

MINUTES
CITY COMMISSION MEETING
JUNE 10, 2013

The City Commission met this date in regular session in the Commission Chambers. The Invocation was given by Mayor Arnold 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.
	:	Diane Kelley
	:	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) James Butler (camera), Craig Toney, Daniel Elsesser, Bradley Van Boxtel, Kathleen Sparks, William M. Whittenburg III, Brandi Croft, Michelle Olinger, Laura Miller, Lynn Miller, Doy Miller, Meredith Maquardt, Jason Conrad, Malori Johnson, Dianna Dylewski, Eugene Dylewski, Casey Naylor, Andrew Jennings, Lyn Knowles, Tim and Darlene Burice, Mark Nelson, Dana Matthews, Alexa Sparks, Paul G. Sims, Allen Tucker, Stephen Griner, Jason Rosenbleeth, Charles E. Marquart, Travis Smith, Lisa Morelli, Harley Coltman, Cynthia Takmajian, Terry Griffin, Obie O'Brien, Don Caverly, Darren Boisjolie, Marcinia Simms

Welcome
by Mayor

Mayor Arnold welcomed everyone this evening and explained the procedure we use doing Commission meetings. He asked if anyone wishing to make a comment to raise their right hands, to be recognized and then come to the podium to speak.

Citizens'
Concern
Resident

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

Don Caverly, 113 Choctaw Cove, asked about a clear zone encroachment, he said in the SEIS, there would be approximately 18 to 20 homes the in impacted area and since the F35's are increasing their exercises he wondered the status. Mayor Arnold said any funds for the 18 to 20 homes that are in the clear zone would have to be appropriated by Congress and we are still awaiting the arrival of the updated SEIS scheduled for 14 June. Mr. Caverly said there was an article in the paper about the homes in the clear zone being purchased, Mayor Arnold said there were several errors in that article. One Valparaiso has never encroached on Eglin. Mayor Arnold said that more information will be known once the new SEIS is received.

Citizens'
Concern
Non
Resident

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

There we no non resident concerns this evening.

Added
Agenda
Resolution
for
beautify-
cation and
dock
discussion

1. NEW AGENDA ITEMS – Added Agenda Items

Mayor Arnold said Mr. Scott asked that an item be added to the agenda, a resolution to sign a contract with DOT on the beautification of John Sims Parkway. Comm. Morgan would like to add on to the agenda the issue of the Compass Rose dock, it was on the last agenda and not discussed and it might not be necessary tonight but then again it might be. Mayor said ok, Comm. Hamilton said there really isn't anything to discuss there isn't any more information on the matter.

Ordinance
No. 638-
642
Vacation
Right of
Way

1. OLD BUSINESS – Ordinance No. 638 – 642 Vacation of Right-of-Way

Mayor Arnold said this is the seconded public hearing on the ordinances, we do have proof of publication from the NW Florida Daily News, all of the copies of Ordinances have been on file with the city. Mayor Arnold read Ordinance No. 638, an ordinance of the City of Valparaiso granting the request of CAJTDM, LLC to vacate a portion of Bayshore Drive and providing for (1) findings, (2) repeal of conflicting ordinances, (3) severability and (4) an effective date. Whereas, the property owner, CAJTDM, LLC, the owner of the property located at 303 Glen Avenue, parcel number 12-1S-23-253B-0002-0220, Lot 22, Plat 2 has request that the Valparaiso City Commission vacate its right-of-way for a portion of Bayshore Drive as depicted in the survey attached hereto as Exhibit 1, in exchange for an Underground Utilities Easement in favor of the City, and whereas, the Valparaiso City Commission finds that there is no need for the property other than the Underground Utilities Easement being received back from the owner, and whereas, the Valparaiso City Commission finds that it is in the public interest to grant the request, thereby making the property more useable and valuable and increasing City ad valorem revenue, and whereas the Valparaiso City Commission finds that granting the request will not interfere with the County road system, and whereas, the owner has agreed that in the event it subdivides its property in the future, it will provide deeded access to Glen Avenue for all subdivided lands. Now therefore, be it ordained by the City Commission of the City of Valparaiso, Florida: Section 1: Findings. The foregoing whereas clauses are hereby

incorporated, adopted and confirmed as if fully set forth herein. The applicant's Vacation of Right of Way request and Technical Review Committee reports and recommendations are hereby incorporated by reference. Section 2: The request of CAJTDM, LLC 303 Glen Avenue, parcel number 12-1S-23-253B-0002-0220, Lot 22, Plat 2, to vacate the City's right-of-way for a portion of Bayshore Drive as depicted in attached Exhibit 1 is granted subject to CAJTDM, LLC executing (i) that certain Underground Utilities Easement attached hereto as Exhibit 2; and (ii) that certain Notice attached hereto as Exhibit 3 which provides any future subdivision of CAJTDM, LLC's property shall provide a deeded and recorded ingress, and access easement to Glen Avenue as to all subdivided parcels. Section 3 Severability The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph or section or clause is adjudged to be unconstitutional or invalid by any court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby. Mayor Arnold said the overhead display showed the locations of the properties applying for vacation, there are nine total parcels with five requesting vacations, four have not responded.

