

MINUTES
CITY COMMISSION MEETING
JULY 8, 2013

The City Commission met this date in 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.
	:	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) James Butler (camera), Mike Griffith (Bay Beacon), Bob Cross, Terrie Azevedo, Tom and Diane Miller, Rick Middleton, Betty Jones, Tom and Martha Woodcock, Andrew Colee, Lyn Knowles

Welcome by
the Mayor

Mayor Arnold said that Comms. Hamilton and Kelley would not be with us this evening. Comm. Hamilton is out of town and Comm. Kelley had other business to attend to. He welcomed the audience and stated that the Commission was interested in hearing their thoughts and comments. He asked that anyone wanting to make a comment should raise his/her right hand and to be recognized and use the microphone at the podium to address the Commission.

Sewage Spill

Mike Griffith with the Bay Beacon asked to be recognized. Mr. Griffith said he was working along the shores in both Niceville and Valparaiso taking pictures for the paper for the 4th of July weekend yesterday (Sunday) and noted the people playing in the water. He said shortly thereafter the Okaloosa County Health department notified the paper that on the 6th of July Saturday there was a sewage spill that might have contaminated the waters of Boggy Bayou and Tom's Bayou and wanted information as to why the public was not notified sooner. Mr. Valandingham verified that a spill did occur of approximately 58,000 gallons untreated wastewater entered the storms drains from multiple locations into Boggy Bayou and Tom's Bayou. Mr. Valandingham said later Saturday morning alarms sounded at lift stations 8 and 9, two of the 17 pump stations that keep sewage moving through the city mains. He said the alarms indicated that continuous heavy rain was forcing stormwater into the sewage system, overwhelming the ability of some pumps to move wastewater to the regional sewage treatment plant in Niceville.

He said because of the excess water some sewer manholes backed up along Bayshore Drive, particularly along the north shore of Tom's Bayou and near the juncture of Tom's Bayou and Boggy Bayou. Mr. Valandingham said the city public works crews immediately went to work to ensure that all city sewage pumps were working at maximum capacity, which they were. Mr. Valandingham said this around the clock effort continued throughout the weekend, and allowed city crews to withdraw an additional 150,000 gallons of untreated wastewater that could otherwise have spilled into the bayous. He said the city crews also placed lime around the affected manholes in order to kill as much bacteria as possible before the surging wastewater reached public waterways. Mr. Griffith asked why if the spill occurred on Saturday, why there was no apparent attempt to warn the public of the potential health hazards prior to Sunday, July 7th. Mr. Valandingham said that Valparaiso officials notified the Florida Department of Environmental Protection of the sewage spill as soon as they became aware of a potential health hazard, as they are required to by state regulations. He said the DEP is responsible for passing such notifications to the Florida Department of Health and all other relevant agencies. Mr. Valandingham said the city is not authorized to issue health warnings about water contamination, but that such warnings are the sole responsibility of the health department. Mayor Arnold said if any additional information was needed for Mr. Griffith to talk to Mr. Valandingham after the meeting. Mrs. Diane Miller, 202 Hickory Lane, asked if the signs were put up by the city, Mr. Valandingham said no the county puts up all notifications.

Citizens'
Concerns
Resident

1. **CITIZENS' CONCERNS (non agenda items) – Resident**
There were no resident comments.

Citizens'
Concerns
Non Resident

2. **CITIZENS' CONCERNS (non-agenda items) – Non-Resident**
There were no non resident comments.

1. **NEW AGENDA ITEMS – Added Agenda Items**

Mayor Arnold asked if any Commissioner had anything to add to the agenda, there being nothing new to add we would precede with planned agenda items.

