the waste water to the first home and extend the water line from there. Mr. Valandingham said in looking at costs and in water plant operation and materials we can absorb both of those numbers in the operations budget, he doesn't think we will need to dip into reserves. He said as far as timeframe goes once we get a material detailed list the turn around time would be ten to fourteen days for manhole structures and pipe delivery from any of our three suppliers. Mr. Scott answering the Mayor's question said the first should be ready for occupancy about a week to ten days max. Mayor Arnold said we need to expedite as soon as possible. Mr. Petrey said the time is reasonable there should be no hold up on it he needs to apply for permit. He said the water system improvements are something the Commission authorized four and a half years ago so that project is already designed and waiting to be built, only thing new is the sanitary sewer improvements. Comm. Morgan said one item that needed to be brought up for public discussion is that the roads portion of this has not been budgeted. He said Mr. Scott is drafting a letter of constructive notice that roads may not follow to provide sufficient road structure for emergency traffic etcetera, until those moneys become available in our budget. This is so all owners are aware and we relieve ourselves of liability, the road may be a dirt road for a long time. Mrs. Johnson said on the three houses we have already received the water and sewer tap fees. Mayor Arnold said we needed to move post haste so not to delay occupancy. COMM. HAMILTON MADE MOTION TO PROCEED IMMEDIATELY ON SOUTHSIDE OF NORTHSIDE WASTE WATER IMPROVEMENTS ON NORTH BAYSHORE DRIVE, COMM. STRONG SECONDED THE MOTION, WHICH PASSED WITH UNANIMOUS VOTE OF THE COMMISSION 4 TO 0.

N. Bayshore  
Utility  
Lines

**6. NEW AGENDA ITEMS – Request for Proposal Community Development Block Grant Services (CDBG)**

Mr. Scott said this would be a necessity this is the same firm that helped build our water tower in the past. Part of the regulations to apply for a CDBG you have to go through request to qualify, we have to go beyond this geographic area, and this would be for 700,000 in water/sewer improvements and also 50,000 from the EDA for the Vision Committee's strategic plan process. COMM. STRONG MADE A MOTION TO PROCEED, MAYOR ARNOLD SECONDED MOTION. Mr. Scott answering Comm. Morgan's question said the fee would be an 8% administration fee. Comm. Strong stated that would be taken out of the utility enterprise fund, MOTION PASSED UNANIMOUSLY BY A 4 TO 0 VOTE OF THE COMMISSION.

Request  
Proposal for  
CDBG

**7. NEW AGENDA ITEMS – Etc. Compass Rose Oyster Bar**

Comm. Hamilton said that Dr. Harris had informed her that the Compass Rose is looking to add an oyster bar and a dock behind the restaurant, which would be more business for Valparaiso. She said however there is always a concern when you are in that area and that before he launches into it we want to make sure we knock down any road blocks for that property use. Comm. Hamilton said Dr. Harris has spoken to Mr. Scott. Mr. Scott said he told him there is two ways to approach this issue if there is a question about ownership of this property he could apply for an encroachment agreement which we do allow structures on an easement as long as they don't bury sewer or water lines but we do have structures on our easements in the city right now, his is only going to be a 20 x 40 wood structure oyster shack. Mr. Scott said the dock thing would come in afterward because he told Dr. Harris that he would definitely have to go the DEP and the Army Corp of Engineers and get a permit through them. Comm. Hamilton said he was already working with them about the dock. Mr. Scott said the second deal is that if Dr. Harris thinks he has ownership of the property then he doesn't need anything from the City that is where it was left. Mayor Arnold said that he and Mr. Scott had