Mr. Dana Matthews, attorney for CDJTDM, LLC, Comm. Hamilton and Mr. Jason Rosenbleeth, said at the last meeting they had the Technical Review Committee approvals for vacations. He said he had met with surveyors and with our city engineer to determine the location for the city easements width depths. Mr. Matthews also spoke with Mr. Dykes regarding acceptable language for the utility agreement in favor of the city. Mr. Matthews said they had several meetings on site, talked to Mr. Petrey, the city engineer, who wanted the main described in the easement so the city would have no problem getting to utilities in the future. Mr. Mathews said there are 10 parcels with 8 property owners involved. He said some property owners are not involved in the request. He said all the utilities are drawn out through easement areas. Mr. Matthews said there was a question before where the "terminus" would be between Bayshore Drive and Spencer Place, he said Mr. Tucker is here this evening from Gustin, Tucker and Cothern, and Mr. Tucker reviewed his manuals, consulted with county engineer Bobby Johnson, and with Emerald Coast Associates and they agreed the most logical terminus is how Mr. Tucker had drawn it. He said the most important thing is that Mr. O'Brien has his walkway to access his own property, the proposed survey and easements do not block Mr. O'Brien. Mr. Matthews said there have been countless meetings and he believes they have answered any questions the city might have concerning the vacation. Mr. Dykes said Ordinance 130-2 the right of way the criteria on how it is vacated, there could be some questions, states the right of way does not provide sole access to any property, remaining access shall not be by easement. Mr. Matthews said there are four criteria that are to be met in 130-2 to vacate right of way and he believes they meet all four, however the one the Mr. Dykes references says if you abandon right of way you do not deny access to another property, remaining access should not be by easement. Mr. Matthews said the question is does anyone have access to Glen Avenue by easement that will be created by the right of way abandonment and the answer is no, is there an easement that goes back to 1979 for two properties that are adjacent to each other to access Glen Avenue then the answer is yes. Mr. Matthews said these are lots 18 and 19 and the owners have a predated easement on the southern 15' that is recorded, but he said it is clear that they are not asking to abandon the right of way to give them an easement. Mayor Arnold said his example is the second lot over from Compass Rose owned by Deidre's there is a structure on that lot adjacent to Tom's Bayou and also a structure on the lot adjacent to Glen Avenue and perhaps you would be cutting out ingress and egress to lower lot. Mr. Matthews said that is a unified owner of lots 21 and 3 in block 2, she can't divide property and land lock there are statutes that prohibit that from happening. Mayor Arnold said you might be land locking the southern most lot. Mr. Dykes said there are statutes that prevent you from doing that. Mr. Dykes said you could not sell that back corner lot and then say oh by the way you don't have access there. Comm. Morgan said lots 21 and 30 are already separate and if they want to subdivide they already have right of way through Bayshore Drive. Mayor Arnold said you might decrease the value of the Glen Avenue side.

Mr. Obie O'Brien, 324 Glen Avenue, the issue about lot 3 and 21 next to Compass Rose and deprive southerly lot access, there is the same problem on lots 9, 15, 8 and 16 are all a unified property and that would require them to provide an easement through their Glen Avenue lots to get to Bayshore lots, so that would likely devalue the lots, there are six lots involved. He asked if all Ordinances are going to be voted on in unison, Mayor Arnold said no the plan as of now it to vote on each separately. Mayor Arnold said on the survey there is a home that Mr. O'Brien mentioned that is not shown and asked if it had been demolished. Mr. O'Brien said no there is a house that that covers a good bit of lots 15 and 16.

Meredith Marquart, 1619 Date Palm Drive, said that she works at the Compass Rose for Dr. Harris, doesn't live in Valparaiso. She said several of the other audience members worked at the Compass Rose and that they are trying to create somewhere for everyone to come and relax, promote economic growth, not trying to devalue anyone's property. She is in support of the vacation of right of way.

Mrs. Dianna Dylewski, 198 Highland Street, she said as she understands it there are five parcels, four residential and one owned by the city. Mayor Arnold said the city doesn't own anything other than the right of way. Mrs. Dylewski said on February 19th of this year there is an acknowledgement of encroachment signed by Dr. Harris, on the property that Oyster Bar is being

built on, she said the statement read “I understand that I am securing no permanent property rights to city property for use and maintenance of this encroachment and cannot legally represent any interest to this property to others,” she understood that to mean that he is talking about city property. Mayor Arnold said at the time the encroachment was granted he was stating he had no rights to the property and now he is requesting a vacation of right of way. Comm. Morgan said at the time he requested an easement to improve the business and that was granted and now under separate process to vacate the right of way to gain all sticks in the bundle, if he sued for vacation that might be different but he can request a vacation by all means. Mayor Arnold said at the time the encroachment was granted he conveyed no personal interest in the property at that time, these are two separate issues. Mrs. Dylewski said then at this time the property belongs to the city and anything that was requested to be attached to it like a dock would be subject to the city. Mayor Arnold and Comm. Morgan agreed but Comm. Hamilton said that it is not city property. Mayor Arnold said that is what we were here for tonight. Comm. Hamilton said no it is not city property. Mayor Arnold said we do not have a deed to the property but it is the city right of way. Comm. Morgan said we have accepted the dedication by use. Mrs. Dylewski said she is not in support of the vacation especially for the area the Oyster Bar is on.

Mr. Obie O’Brien gave each Commissioner a hand out (acknowledgement of encroachment) he said he had emailed each Commissioner to specifically to tell him why they would’ve allowed for a private commercial structure to be built on city owned property. He only received a response but from three Commissioners. He feels that the encroachment is a legal document that should be enforced as such. He said he did get a copy of the proposal and also the encroachment agreement that states Dr. Harris has no permanent property rights. He said it states that Dr. Harris cannot have exclusive rights to the property and that the city has exclusive rights to all property and this is signed by Dr. Harris. Mr. O’Brien said it looks to him that we have something pretty enforceable here, something solid, unless there is something that isn’t being fully out in the public. He said now the owner wants to undo the encroachment and feels this is a situation that Mr. Dykes needs to look at. Mr. O’Brien said when he first received acknowledge of encroachment he thought this might be stairs to the shoreline or something similar not an Oyster Bar. He said he doesn’t feel there should be any other discussion on the right of way because the owner signed the encroachment acknowledging the property to be the city’s, that should be open to the public not just if you want to come in the Oyster Bar and plop down money but open to come and go without restriction. Mr. O’Brien said he would like an explanation of this and how we got into it and why we would issue something like the encroachment and not mean it. Mayor Arnold said this encroachment stands and it is law up until the time if this Ordinance should it be passed and then that would nullify the document because the property owners off Bayshore Drive would own it. Mayor Arnold said this is the agreement we have right now between the city, Compass Rose and Dr. Harris. Mr. O’Brien said this is like giving away city owned property and that it is his understanding that cannot be done with a bid process. Mr. O’Brien said several times in the encroachment it says this is city owned property and he doesn’t want his property to be given away. Mr. Dykes said just because the document says it is a city owned property does not mean it is a city owned property, the city has a right of way over the property. He said Florida law is clear that if you have a right of way, there is an Ordinance that allows the city to vacate the right of way. Mr. Dykes said at some time you might have a right of way that you might not want to keep or maintain the right of way that is why there is a process to vacate, we do not have a deed to the property that he is aware of, he said this and of itself does not equate to a deed, there are certain paperwork that has to be completed and we do not have that. Mr. O’Brien said he doesn’t see where this is for right of way, this talks about public property, city property. He wants the city to be upfront and honorable about how it conducts its public business, the agreement says what it says. It simply states it is city owned property, he said this structure shouldn’t be put on anything that is city property, and if it is then it should be able to be used by everyone or removed, he said he would be fine if it was removed right down to and including the pilings. Mayor Arnold said if there is any error there it is no intent or collusion, instead of city property it should’ve read city right of way.