Resolution
No. VCA
02-07-08-13
Amend
Budget

2. **NEW AGENDA ITEMS – Resolution No. VCA 02-07-08-13 Amend Budget**
Mayor Arnold read Resolution No. VCA 02-07-08-13 a resolution amending the fiscal year 2013 budget of the Valparaiso Cable Authority; due to an increase in expenditures;

authorizing revisions to be made to the monthly financial statements and providing for an effective date. Internet Equipment increase budgetary expense figure from \$0 to \$50,000.00 funds will be taken from the Cable Fund Reserve. COMM. STRONG MADE A MOTION TO PASS RESOLUTION NO. VCA 02-07-08-13, COMM. MORGAN SECONDED THE MOTION and added that this is what had been decided by the Commission to do a few months back to update the internet equipment. Mayor Arnold agreed said this Resolution would bring the books up to date. MOTION PASSED BY UNANIMOUS VOTE OF THE COMMISSION 3 TO 0.

3. NEW AGENDA ITEMS – Resolution No. 05-07-08-13 Audit Adjustment

Mayor Arnold read Resolution No. 05-07-08-13 a resolution approving a permanent transfer from the General Fund to the Utilities and Communication Funds. The following amounts the audit shows owed to the General Fund by the Enterprise Funds will be adjusted and the FY2013 Budget will be amended to reflect these actions: Water and Sewer Fund \$184,881 Communications Fund \$ 198,600 for a total of \$383,481. COMM. STRONG MADE A MOTION TO PASS RESOLUTION NO. 05-07-08-13, MAYOR ARNOLD SECONDED THE MOTION. Comm. Morgan said he wasn't clear what the Resolution was saying. Mrs. Johnson said after doing research back to 2005 she finds no evidence that money is owed. MOTION PASSED WITH A 2 TO 1 VOTE, WITH COMM. MORGAN VOTING IN THE NEGATIVE. Mr. Dykes said he thought the votes would all have to be unanimous tonight to carry because of the small Commission, Mayor Arnold said no the majority is still what passes the motions regardless if only three members present. COMM. MORGAN ASKED FOR A REVOTE, OR TO CHANGE HIS VOTE. MAYOR ARNOLD CALLED FOR A REVOTE ON THE MOTION, MOTION PASSED WITH A UNANIMOUS VOTE OF THE COMMISSION 3 TO 0.

Resolution
No.
05-07-08-13
Audit
Adjustment

4. NEW AGENDA ITEMS – Encroachments on Bayshore Drive for Boat Docks

Mr. Scott said this situation was started with Mr. Dibler, 1284 N. Bayshore Drive, who would like to extend his dock by 80' into the Bayou. Part of it has been vacated (NorthEnd Drive) but the other half is still public land. In order for Mr. Dibler to build he would have to have encroachment agreement with the city to build on public property. He said also Comm. Diane Kelley, 1281 N. Bayshore Drive, would also like to build a boat dock with an encroachment and so she has made application for the same privilege and the Lingard and Dietrick property holders, 1277 N. Bayshore and 1275 N. Bayshore Drive, has applied to repair their dock. Mr. Scott said at this time the Lingard Dietrick dock is almost in code enforcement status. He said part of this application was to get a survey of the repairing lines. Mr. Scott said now where the boat Big Therapy is parked, the dock is not where it needs to be, so now we have a dock exists where it doesn't belong and we have three applications for docks. Mr. Scott said also we have Mr. Pat Byrne, old owner of the property, that says he doesn't want anything there because he believes his grandmother's wish is to leave the shoreline in pristine state. Mr. Scott doesn't believe there is enough information available tonight to make a decision and this issue needs to be tabled until time for workshop where some rules could be placed. Mr. Scott said the Commission may want to task himself and the attorney to obtain ownership of property and then follow through. Comm. Strong would like to table this issue, he said several years ago with this same situation Pat Byrne said he would get with his uncle to see if we could obtain ownership, to put a stop to any of this. Mayor Arnold said the Commission developed a policy years ago stating no more docks on that section of North Bayshore Drive. Comm. Morgan said at the same time a lot of us are starting to see where it would be beneficial to the community and residents to do something with encroachment agreements and in that agreement could be restrictions on length of dock, orientation of the dock, maybe even placement, regardless he believes it should also be tabled to do a workshop and gather information from residents. COMM. MORGAN MADE A MOTION TO TABLE THIS DISCUSSION. COMM. STRONG SECONDED THE MOTION, WHICH PASSED WITH A UNANIMOUS VOTE OF THE COMMISSION 3 TO 0.