Compass  
Rose  
Oyster Bar

talked about it and there is no doubt in his mind that Dr. Harris has ownership of the property. Comm. Hamilton said she agreed with Mayor Arnold. Comm. Morgan asked why they think he has ownership. Mr. Scott said the reason that they believe Dr. Harris has ownership is that back in 2009 when he first began working with the City there was a case involving Comm. Hamilton when she was just a private citizen and the attorney ruled that property along that bayshore avenue from the water out was theirs. Mayor Arnold said that all we owned was an easement. Comm. Hamilton said just that portion on Bayshore on that side of highway 20 because the water is connected without interruption, and there is no road the property simply had an easement, if in fact they ever wanted to build a road. Comm. Morgan said this is the same argument we have been dealing with Mr. Roberts and others. Comm. Hamilton said that is why she wanted to bring this up it was time to put some of this to bed, those lots were already spoken for and that was years ago. Mrs. Johnson said that she didn't understand because public works uses that road to check on things and people would park there to fish, she thought it was public land. Mayor Arnold said it was his understanding that this oyster shack won't be in the right of way. Comm. Morgan said regardless with public perception as far as fishing etc that area is public property and until that gets resolved. Comm. Hamilton said it is not public property and it has already been resolved but let's do it again. Comm. Morgan said I think we need to do that, the issue needs to be addressed. He said Comm. Hamilton might be right but it needs to be clarified. Comm. Hamilton said she didn't think the public perception would be harsh on this when they have a big dock they can come and pull up to. Comm. Morgan said you might be right but at the same time and it is a dock on public property. Comm. Hamilton said the dock portion didn't have anything to do with Valparaiso. Comm. Morgan said but if you are tying into public property then we have to get involved. Mayor Arnold said also have the state right of way there and that is where most of the fishing is done from the beach. Mr. Scott said if you were going to do this then you need to go back we have a Commission ruling of 4 to 0 that the police department would no longer enforce public property rights on those docks along Bayshore Drive including Hartzog and Rosenbleeth including Hamilton's they are private property. Comm. Hamilton said that they could were even told they could post private property no trespassing signs if they wanted to. Mr. Scott said the Commission approved that 4 to 0 and if we are going to retract that then we need to retract that and go in a different direction but those are the rules we are playing by right now. Mrs. Johnson said but we just said this would be a "public" dock sort of anyone who wanted to come and park at it. Comm. Hamilton said no it wouldn't be a public dock it would be a commercial dock. Mr. Scott said it would be commercial dock because it is commercial property. Comm. Morgan said he still believes ownership is the key. Mr. Terry Griffin, 253 Grandview Avenue, he was present when all of this was going on before and he has a different take on what happened. He said he believes that road was left intact and I don't think that road was ever abandoned because we were in the middle of the other issue on the other side of the bay. He doesn't believe we ever abandoned that road. Comm. Hamilton said no they didn't specifically abandon that road. Mr. Griffin said in our City Charter in the plats that exist now, it would take abandonment of that road, for that property that is platted as public property to become private property. Comm. Hamilton said that is when we heard time and time again about property being a group of sticks, the story that is according to the attorney, the property is owned by the resident and the stick that is in the group of sticks is the easement was owned by the City. Comm. Strong said there is a 40 foot easement that goes from John Sims all the way to the end down there, it has utilities on it and it has never been abandoned. Comm. Hamilton said there has always been an easement and Mr. Scott said the easement would always be there. Mr. Griffin said if in fact if this is City property and the City has any intention of allowing a business on City property, then he is opposed to that. He said if we are allowing businesses to be put on public property then we are shooting ourselves in the foot. Mr. Griffin said it has to be specifically clear that is not city property before moving forward with that because of the lawsuit we are currently in on the other side of the bay. Comm. Hamilton said that is why she brought it up. Mrs. Johnson said she has been told that we have already cut trees down on that property and a few years back somebody had cut a tree down and a tree had to be replanted. Mrs. Johnson said if we were allowing trees to be cut down she has one in front of her property she would like cut down. Mr. Dykes said we need to look at what has been done in the past by the Commission through the minutes and do research to see what was done by the previous City Attorney. Mr. Dykes said he would be glad to look at it and instead of reinventing the wheel just go over what has been decided and add to it if we need to form a legal opinion.

7. **NEW AGENDA ITEMS – Etc. Business Tax Receipts**

Comm. Hamilton asked Mr. Scott if he would like to elaborate on this topic. Mr. Scott said it is time we address this issue especially regarding contractors. He said what is happening is that if you are a contractor in Valparaiso then you are being seriously penalized for living here, an outside contractor can renew his license at anytime and will pay \$25 regardless of when he renews. If that same contractor is a resident of Valparaiso he will pay \$100 to renew his license if he does not renew on time then he will pay up to a 25% penalty for not renewing his license on October 1<sup>st</sup>. He said it is bogus the way we treat our contractors. He suggests we make it an even playing field if you live in Valparaiso you pay the license fee when you have a job, if you don't have a job then you don't have to renew until you do and you are not penalized because you live in the City. He said we have one contractor with a physical address Key Lime and they will pay the license renewal. Mrs. Johnson said that we are not the only City that does this, Ft.