Malori Johnson, 1251 Bayshore Drive, she wants to address what was said earlier about different plots of land, she said if this goes through how can the city tell a resident not to separate lots that they purchased separately. Mr. Dykes said no one is allowed to separate lots and land lock someone else. Miss Johnson said but if they separated the lots they own the city has nothing to do with those lots, how can city tell them that they can’t separate and sell. Mr. Dykes they can’t they just have to provide access. Miss Johnson said the only way to provide access is through their lots because the city has given away the way a resident could go through before. Mr. Dykes said that is incorrect that there are state statutes that would prevent that. Miss Johnson said but if this giving away of the right of way doesn’t go through the people can sell that lot now and they wouldn’t be land locked. Mr. Dykes that is correct. Comm. Hamilton said well she didn’t think that have ever been a primary access. Mayor Arnold said that is the same impression he got with the parcel that is adjacent to the Compass Rose, one on Glen and one on Bayshore Drive, there is a dwelling on both of those lots if we give away the right of way the southern most lot is land locked. Mayor Arnold said unless owner of northern property which

intersects on Glen Avenue provides an easement so the property is accessible. Miss Johnson said why do we force someone to give up part of their land because you want to make money off an Oyster Bar. Mr. Dykes said he didn't think we had received any objections from any other property owners, as he understood currently owners access lots off of Glen Avenue, nobody accesses off Bayshore but what is being said is that the city is forcing someone to provide access. I do not agree with that.

Comm. Hamilton asked that Mr. Matthews be recognized. He said he understands what is being said but his clients are agreeing to do this as part of this request. Mr. Matthews said the parcel owner they are discussing Ms. Schedwin talked to Dr. Harris and she was sorry she didn't get back to him sooner to file her application for vacation also. She supports this. He said the gentleman that owns lots 16, 8, and 9 is in a nursing home and couldn't get him to sign some sort of consensus that he agrees. Mr. Matthews said the other lot 11 those owners are a flag lot, they actually own on Glen Avenue. He said this has been noticed for two and half to three months for anyone with a problem to come forward. Mr. Matthews said the other thing he felt compelled to bring up because a comment from Comm. Morgan there is a question of who owns this property, the city does not own this property, the city owns the right of way assuming it is a right of way. He said 94 years ago was when this "alleged" plat was created for dedication, there has been no road and he feels it is important for the citizens and Commission to know there is no road hasn't ever been, won't ever be a road down Bayshore, never been a capital improvement plan, nothing set aside to improve it. He said there is no way to build a road, within city Ordinance have to have 100' road, 25' set backs for shoreline protection zone, indigenous plant species, sloping topography his clients aren't trying to deny anything to anyone for these properties on the Southside because they don't access their properties from this "alleged" right of way.

Mr. Craig Hamilton, 319 Glen Avenue, he said he didn't know if anyone had been down that road but he had lost his dog awhile back down that road and broke his truck axel trying to recover the dog. He said anyone who has a structure there already has another access to it, no one is going to use that road to access a structure. He said this road had been a problem for a long time that people would party down there and the police couldn't do anything about it and it is time for something to be done.

Mr. Terry Griffin, 253 Grandview Avenue, said he wanted to bring one thing clearly to the table, Mr. Matthew's said there is not a road there and no one uses it, he said currently he has seen Mr. Rosenbleeth use that road to get to his dock. He said if that isn't a road for public use then he doesn't know what one is. Mr. Griffin said he has walked this road since this all began, he said it is a good flat level land up to a point. Mr. Griffin then said to the Commission that it is currently public access and he didn't see any reason to do away with public access. Mr. Griffin said something was mentioned about the other side of the bay and he said that is completely different, this road is above the water, he said he doesn't feel we have done enough research. Mr. Griffin said that Mr. Matthews and his team have done a lot of work and he doesn't feel the city has done enough work, he wants more answers before we just abandon a right of way, from our attorney. Mr. Griffin said he didn't feel Comm. Hamilton had reason to be sitting up on the Commission making decisions on this issue because she is involved in the procedure. He said he would like Mr. Dykes to get an answer regarding the ethics of the situation.

Mr. Mark Nelson, 13 Coolwater Lane, Niceville, said he feels that the property was taken from the homeowner to make a right of way some 100 years ago and he has been down there and there isn't anything that looks like a road so it is time for the city to return that land to the homeowners. He said he is in favor of the vacation.

Mr. Allen Tucker, 1415 Bayshore Drive, Niceville, also engineer with Gustin, Cothorn and Tucker, he said he would like to speak to the availability to turn that right of way into a road that would be very expensive if not cost prohibited to develop. He said he thought Mr. Petrey would attest to that also.