Encroach-
ment
On Bayshore
Drive

5. NEW AGENDA ITEMS – Resolution No. 06-07-08-13 Appoint Member to the Planning Commission.

Mayor Arnold read Resolution No. 06-07-08-13 a resolution appointing a volunteer to the City's Planning Commission and providing an effective date. COMM. STRONG MADE A MOTION TO PASS RESOLUTION NO. 06-07-08-13 APPOINTING MR. KNOWLES AS A PLANNING COMMISSION MEMBER, COMM. MORGAN SECONDED THE MOTION. Mr. Bob Cross, 247 South Bayshore Drive, had a letter that was sent to him by another neighbor of Mr. Knowles', Mr. J C Baltz, who could not be at the meeting this evening. Mr. Cross read a portion of Mr. Baltz's letter, due to Mr. Knowles building a structure and ignoring the building code, Mr. Baltz doesn't believe Mr. Knowles should be appointed to any Commission. Mr. Cross asked if Mr. Knowles was appointed to the Planning Commission would he be allowed to vote on anything to do with his own property, Mayor Arnold said no. MAYOR ARNOLD CALLED FOR A VOTE ON THE RESOLUTION WHICH PASSED BY A 3 TO 0 UNANIMOUS VOTE OF THE COMMISSION.

Resolution
No.
06-07-08-13

6. NEW AGENDA ITEMS – Appeal Planning Commission Decision Variance Rose Court

Variance
Rose
Court

Mr. Lynwood Knowles, 253 S Bayshore Drive, is appealing the Planning Commission decision from the June 18, 2013 meeting for a variance. He said he had dropped off a drawing last week for all Commissioners showing the original Plat VI showing the dimensions of lot 24, which is the lot in question, from 1921, he said those dimensions have not changed. Mr. Knowles said he had addressed the criteria for variance. He said there are a couple of approaches to build a home on lot 24 and he would like to share those. He said first he wanted to address our Land Development Code section 114-107, paragraph 3, subsection D, "where a lot or parcel of land has an area and width of less than the above required minimum (11,250) and was so recorded at the time of the passage of the ordinance from which this article is derived, such lot may be occupied by a single-family dwelling, provided it meets the minimum setback requirements", he said when he looked at that part and other parts of LDC he couldn't find any other conditional requirements that would change the reading of the LDC for that section. He said the lot has not changed its dimensions since its original plat in 1921. He said that is one approach to take another approach is to grant the variance requested. Mr. Knowles said it is a little over a 3% overall variance to allowing for a residential dwelling on lot 24, meeting the required setbacks of our LDC. Mr. Knowles said all the items that are required for a variance have been met and if the Commission had any questions he would be glad to address. He said a suggestion had been made that he take off 500' from his lots 1 and 2 to give himself the square footage required. He said he has looked at it but decided against it because when you look at market value it shows lots 1 and 2 is \$538,000, the cost of that 500 square feet would be a loss of almost \$7,000 from the property value. Mr. Knowles said it changes the lay of lots 1 and 2 and he doesn't want to do that. Mr. Knowles said that if the Commission wanted to they could use the LDC, he has contacted council on his part and they think the LDC would stand for that without a problem. Comm. Morgan asked if he built on lot 24 would he be willing to make all structures conforming. Mr. Knowles said no, the Planning Commission has approved the variance for the RV structure, after it has been there nine years. Comm. Morgan thought the City Commission had to approve. Mr. Knowles said no. Mrs. Johnson said if a resident was to appeal the decision to the City Commission then it would come before this panel.