Walton Beach does this if you have a business within the City and you don't renew on time then you pay the fee along with penalty up to 25%, so it isn't that different. Comm. Hamilton said so other Cities are dumb too. Mrs. Johnson said we have the same city attorney as Ft. Walton Beach so we could ask him. Mrs. Della Rhodes, Deputy City Clerk, said that before there was a vote on this the businesses are inside Valparaiso so they are held to the same standard as any business in Valparaiso. She said if the business is late paying their license there is a 5% additional penalty for each month they are late up to 25%, those rules apply to all Valparaiso businesses. Comm. Morgan asked why we have to City certify contractors if we have county certification process? Mr. Scott said we do not certify contractors, we make sure if you are going to do business in the City you have proof of insurance, worker's comp or a waiver, and a state license to be issued a city business license. Mr. Dykes said you assume someone that travels in to your town they are paying a similar tax where they are from. Mayor Arnold said that we would postpone any action tonight and look into things. Mrs. Johnson stated that it was implied that the Deputy Clerk and I were wrong to charge the contractor a penalty. However, according to current regulations we are correct. Mr. Scott said yes.

**1. OLD BUSINESS –Sidewalk Update Plan I**

Mr. Valandingham said we are moving forward should be completed with project in the next 60 days. A tree was removed that was unsafe from in front of Trinity Church and plan to replace with two Crepe Myrtles.

Sidewalk  
Plat I

**2. OLD BUSINESS – City Charter Study**

Mayor Arnold said he would like to set a date to begin work on the charter study but with Comm. Kelley absent from this meeting they would set a date at the next meeting with the full Commission in attendance.

City Charter  
Study

**3. OLD BUSINESS – Lease Renewal SBA**

Mr. Dykes has reviewed the contract and consulted with Mr. Scott, no issue with the changes, main change was the addition of right of first refusal if the City was seeking to sell the property also ability to sublease or transfer the lease. This is a unique property that really can only be used for what it is used for now. Comm. Morgan verified it increased from 10% to 15% from a 13 year lease to a 65 year lease; he wanted to know what the ramifications might be. Mr. Scott said the lease renews automatically every 5 years the tower belongs to the company. COMM. HAMILTON MADE THE MOTION TO SIGN THE SBA LEASE RENEWAL, MOTION SECONDED BY COMM. STRONG WITH A 4 TO 0 UNANIMOUS VOTE OF THE COMMISSION.

SBA Lease  
Renewal

**4. OLD BUSINESS – Ordinance No. 636 Flood Plain**

Mayor Arnold said this ordinance would be delayed until the March 11<sup>th</sup> regular Commission meeting, due to timing of the legal advertisement.

Ordinance  
No. 636  
Flood Plain

**5. OLD BUSINESS –Building Purchase Opportunity**

Mayor Arnold said there has not been sufficient interest or sufficient dollars to move forward with looking into purchasing the property. Mayor Arnold said it would be approximately \$100,000 to renovate and at this time not something we want to pursue unless we would be able to sell the cable. Comm. Hamilton said she was for that.

Building  
Purchase  
Opportunity

**1. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS - TPO/DOT**

Comm. Morgan said there was not any new information. He said they are looking to the FDOT to provide more data on the two bridges that span Tom's Bayou. Mayor Arnold said we need to make sure we're able to maintain the utility lines on the bridge.

TPO/DOT

**2. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS – Stormwater**

Mr. Scott reported there had been one complaint and that was today on Bayshore where Glen Argyle dumps in to the bayou, water was about 8" deep it only lasted about 30 minutes then it was clear. That is what happens when you get a lot of rain in 30 minutes.

Stormwater

**3. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS – Legal Activities**

Mr. Dykes said Mr. Bowman needs to schedule an Executive Session for the Roberts's case, to discuss an offer and talk about litigation cost. The consensus was to schedule the meeting for Monday at 6:00 PM. Mr. Dykes said they have also received letters from Dennis & Davy firm out of Jacksonville regarding the malpractice claim against the Sundstrom firm and Douglas Wyckoff, they had requested copies of their malpractice insurance and will update the Commission when he has something to report.