Mrs. Kathleen Sparks, 106 Lake Lorraine Shalimar, works for the Compass Rose and knows Dr. Harris personally, he went through the process to obtain permits and legal means to approve. She said we knew that this would become an issue somewhere down line with the easement, because he wants to use the property for the Oyster Bar, she said he has a limited area that he wants to use for parking but she didn't see how it would restrict any access through it. Ms. Sparks said she would like to know who would maintain the easement the city or Michael, whose property would it be. Mayor Arnold said that if we abandon the right of way the city would have an easement that we would maintain but the land would belong to the property owners. Ms. Sparks said in knowing Michael Harris his intent is to bring jobs to this area and revenue not to hurt anyone or the environment. She said she does support the Oyster Bar and the easement. Mayor Arnold said he doesn't believe Dr. Harris's character has ever been in question. Mayor Arnold said the proposed easement is for utilities and those are underground.

Mr. Travis Smith, 1601 25th Street, Niceville, he also works for the Compass Rose, he said he had been down the horse trail and never realized it was suppose to be a road, he said it is almost in possible to walk much less drive. He feels Dr. Harris will do right by the property and other land owners, and he is supportive of whatever Dr. Harris has requested to do.

Mr. Obie O'Brien said he is very concerned with public perception and equal treatment for everyone. Mr. O'Brien said he feels the Ordinance is clear in 130-2 (D), "the remaining

access shall not be by easement". He said there should've been no meeting held because the requirements were not met. He said he mentioned this at the TRC meeting. He said there are three lots that will be by easement lots 17, 18 and 19. Mr. O'Brien said he wonders in the opposite situation if he would get the same treatment. He said he asked in his email to the Commissioners if they would set aside any consideration about vacation until the issues can be addressed that are in the Ordinance, then everyone will know what everyone is going to receive. Mayor Arnold said the TRC gave their opinions, he agrees with some points and disagrees with others. Mr. O'Brien continued to discuss the points against vacation. Mr. O'Brien in conclusion he is vehemently against vacation of right of way.

Ms. Spark asked if Dr. Harris owns the land where the Oyster Bar is being built, Mayor Arnold said no not as of right now he does not. She asked if that had to do with the easement and Mayor said yes.

Dr. Michael Harris, 205 Highland, said his neighbor Ms. Deidra Schedwin wanted to join the application for vacation but didn't get paperwork in on time, she access her house through a path on her own property. He said the Grimes own two lots and access their property through Glen Avenue. He just wanted to make sure that everyone knows that anyone who owns property located around these vacations have access to their properties by Glen Avenue, no easement would be needed.

Mr. Matthews said 94 years ago in the old plat book it might have made sense for the right of way to have been a round then but that hasn't been the growth patterns or building patterns of the times in Valparaiso. He said this is why there is an Ordinance and procedure to vacate right of way to vacate what is not necessary.

Mr. Brian Kawkins, lives in Niceville, says that he attends the Compass Rose weekly and knows that the Oyster Bar will bring a lot of money to the area. He said now that it was clear that the land where the Oyster Bar is located is not city owned he didn't know what the problem was here. He said he has driven down that road and tore the suspension up in his truck. Mr. Kawkins said he didn't know why you would want to put a halt to something that would bring money to the city.

Ms. Cynthia Takmajian, 370 Lincoln Avenue, said she supports Dr. Harris.

Mrs. Dianna Dylewski said she felt it needed to be clear that the land that was being discussed was not owned by Dr. Harris, it is up to debate over who owns it but the city has been using, she said she thinks we need to take a step back and wait until we have a full Commission to make a decision and look at its affects on the city as a whole.

Mayor Arnold said he thought everyone had been heard from and said he was going to do something that was fairly unheard of, he asked those who are in favor of the right of way, that live in the city to raise their hands and then those are against the right of way and live in the city. Mayor Arnold said it is about 3 to 6 against.

Mayor Arnold said he has several concerns that first of which to the attorney about voting, not so much with Comm. Kelley but with the other two Commissioners because of the property they own which maybe in question or set president for future. He said Comm. Morgan will not gain from this particular action, the decisions tonight will set the policy for the city in future activities as for regulations and utilizations for the shores of Tom's Bayou and that could in his opinion have a personal interest. Mayor Arnold said Comm. Morgan owns property on the other side of Tom's Bayou some 300 to 350 feet across from the Compass Rose. Mayor Arnold said Comm. Hamilton owns last property before you get to Spencer Place. He said that Comm. Kelley owns property in Plat I on Bayshore Drive. Mayor Arnold said he questions whether these Commissioner who will set policies and precedents should be voting on this issue.

Mr. Dykes said he did some research on the voting issue today and is familiar with the Commission on Ethics the tendency is to let a sitting Commissioner vote on the issues unless there is an idea they will receive a special benefit, the fact that there maybe a special benefit in the future voting on another issue, the Commission on Ethics has reviewed in past and their determination by in large were that if it was something speculative they are not going to tie the hands of the official to vote at this juncture. He doesn't believe that Comm. Kelley or Comm. Morgan voting would be a conflict. He said he doesn't believe the Mayor has a conflict. Comm. Hamilton in that she is one of the petitioners can't vote on her property. Mr. Dykes said it has come into question about Comm. Hamilton voting on the other properties, it is his understanding that Comm. Hamilton no longer works for or has any type of contractual obligations with the Compass Rose. Mr. Dykes said in his opinion Comm. Hamilton would have special gain voting on her property but with the others that isn't as clear, he said he would have to defer to Comm. Hamilton. He said he has spoken with Comm. Hamilton about this issue a few times before and knows she has struggled with the decision and he doesn't know what way she is leaning now. He said you look at each application on its own merits and that is why they each have their own Ordinance number, so he has advised her not to vote on her property, he can advise not to vote on the other properties, however she can chose to vote on the other properties and she would have to complete a conflict of voting form which would be submitted to the State of Florida and be subsequently reviewed.