Mr. Scott said to give some clarity, he said Mr. Knowles reference to the LDC has no bearing here, he said sometime between now and 1921 those three lots were combined into one parcel, he can't say that one preexist to the other. He said if we were going back to 1921 and saying that these lines are there then he has a non conforming structure on the property that he isn't allowed to have. He didn't think we could look at the LDC, in his opinion. Mr. Scott said the variance was split 2 to 2 for the variance on the 427 square feet. He said only appeals for variances come to the Commission. Mr. Browning said he believes what Mr. Scott said covered this issue.

Ms. Terri Azevedo, owner of property located at 255 Grandview Avenue, Mr. Knowles is talking about a \$500,000 property and losing \$7,000 if he took the land from himself and yet that is less than 1%, she said this is an encroachment on other people's properties and should be considered very carefully, and we should be careful about constantly encroaching on other people's properties, she said Mr. Knowles has other options available but doesn't want to use them, he would rather encroach on other peoples properties. Ms. Azevedo thought Mr. Knowles was asking for three variances, however he is not he is only asking for the one variance for 427 square feet. Mr. Bob Cross does not support the variance. Mr. Rick Middleton, 252 South Bayshore Dr, stated Mr. Knowles has not shown any undue hardship. A lengthy discussion continued.

COMM. MORGAN MADE A MOTION THAT MR. KNOWLES BE GRANTED PERMISSION TO BUILD ON 10,823 SQUARE FOOT VERSUS THE 11,250 PROVIDED BY CODE WITH THE PROVISO THAT ALL STRUCTURES, INCLUDING ANY EXISTING STRUCTURES, BE IN CONFORMANCE WITH CURRENT CODE. Mr. Knowles asked what he meant by all structures. Comm. Morgan said any structure that is on the property now or to be built on property. He said that way all buildings meet required set backs everything looks as it should on the lot.

COMM. STRONG SECONDED THE MOTION. Comm. Morgan answering the Mayor's question said the RV structure would have to meet code. Mayor said you are allowing an accessory structure with no main structure. Comm. Morgan said no because he would have build the home within one year. Mr. Knowles said if that is the motion and it is on the floor and seconded and we are now in the discussion phase then he was going to withdraw his request for variance, all of it. He reiterated he is withdrawing his appeal. Mr. Knowles said he doesn't have any variance pending but he does have a variance that has been approved by the Planning Commission for his RV structure and as long as he lives there and owns all three lots as one then he can keep what he has. Mr. Scott said that is correct.

7. **NEW AGENDA ITEMS – Ordinance No. 646 Sanitation Revision**

Mayor Arnold read Ordinance No. 646 an Ordinance of the City of Valparaiso amending Chapter 70 of the Valparaiso Code of Ordinances and providing for (1) findings, (2) severability, (3) repeal of conflicting Ordinances, and (4) an effective date. Mayor Arnold this Ordinance simplifies what we have on the books now and encouraged the Commission to read through the

entire document. Mayor Arnold said this is the first reading of the Ordinance with the second to take place at the August regular Commission meeting.

8. NEW AGENDA ITEMS – Procedure Change for Ordinance Adoption

Procedure
Change of
Ordinance
Adoption

Mr. Dykes submitted this recommendation to the Commission for review. He said last month's meeting there were several Ordinances regarding docks and fees and it was a repeat of the previous month because of the current procedure in place. Mr. Dykes suggests streamlining some of the process. He said in employing a new procedure which would ask the Commissioners to vote to approve a proposed Ordinance at both the first and second reading could help reduce the costs to the city by saving time for the city staff and advertising costs. Mr. Dykes said in his example from last month with several of the Ordinances for consideration many issues raised at the second reading could have easily been brought forward at the first reading and would have allowed for meaningful debate and public input. However, this did not occur, and the City spent additional costs associated with preparing and advertising for a second reading of Ordinances that did not pass. Mr. Dykes feels had there been debate and discussion and an ultimate vote that would not have approved the Ordinances, the matter would have been complete at the first reading therefore no additional costs for advertising or city staff work on the matter would have been required.