Legal  
Activities

**4. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS – Planning Commission Report**

Mr. Clark Browning said they would look at Ordinance No. 637 at the next meeting and asked that Mr. Scott attend their next meeting on February 19, 2013.

Planning  
Commission

**5. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS –City Park Update**

Mr. Valandingham said the playground equipment has been removed from the STEMM center and moved to T J Brooks Park one is 100% complete and the other is 75% complete. He said that the drainage is working as designed and they are preparing to install signage. Mr. Valandingham said the funds are secure for the Boating Improvement Grant at Lincoln Park and they are going to remove existing materials and have a contractor install the new parking. He also announced the 2<sup>nd</sup> annual Easter Egg Hunt will take place in Lincoln Park March 30<sup>th</sup>.

City Park  
Update

**6. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS - Cable Router Update**

Cable Router  
Update

Comm. Strong said that Mr. Bennett was unable to attend meeting due to prior commitment. Comm. Strong said they did transfer to the new router but had to go back to the old router because of some problems that had occurred. He said Mr. Bennett had worked with the manufacturer and our consultant to identify the fix. He said at 3am on Friday morning they will once again change to the new router and should see some improvement in the internet will need to replace some of the black boxes. Then the next phase we will look at improving the speeds of the internet access. We see no budget requirements.

7. **REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Median Beautification Update**

Mr. Petrey said he is coordinating with Mr. Thompson to schedule a test hole, at Doolittle Park.

8. **REPORTS/CORRESPONDENCE/ANNOUCEMENTS –Vision Committee Update**

Mr. Scott said he had attended the February 7<sup>th</sup> meeting and that next meeting is on March 7<sup>th</sup> at 4 pm. He said they proceeding along with the SWOT analysis and coming up for questions for a survey for the residents. Mr. Rob Holloway (Chair of the Committee) said that even though they have only had two meetings he believes that all of the members are talented people who bring a lot to the table. He feels that the March 7<sup>th</sup> meeting will provide more substance and he will be glad to attend the next Commission meeting to update the Commission. Mrs. Johnson asked if work by the Vision Committee was being used to fill in information for the CDBG grant, Mr. Scott said no the Vision Committee had nothing to do with the CDBG grant but everything to do with the EDA.

1. **ADMINSTRATIVE ITEMS – Hiring Schedule for Police Chief**

Mayor Arnold requested from the Commission approval to begin the process of selecting a Police Chief so we can get an RFQ together. COMM. STRONG MADE A MOTION TO BEGIN THE PROCESS OF HIRING A NEW POLICE CHIEF, COMM. MORGAN SECONDED THE MOTION WHICH PASSED WITH A 4 TO 0 UNANIMOUS VOTE OF THE COMMISSION.

2. **ADMINSITRATIVE ITEMS – Minutes**

COMM. STRONG MADE A MOTION THAT THE MINUTES OF JANUARY 14, 2013 BE APPROVED AS WRITTEN. COMM. HAMILTON SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 4 TO 0 VOTE OF THE COMMISSION.

COMM. STRONG MADE A MOTION THAT THE MINUTES OF JANUARY 23, 2013 BE APPROVED AS WRITTEN. COMM. MORGAN SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 4 TO 0 VOTE OF THE COMMISSION.

3. **ADMINSTRATIVE ITEMS – Bills Payable**

COMM. STRONG MADE A MOTION TO PAY THE REGULAR BILLS AND VCA BILLS AS OUTLINES IN THE FINANCIAL STATEMENT(S). COMM. MORGAN SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 4 TO 0 VOTE OF THE COMMISSION.

**ADJOURN**

There being no further business to be brought before the Commission, the meeting adjourned at 7:02 PM.

\_\_\_\_\_  
John B. Arnold, Jr.  
Mayor

\_\_\_\_\_  
Heyward H. Strong, Jr.  
Chair, VCA

ATTEST:

\_\_\_\_\_  
Tammy Johnson, CMC  
City Clerk

February 11, 2013

\*\*\*The DVD labeled February 11, 2013 contains the audio and video of this meeting and will be kept as a permanent part of these minutes.\*\*\*

Median  
Beauti-  
fication  
Update

Vision  
Comm-  
ittee  
Update

Hiring  
Schedule  
for Police  
Chief

Minutes  
14 Jan 13

Minutes  
23 Jan 13

Bills  
Payable

Adjourn