Comm. Hamilton said she has struggled with this she found it very offensive that she felt some pressure, she has abstained from all the votes that had to do with the Compass Rose but

again she feels a responsibilities to the city, one of her primary things when running for office is to try to keep the city out of entering litigation, particularly losing litigation. She said she has been torn because we are looking at a lot of things she is looking at a singular particular thing, if this is voted down today we will without question be engaged in litigation, if we are hands down we can win and be righteous that would be great but in the interest of the city she feels like she is letting the city down with that hanging in the balance. She said she doesn't want to see the city in any further losing litigation. She said she has done a lot of soul searching and even though she finds it offensive some people's behavior about this subject, because she has been using her own conscience on this and has decided not to vote on the properties. Mayor Arnold asked if it would be on all five properties, she said yes she should just do it across the board, expect for the Rosenbleeth's, she feels she should vote on that and feels that is in the cities best interest. She said she didn't want to rescue on all the properties but for those dealing with her own property and Compass Rose properties. Comm. Hamilton said she did this not with a clear conscience because she feels a responsibility to the city not to see us enter further litigation.

Mayor Arnold said to Mr. Dykes his next question was if these Ordinances's did not pass tonight what would be the repercussion. Mr. Matthews said he knew exactly what was going to happen. Mr. Dykes said that there will likely be a lawsuit. He said he didn't want to comment on pending litigation. Mayor Arnold said he wanted to get everything on the table. Mr. Dykes said I'm not going to suggest to you not to do what you feel is right and do what the law will allow just because you want to avoid a lawsuit, as in anything having dealt with some of the other issues, litigation will be the next step if the vacations do not occur. Comm. Morgan said there are differences in this plat, Mr. Dykes said that there are factual differences, every case is different. Mayor Arnold said there is no good solution, he said possibility of approving this and it would lead to commercializing the Bayou and the Commission will lose control over any activities. He said he is personally opposed to the city getting rid of assets for the benefit of just a few residents. Mayor Arnold said he has seen property go away that we could've used down the road. Mayor Arnold recommended tabling this issue until there is a full Commission, since Comm. Strong is not here. Comm. Morgan said he agrees. Comm. Hamilton said she felt we had a quorum here tonight, Mayor said we do have a quorum. Comm. Morgan said a quorum isn't the issue, if we wait to Comm. Strong to be here he is another voice, who is inland and has no interest, he feels this is best for the public interest. Comm. Morgan said Dr. Harris still has his easement so he is able to continue to build so there isn't anything that can't wait. He said the real issue is it in the best interest of the public, he said this is the second hearing, we need more public input.

Comm. Kelley said she appreciates the comments that the Mayor and Comm. Morgan have made but we are getting into budget meetings, where we are all consumed with the budgets. She said one of our Commissioners is going out of the country so we might not be able to have four Commissioners if that is what we are waiting for. Mayor Arnold asked if Comm. Hamilton would be back by July and she said she didn't know. Mayor Arnold said she wasn't planning to vote anyway. Comm. Hamilton said that wasn't true she was going to vote on Rosenbleeth. Comm. Kelley said she just wanted to mention some other things to consider. Mr. Dykes said he thinks the Commission should ask the applicants since they are looking to have an answer tonight. Mr. Matthews said he appreciated the Mayor wanting to have all of the Commission together but they have been working on this since March and spent two hours talking about it tonight and would like to have a vote tonight. He said there is no mystery, it will either be approved or not, and said that Comm. Morgan might want to read the ruling by Judge Remington about using the applause meter, policy makers shouldn't use the applause meter to make decisions. Mr. Matthews said they would really appreciation a decision.

COMM. MORGAN MADE THE MOTION TO TABLE THE MEETING UNTIL THE NEXT REGULAR MEETING IN JULY, MAYOR ARNOLD SECONDED THE MOTION. COMM. MORGAN UNTIL THE NEXT MEETING OR UNTIL FULL COMMISSION. Mr. Dykes said when something is tabled it is done so until the next regular meeting if you want something beyond that then you have to be specific, it would be a motion to postpone. Comm. Hamilton says it needs to be voted on tonight. Comm. Kelley said she wasn't sure we would have that by waiting. Comm. Kelley said the TRC saw documents and had a hearing and submitted their opinions, this situation has been in the public purview for months. MAYOR ARNOLD SAID THERE IS A MOTION ON THE FLOOR, VOTE IS 2 TO 2, THEREFORE THE MOTION FAILS WITH COMMS. KELLEY AND HAMILTON VOTING IN THE NEGATIVE.

Mayor Arnold asked if we start with Ordinance No. 638 or 642, Mr. Dykes said 638 had already been read into record so we should start with that one unless there is a reason not to. Comm. Morgan said he thought all the Commissioners should state why they were voting the way they were and Mr. Dykes suggested do that in the discussion part of the Ordinance.

Mayor Arnold read Ordinance No. 638, an ordinance of the City of Valparaiso granting the request of CAJTDM,LLC to vacate a portion of Bayshore Drive and providing for (1) findings, (2) repeal of conflicting ordinances, (3) severability and (4) an effective date. Whereas, the property owner, CAJTDM,LLC the owner of the property located at 303 Glen Avenue, parcel number 12-1S-23-253B-0002-0220, Lot 22, Plat 2. COMM. KELLEY MAKES

THE MOTION TO PASS ORDINANCE NO. 638, Comm. Hamilton ask if she could second it even though she wasn't going to vote, Mr. Dykes said no. MOTION DIES FOR LACK OF A SECOND.

Mayor Arnold read Ordinance No. 639, an ordinance of the City of Valparaiso granting the request of CAJTDM, LLC to vacate a portion of Bayshore Drive and providing for (1) findings, (2) repeal of conflicting ordinances, (3) severability and (4) an effective date. Whereas, the property owner, CAJTDM, LLC, the owner of the property located at 307 Glen Avenue, parcel number 12-1S-23-253B-0002-0040, Lots 4 and 20, Plat 2. COMM. KELLEY MADE THE MOTION TO ADOPT ORDINANCE NO. 639, MOTION FAILS FOR LACK OF SECOND.

Mayor Arnold read Ordinance No. 640 an ordinance of the City of Valparaiso granting the request of CAJTDM, LLC to vacate a portion of Bayshore Drive and providing for (1) findings, (2) repeal of conflicting ordinances, (3) severability and (4) an effective date. Whereas, the property owner, CAJTDM, LLC, the owner of the property located at 989 Bayshore Drive, parcel number 12-1S-23-253B-0002-0170, Lots 17 and 18, Plat 2. COMM. KELLEY MADE THE MOTION TO ADOPT ORDINANCE NO. 640, MOTION FAILS FOR LACK OF SECOND.

