

MINUTES  
CITY OF COMMISSION MEETING  
June 9, 2014

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.
	:	Kay Hamilton
	:	Joe Morgan
	:	Clark (Tom) Browning, IV
City Clerk	:	Tammy Johnson
City Administrator	:	Carl Scott
Police Chief	:	Joe Hart
Fire Chief	:	Mark Norris
Public Works Director:	:	James Valandingham
City Attorney	:	Hayward Dykes
City Engineer	:	Roy Petrey
Recorder	:	Beth Millsaps

Others in attendance: (Not Inclusive) Amber Elledge (camera), Mike Griffith (Bay Beacon), Terry Griffin, Brandon Wilson, Don and Gaye Baltz, Obie O'Brien, Lu and Donnie Morris, Ray Guterrez, Dennis Holzinger, James Bennes, Joe Cobb, Mark and Maggie Boyd, Chris Lanoue, Bob Cross, Wayne Justice, Thomas G. Miller, Mark Denney, Darren Boisjolie

Mayor Arnold welcomed the audience and stated that the Commission was interested in hearing their thoughts and welcomed any comments. 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.

Welcome  
by Mayor

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

Mr. O'bie O'Brien, 324 Glen Avenue, in the May meeting he was told North Bayshore Drive and Spencer Place will only be closed 10 days it has been over 41 days. He needs the road to be open. He said he has seen and talked to city staff that is working on fighting the erosion on Spencer and notes that the grass planted has not taken root. He requests this be open. Comm. Morgan said his first priority is the water quality of the bayou. He said he would try to open by the end of the week. Chief Hart said if you just open Bayshore Drive it terminates right behind residents homes, people will go down the road and then be turning around in resident's yards and could cause damage he would like to request that there be a no thru traffic sign placed until both roads can be reopened. Mr. O'Brien does not see why that is necessary he said the way the road is built it shouldn't be difficult to turn around. Chief Hart said he begs to differ, a two wheel drive vehicle will have trouble, with the incline the street is not made to have turn arounds. Mr. O'Brien said he would meet with Chief Hart to see exactly what he is talking about because he feels anyone with a driver's license should be able to turn around on a 75' incline. Chief Hart asked the attorney what the city's liability would be if and when someone's yard was torn up. Mr. Dykes said that issue would be more of a civil matter than criminal due to trespassing on private property. Mr. Petrey also suggested posting a sign of no thru traffic local traffic only signs. Mr. Dykes said that would be the best suggestion to uphold the integrity of the road. Mr. O'Brien said he would like to be included in what is going on with Spencer and North Bayshore. Comm. Morgan said he would meet with Mr. O'Brien this week.

Citizen  
Concerns  
Resident

**2. CITIZEN CONCERNS (non-agenda items) – Non Resident**

There were no non-resident comments.

**1. NEW ACTION ITEMS –**

No added agenda items this evening.

**2. NEW ACTION ITEMS – **Appeal Variance Granted for 245 S. Bayshore Drive****

Mr. Scott said the Planning Commission had met, after proper advertising on this item and approved the variance for Mr. and Mrs. Morris, have a driveway area on their property across the street from their residence. Mr. Scott said at the meeting of the Planning Commission there wasn't anyone there to protest and the motion passed unanimously, however the day after Mr. Terry Griffin came into city hall and asked what he needed to do to challenge the approval. Mr. Scott said our ordinance allows a variance approval by the Planning Commission to be appealed to the city commission. Mr. Scott said later that afternoon Mr. Griffin brought in a letter to request an appeal. Comm. Hamilton said she had looked at this area and it is a beautiful home and the addition will be lovely.