Mr. Dykes said this method is in effect with other municipalities that he presently represents and the process works well. He said just because someone voted for or against a proposed Ordinance at the first reading, does not mean that they may not change their vote at the second reading of the Ordinance, there are no significant pitfalls in voting on an Ordinance's language at the first reading. He said based on facts provided and his experience he recommends the City employ the practice of approving all Ordinances through a vote at both the first and second reading of any future Ordinances. Comm. Strong said he thought this would be a good idea. Comm. Morgan said it would help get the main points ironed out at the first reading.

1. OLD BUSINESS – FLOC Conference Resolution Submission

Mayor Arnold said if anyone has something concerning local or state government that would need to be submitted by July 10th. He asked if anyone has any draft resolutions if they could please get them to Mrs. Johnson before Wednesday.

FLOC
Confer-
ence
Resol-ution

2. OLD BUSINESS – Etc.

Mr. Thomas Miller, 202 Hickory Avenue, wanted to know the status of the charter review. Mayor Arnold said that the draft had tentative approval and was now under legal review. Once the legal review is completed it will come back before the Commission for approval, if it is approved, then it will be on 2014 ballot.

Charter
Review

1. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – TPO/DOT

Comm. Morgan said the TPO is considering reallocation of seats that sit on the board. One proposal doesn't have a seat for Valparaiso, however most proposals do not have that. Main effect to empower Okaloosa County Commission to have more power instead of cities. Most cities feel this organization is where we have voice in regional planning. He said he needed a consensus approval to support to continue to empower the smaller cities to have representation. Mayor Arnold and Comm. Strong agreed.

TPO/DOT

2. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Stormwater

Mr. Scott said that he had not received any stormwater complaints. Mayor Arnold did receive a report from Mr. Abel and that has been given to Mr. Petrey for further information.

Storm-
Water

3. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Legal Activities

Mr. Dykes said he didn't have anything further this evening but will have a status report regarding all pending litigation at the next regular meeting.

Legal
Activities

4. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – City Parks Update

Mr. Valandingham said that in Lincoln Park the manufacturer has agreed to replace a portion of the playground equipment and we are searching for ways to repair and replace the rest. Mayor Arnold said he would like to commend Mr. Valandingham and staff for their work on the 4th of July activities, regardless of the weather the activities shined through in thanks to the public works department.

City
Park
Update

5. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Planning Commission Report

Mr. Browning said he believes they have covered the Planning Commission meeting earlier this evening.

Planning
Comm.

6. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Median Beautification Update

Comm. Morgan said we are moving forward, Mr. Petrey will meet with the landscape architect on Wednesday at 8:30. He said then we will move forward with the beautification committee comprised of citizens.

Median
Beauti-
fication

7. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Visioning Committee Update

Mayor Arnold said there is no one in the audience to represent the Visioning Committee. Mrs. Johnson said they did meet last month and are scheduled to meet this Thursday.

Visioning
Comm.

8. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – SEIS Public Hearing July 9th 5:30 PM

SEIS
Public
Hearing

Mayor Arnold announced the meeting for the public hearing at the First Baptist Church tomorrow night. He said we have all the documentation at city hall plus noise curves superimposed on our city maps so each resident can see where their home falls in each noise area. Mayor Arnold said he thinks this process is flawed, that we are given the information which is a large volume of technical information to digest in only 3 ½ weeks and make comments at a public hearing, when the Air Force had a contractor working 2 years or more for millions of dollars. We are behind the power curve it is not fair, this is my own personal opinion. I think we were partially successful last time to get the concessions we got on the North/South runway and number of air craft, I envision we will have some success this time but he said this is the way it is and he will speak at the meeting.