Mayor Arnold read Ordinance No. 641 an ordinance of the City of Valparaiso granting the request of Catherine Hamilton to vacate a portion of Bayshore Drive and providing for (1) findings, (2) repeal of conflicting ordinances (3) severability and (4) an effective date. Whereas, the property owner, Catherine Hamilton, the owner of the property located at 321 Glen Avenue, parcel number 12-1S-23-253B-0002-0110, Lots 11, 12 and 13 plat 2. COMM. KELLEY MADE THE MOTION TO ADOPT ORDINANCE NO. 641, MOTION FAILS FOR LACK OF SECOND.

Mayor Arnold read Ordinance No. 642 an ordinance of the City of Valparaiso granting the request of Jason Rosenbleeth and Angelle Rosenbleeth to vacate a portion of Bayshore Drive and providing for (1) findings, (2) repeal of conflicting ordinances, (3) severability and (4) an effective date. Whereas, the property owner, Jason Rosenbleeth and Angelle Rosenbleeth, the owner of the property located at 991 Bayshore Drive, parcel number 12-1S-23-253B-0002-0190, Lot 19, Plat 2. COMM. KELLEY MADE THE MOTION TO ADOPT ORDINANCE NO. 642, COMM. HAMILTON SECONDED THE MOTION. Comm. Morgan feels vacation of these properties not in the public interest. VOTE OF COMMISSION IS 2 TO 2, THE MOTION DOES NOT PASS WITH COMMS. KELLEY AND HAMILTON VOTING IN THE AFFIRMATIVE AND COMM. MORGAN AND MAYOR ARNOLD VOTING IN THE NEGATIVE.

1. NEW AGENDA ITEMS – Median Beautification Resolution

Mayor Arnold read Resolution No. 04-06-10-13. COMM. MORGAN MADE A VALPARAISO, AUTHORIZING THE EXECUTION AND DELIVERY OF A LOCAL AGENCY PROGRAM AGREEMENT FP ID 416533-8-58-24 CITY OF VALPARAISO LANDSCAPE (PHASE I) WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION AND PROVIDING FOR AN EFFECTIVE DATE. COMM. KELLEY SECONDED THE MOTION WHICH PASSED BY 4 TO 0 UNANIMOUS VOTE OF THE COMMISSION.

2. NEW AGENDA ITEMS – Renewal Emergency Debris Removal Standby Contract

Mayor Arnold said he recommends to approve signing contract, we have to have means of removing debris after a natural disaster. COMM. MORGAN MADE MOTION TO APPROVAL SIGNING RENEWAL OF EMERGENCY DEBRIS REMOVAL STANDBY CONTACT, COMM. MORGAN SECONDED THE MOTION, WHICH PASSED BY A UNANIMOUS VOTE OF THE COMMISSION 4 TO 0.

3. NEW AGENDA ITEMS – FLOC Annual Conference Designation of Voting Delegate & Resolution

Mayor Arnold said we had to recommend a voting delegate for the Florida League of Cities Conference and Comm. Strong has been our previous delegate. Comm. Hamilton said she thought Comm. Strong did a fabulous job for our city. MAYOR ARNOLD MADE THE MOTION TO APPOINT COMM. STRONG AS OUR VOTING DELEGATE FOR THE FLORIDA LEAGUE OF CITIES CONFERENCE, COMM. MORGAN SECONDED THE MOTION WHICH PASSED WITH A 4 TO 0 UNANIMOUS VOTE OF THE COMMISSION.

4. NEW AGENDA ITEMS – Etc.

Comm. Morgan said there had been quite a bit of concern by boaters over the boating lanes how will they be affected if a commercial dock is placed by the Oyster Bar. He said that the length of the purposed dock is in excess of what is desired by most residents. Comm. Hamilton asked if these were residents around Tom's Bayou, Comm. Morgan said yes, Comm. Hamilton said she would like to see that list. Comm. Morgan said he thinks we should take a look at the length and size of that dock. He thinks it is a valid concern if you look at the trafficking pattern they travel the whole bayou length entering on the north side and generally make counter clockwise pattern. Comm. Hamilton says she lives on the bayou and that is not the way she has seen it go down, where did he get that information from.

Median Beautification Resolution

Renewal Emergency Debris Removal

FLOC Annual Conference

Etc. Oyster Bar Comm. Dock

Mr. Bryan Griffin, 336 Lincoln Avenue, he said he grew up on the bayou and that ski pattern Comm. Morgan is talking about is how the traffic flows. He said that is the way pattern is suppose to flow by law. Comm. Hamilton said that people don't do that. Mr. Griffin said the law is what you are supposed to abide by on the water. Mayor Arnold said those two points were selected as boat lanes. Mayor Arnold said it isn't cast in concrete nor does he think it is an ordinance, he feels those lanes could be moved if it is a problem. Mayor Arnold said in talking about a dock with the Compass Rose the city has no say so on residential docks once approved by Corp of Engineers and DEP the dock can be built. He said but a dock for Compass Rose would be a commercial dock and that has to be approved by the City Commission. Mr. Dykes said that is true. Comm. Morgan said to get those issues out in the open, they are utilizing our encroachment so we have the ability to restrict what we need to. Mr. Scott said this is a mute point, there is no application to the city for a dock.

Mrs. Dianna Dylewski, 198 Highland Street, said the chart belongs to her of the pattern it is not suppose to be a traffic pattern but there has to be structure on the way the Bayou is used because it is small and people do not go all the way down because of the mucky parts of the Bayou. She said she is a homeowner on the bayou, so many people that use it, you can not place a value on it. Mayor Arnold said that has always been the pattern that he has seen in all these years on the bayou.

Mr. Gene Dylewski, 198 Highland Street, said he sent a letter to Florida Marine Patrol and boat owner is responsibility for their boat, this is stated in a Florida Statute. So the talk of a wake zone or no wake zone is really mute. He feels the Florida Marine Patrol and Corp will weigh in and take care of things.

2. OLD BUSINESS – Ordinance No. 643 Licensing

Mayor Arnold read the ad for the notice of the public hearing for Ordinance No. 643 as it appeared in the Daily News. Mayor Arnold read ordinance no. 643, an ordinance of the City of Valparaiso amending Chapter 14, Article II of the Valparaiso code of Ordinances to require licensing, registration and business tax for all businesses and providing for (1) findings, (2) repeal of conflicting ordinances, (3) severability, (4) an effective date. MAYOR ARNOLD MADE THE MOTION TO TABLE THIS TO THE JULY REGULAR MEETING, so that he would have time to meet with Mr. Scott and Mrs. Johnson to make sure of what we would doing and the affect it would have. COMM. MORGAN SECONDED THE MOTION WHICH PASSED WITH A UNANIMOUS VOTE OF THE COMMISSION 4 TO 0.

Ordinance
No. 643
Licensing

3. OLD BUSINESS – Ordinance No. 644 Contractor Fees

Mayor Arnold this would be the final reading of this ordinance, which has been advertised and published in the Daily News. Mayor Arnold read Ordinance No. 644 an Ordinance of the City of Valparaiso, Florida providing that the Code of Ordinances, City of Valparaiso, be amended by revising Article II, Chapter 14; requiring all contractors to register with the city and pay the listed annual registration fee; providing for severability; providing for repeal; and providing an effective date. MAYOR ARNOLD MADE MOTION TO TABLE THIS TO JULY MEETING. Comm. Hamilton said she would like to know how much money we receive from these fees since contractors already have to be licensed to work in the state and county thinks this procedure should be reviewed. Comm. Morgan agreed saying that we needed to look at the fee schedule and not hinder new contractors with fees to work in the city. COMM. MORGAN SECONDED THE MOTION. Mr. Lynwood Knowles, 253 S. Bayshore Drive, is a registered contractor that lives within the city of Valparaiso and he feels these fees hinder him from wanting to do work within the city. He said in Valparaiso he has to pay \$100 to do business and yet in Crestview he pays \$25 with all other local municipalities. He said he didn't think that he should pay zero in Valparaiso but to make it \$25 like all the other cities. Mr. Knowles said he felt a decision should be made tonight. Mr. Scott said if you don't pay by 1st of October we charge a penalty. Comm. Morgan said he feels there is no harm in delaying this vote until we have more information. Mr. Knowles said he wouldn't do the project right now and pay this amount and penalties. Mrs. Johnson said we are not the only city that charges more for the contractors that live in their city, Ft. Walton Beach does also. Mr. Knowles said he knows in Crestview it is \$25 for everyone whether you live there or not. Mr. Scott said he doesn't care what we charge, he just feels we need to charge the same for everyone across the board. Comm. Morgan said what the Mayor is talking about is to clarify what is meant by contractor 1 or 2, to make the definitions more clear. Mr. Scott feels we need to get rid of what doesn't exist and clean the ordinance up, he said there is no such thing as a contractor 1 or 2 or 3, nothing like that exists. Mrs. Johnson said that the one we tabled has the different licensing occupations, she is confused in what Mr. Scott is wanting to do. Mr. Dykes said the proper term is to postpone and you can define the time, a motion to table to the next meeting or if you are dealing with an interruption to keep from voting. MAYOR ARNOLD SAID WE HAVE A MOTION TO POSTPONE TILL JULY MEETING ON THE FLOOR WITH A SECOND FROM COMM. MORGAN. Comm. Morgan said if the next presentation could provide exactly what Licensing and Contractor Fees are and what they mean for the next meeting. WHICH PASSED 4 TO 0 WITH A UNANIMOUS VOTE OF THE COMMISSION. Mr. Dykes said this is the 2nd reading any changes will be for first reading. Mr. Dykes said if there are changes to definitions, things added or removed then it would be for 1st reading. Mr. Dykes we would have

Ordinance
No. 644
Contractor
Fees

to see what the changes are. Comm. Hamilton said then it would be two more months before anything takes affect because it isn't being looked at tonight. Mr. Dykes said it could be reheard as a second but if more is changed then it would have to be readvertised and started over as a first reading. Comm. Hamilton said we need to take a moment and look at this, we are all tired and want to go home but we have a responsibility to look at it and we knew what the goal was at the last meeting so COMM. HAMILTON MAKES A MOTION TO RECONSIDER AND LOOK AT BOTH ORDINANCE 643 AND ORDINANCE 644 TONIGHT. Mr. Dykes said 644 deals with all the fees, Mrs. Johnson said there are fees in both 643 and 644. Mr. Scott said 643 is all city contractors. COMM. KELLEY SECONDED THE MOTION TO RECONSIDER, VOTE UNANIMOUS 4 TO 0 TO RECONSIDER AND LOOK AT THE ORDINANCE NUMBERS 643 AND 644 TONIGHT. Mrs. Johnson said we were told at one time that you aren't allowed to add new categories to your business tax receipts, can we do that. Mrs. Johnson said we were told that you could do this if a study done in the 90's then we could make new categories with new prices. Mr. Dykes said he didn't know the answer to that. Mrs. Johnson said that is why a lot of the categories in the Ordinance that don't make sense or doesn't exist anymore are still there because we were told we couldn't change. Lengthy discussion took place on the terms and line by line items of the descriptions of jobs and fees.

After much discussion, COMM. HAMILTON MADE A MOTION TO APPROVED ORDINANCE NO. 643 WITH CHANGES, COMM. MORGAN SECONDED THE MOTION. Mayor Arnold read Ordinance No. 643 an Ordinance of the City of Valparaiso amending chapter 14, article II of the Valparaiso Code of Ordinances to require licensing, registration and business tax for all businesses and providing for (1) findings, (2) repeal of conflicting ordinances (3) severability and (4) an effective date. Mrs. Johnson reminded the Commission once again if the fees are lowered we will not be able to raise them again per Florida State Statutes. MOTION PASSED BY UNANIMOUS VOTE OF COMMISSION 4 TO 0.