Budget
Work-
Shop

9. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS – Budget Workshop

Mayor Arnold said we will have a budget workshop on the 15th of July at 6 PM it will be the first look at the total budget and we will set a tentative millage, reminding everyone that the rate can go down not up.

Appoint
Police
Chief

1. ADMINISTRATIVE ITEMS – Appoint Chief of Police

Mayor Arnold said that one applicant met all the requirements for the position and that was our former Chief, Joseph Hart. Mayor Arnold said as per our current Charter only a resident of the city can be the police chief. Mayor Arnold said he is eminently qualified. COMM. STRONG MADE MOTION TO GIVE MAYOR ARNOLD THE AUTHORITY TO NEGOTIATE SALARY FOR POLICE CHIEF TO BE APPOINTED BY AUGUST 1st, COMM. MORGAN SECONDED THE MOTION, WHICH PASSED BY UNANIMOUS VOTE OF THE COMMISSION 3 TO 0.

Letters
Of
Appre-
ciation

2. ADMINISTRATIVE ITEMS – Letters of Appreciation

Mayor Arnold said that we had received two letters of appreciation. He said a letter from Ms. Gina E. Marini had written to express her thanks and that of the museum for the city's support for the 37th Saturday in Park. Also Ms. Angela Demos, 1247 Bayshore Drive, had written to express her appreciation to the Valparaiso Police Department and Valparaiso Fire Department for their help when she recently had a medical emergency.

Minutes
June 3,
2013

3. ADMINISTRATIVE ITEMS – Minutes

COMM. STRONG MADE A MOTION THAT THE MINUTES OF JUNE 3, 2013 BE APPROVED AS WRITTEN. COMM. MORGAN SECONDED THE MOTION, WHICH PASSED BY UNANIMOUS VOTE OF THE COMMISSION 3 TO 0.

June 10,
2013

COMM. MORGAN MADE A MOTION THAT THE MINUTES OF JUNE 10, 2013 BE APPROVED WITH A GRAMMAR CHANGE ON PAGE 13, LINE 15 FROM "THEY" TO "THAT THERE". COMM. STRONG SECONDED THE MOTION, WHICH PASSED BY UNANIMOUS VOTE OF THE COMMISSION 3 TO 0.

June 17,
2013

COMM. MORGAN MADE A MOTION THAT THE MINUTES OF JUNE 17, 2013 BE APPROVED AS WRITTEN. COMM. STRONG SECONDED THE MOTION, WHICH PASSED BY UNANIMOUS VOTE OF THE COMMISSION 3 TO 0.

June 24,
2013

COMM. STRONG MADE A MOTION THAT THE MINUTES OF JUNE 24, 2013 BE APPROVED AS WRITTEN. COMM. MORGAN SECONDED THE MOTION, WHICH PASSED WITH A UNANIMOUS VOTE OF THE COMMISSION 3 TO 0.

Mayor Arnold commended Ms. Millsaps on a job well done.

Bills
Payable

4. ADMINISTRATIVE ITEMS – Bills Payable

Mrs. Johnson said the financial had not been included in the package but were ready now for review. She said the expenses and revenue are right on track for the nine month mark. COMM. STRONG MADE A MOTION TO THE PAY THE REGULAR BILLS AND VCA BILLS AS PENDING. COMM. MORGAN SECONDED THE MOTION, WHICH PASSED WITH A UNANIMOUS VOTE OF THE COMMISSION 3 TO 0.

Adjourn

ADJOURN

There being no further business to be brought before the Commission, the meeting adjourned at 7:50 PM.

John B. Arnold, Jr.
Mayor

Heyward H. Strong, Jr.
VCA, Chair

ATTEST:

Tammy Johnson, CMC
City Clerk

July 8, 2013

The DVD labeled July 8, 2013 contains the audio and video of this meeting and will be kept as a permanent part of the minutes.