COMM. MORGAN MADE MOTION TO APPROVE ORIDNANCE NO. 644 WITH THE CHANGES, MOTION SECONDED BY COMM. HAMILTON WHICH PASSED BY UNANIMOUS VOTE OF COMMISSION 4 TO 0.

4. OLD BUSINESS – Ordinance No. 645 Park Rules

Mayor Arnold said that we have proof of publication from the Daily News. Mayor Arnold read Ordinance No. 645 an Ordinance of the City of Valparaiso amending Part II, Chapter 58 of the Valparaiso Code of Ordinances to establish park hours and usage requirements and providing for (1) findings, (2) repeal of conflicting ordinances, (3) severability and (4) an effective date. COMM. MORGAN MADE THE MOTION TO PASS ORDINANCE NO. 645, MAYOR ARNOLD SECONDED THE MOTION. Comm. Kelley said she only had a couple of things as far as the language goes, on Section 58-4 it mentions "playing record players" and she suggested to remove that and put "music" in its place. Also on the third whereas it says the parks commissioner will propose regulations as needed to protect the health, safety, welfare and morals, she asked that morals be removed. VOTE OF THE COMMISSION TO APPROVE AS 4 TO 0 PASSED UNANIMOUSLY WITH MINOR CHANGES.

5. OLD BUSINESS – Water Tank Painting

Mr. Valandingham said that the tank on Adams Avenue was being repainted to the light blue color but after researching it would cost \$6500 to change or add additional lettering so that isn't anything he would bring before the Commission.

1. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – TPO/DOT

Comm. Morgan said there was not a TPO/DOT meeting last month.

2. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Stormwater

Mr. Scott said there was nothing to report in stormwater.

3. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Legal Activities

Mr. Dykes had no legal activities to report on.

4. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – City Parks Update

Mr. Valandingham said that the work at T J Brooks Park is complete. The dog fence had been repaired by the contractor who installed the fence and that the Lincoln Park Boating Improvement was moving right along.

Mr. Valandingham said he had been contacted by Katie Carmac with the National Center for Sports Safety out of Birmingham and asked if we would like to be included in a potential grant, small amount but recently in Alabama they had received 40 AED's to put at sport complexes at no cost. He said the only place we could use one was at the little league park because it has to be sports facilities. Mayor Arnold said yes, Mr. Valandingham said the grant would cover lower Alabama and the Northwest Florida Panhandle.

5. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Planning Commission Report

Mayor Arnold noted that we do not have anyone in attendance from the Planning Commission.

6. REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Median Beautification Update

Mayor Arnold said earlier in the meeting we had passed the resolution for the median beautification.

Ordinance
No. 645
Park
Rules

Water
Tank
Painting

TPO/DOT

Storm-
water

Legal
Activities

City Parks
Update

Planning
Comm-
ission

Median
Beauti-
fication
Update

7. **REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Visioning Committee Update** Visioning Committee Update
 Mayor Arnold made note that we do not have anyone from the Visioning Committee with us this evening.
8. **REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Uncle John’s Day June 14th (Employee Appreciation) Close at 10:50 am** Uncle John’s Day June 14th
 Mayor Arnold said we would be closing Friday in honor of employee appreciation day at 10:50 am. He said that he and Mr. Scott get together over the department heads nominations and pick the employee of the year for the city, the department heads select an employee of the year from each of their departments. Mayor Arnold said that all the commissioners and their spouses are invited to attend.
9. **REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Charter Workshop June 17 at 6pm** Charter Workshop
 Mayor Arnold said we will be having a charter review meeting on the 17th to go over the remaining sections of the charter. Comm. Hamilton will be out of town.
10. **REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Budget Workshop June 24th at 6PM** Budget Workshop
 Mayor Arnold said this will be our second attempt to meet for the capital improvements on the budget, we tried to meet earlier this month but couldn’t due to lack of a quorum.
11. **REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Etc.** Etc. Police Chief
 Mayor Arnold said we only had one qualified candidate for Police Chief that met all the requirements. He would make sure everyone received copies to review.
11. **REPORTS/CORRESPONDENCE/ANNOUCEMENTS – Etc.** Etc. Wee Ones Festival
 Comm. Morgan said he would like to thank the fire department and public works department for all of there work on the Wee Ones Festival. He said the fire department used the time to educate the attendees and Ms. Sarah Holt did a great job bringing life to the business center.
 Chief Norris said he would also like to extend thanks to public works for their help with the road detours.
1. **ADMINISTRATIVE ITEMS – Minutes** Minutes
 COMM. HAMILTON MADE A MOTION THAT THE MINUTES FROM MAY 13, 2013 BE APPROVED AS WRITTEN. COMM. KELLEY SECONDED THE MOTION, WHICH PASSED WITH A UNANIMOUS VOTE OF THE COMMISSION 4 TO 0. May 13, 2013
 COMM. HAMILTON MADE A MOTION THAT THE MINUTES FROM MAY 20, 2013 BE APPROVED AS WRITTEN. COMM. KELLEY SECONDED THE MOTION, WHICH PASSED WITH A UNANIMOUS VOTE OF THE COMMISSION 4 TO 0. May 20, 2013
2. **ADMINISTRATIVE ITEMS – Bills Payable** Bills Payable
 COMM. MORGAN MADE A MOTION TO PAY THE REGULAR BILLS AND VCA BILLS AS OUTLINED IN THE FINANCIAL STATEMENT(S). MAYOR ARNOLD SECONDED THE MOTION WHICH PASS WITH A UNANIMOUS VOTE OF THE COMMISSION 4 TO 0.
- ADJOURN**
 There being no further business to be brought before the Commission, the meeting adjourned at 9:30 PM. Adjourn

John B. Arnold, Jr.
 Mayor

Heyward H. Strong, Jr.
 VCA, Chair

ATTEST:

Tammy Johnson, CMC
City Clerk

June 10, 2013

The DVD labeled June 10, 2013 contains the audio and video of this meeting and will be kept as a permanent part of these minutes.