Citizen  
Concerns  
Non Resi-  
dent

Added  
Agenda  
Items

Appeal  
Variance  
245 S.  
Bayshore

Mr. Terry Griffin, 253 Grandview Avenue, had a small show and tell regarding the construction of the Morris's driveway addition. He said using a bowl of water and placing a brick pavers that is used in driveways you can see the water goes absolutely nowhere which is the problem. This variance has more potential to do harm than good. He said as far as the parking lot and patio he doesn't care as much how it looks as to how it is built, there are already so many stormwater issues within the city he doesn't want to see anything added. He said in the application for variance there are questions that must be answered in order to apply. Mr. Griffin said "a" extraordinary and exceptional conditions, he said the lot size has nothing to do with this they have built a garage in the rear of the

property. “b” unnecessary hardship, Mr. Griffin said there is no hardship, other than family members and friends would have to park on the street and that is allowed in the city. “c” peculiar to particular property, Mr. Griffin said there is nothing peculiar, the homeowner choose to use all area they had to build their house. “d” would not cause substantial detriment to public welfare, Mr. Griffin said removal of vegetation does cause a negative affect and could do damage to the city. He said the city is currently fighting a stormwater runoff issues in other areas of Bayshore Drive this could only compound an already serious issue. I ask that you develop a plan to outline the exact manner of construction for this application, or pass an ordinance to protect the bayou from this type of development with specific guidelines. I’m not asking you to disallow this I’m asking you to have it done properly now and in the future.

Mr. Donnie Morris, 245 S. Bayshore Drive, said he appreciated the Commission listening to him and also thanked the Planning Commission for their approval. He said he was quite shocked to know the Planning Commission’s approval was being challenged. We are trying to establish an area across the street that will be for enjoying the bayou. It will not be a permanent parking area no views will be obstructed. There will be a lot of grass area on top and bottom and he has 12’ on either side of the neighbors, and over 40’ from the end of the patio to the bayou. Mr. Mike McDorman, engineer of the project, said standard gray base will be used for the parking lot. Comm. Browning asked what material will be used, Mr. McDorman said sand around the border. Comm. Morgan said will some type of berm be used to hold pavers, Mr. McDorman said 8’ block filled in sand base pavers on top of sand bed. Comm. Hamilton asked Mr. Petrey’s opinion. Mr. Petrey said he was concerned about the lime rock base, the stone base like at Lincoln Park, higher permeability, granular fill is preferable. A brief discussion followed as to the type of materials to be used on project.

Mrs. Gaye Baltz, 271 S Bayshore, said if the owners are allowed to put in this parking pad across from their residences it will take away from the view. She doesn’t want to see that happen, she said it is important that he says it is not going to be a permanent parking, no one else has one, it is best to keep it in its natural setting.

Mrs. Karen Hess, 254 S Bayshore, said her home sets on the water, her driveway is pave stone and she has had no problems with water runoff. She has an additional patio that is pave stone raised area. She said she knows the Morris’s and is sure whatever they have constructed will be fabulous.

Mr. Don Baltz, 271 S. Bayshore, objects to this variance because once you allow for one parking structure then others will follow.

Mr. Darren Boisjolie, 229 S. Bayshore, said that this parking and patio structure could help prevent erosion. Mr. Dykes said just because the variance is granted now doesn’t mean future variances have to be granted, it is done on an individual basis.

Mr. Griffin said my only concern is that it is done properly, he said he is not trying to tell anyone what to do but is concerned about the environment.

Mayor Arnold thanks everyone for their input. **COMM. MORGAN MADE A MOTION TO APPROVE THE VARIANCE AS LONG AS PLANS SUBMITTED TO THE CITY ARE APPROVED BY CITY ENGINEER. COMM. HAMILTON SECONDED THE MOTION, WHICH PASSED BY UNANIMOUS VOTE OF THE COMMISSION 5 TO 0.**

### **3. NEW ACTION ITEMS – Dock Permit**

Mr. Scott said this is the dock Mr. Bennes wanted to extend to 100’ or in that close proximity and a couple of citizens said this would be an infringement of their riparian rights so Gustin, Cothorn and Tucker provided a real survey that shows the real lines, it would basically be built where it should be built. He said the DEP and Corp of Engineers have already approved and he doesn’t see why we should be holding up Mr. Bennes any further. Mr. Scott said he has already permitted Mr. Bennes to do what he had previously there and he asked Mr. Bennes to be here to answer any questions. Comm. Hamilton asked why it would be before the Commission she thought it would be with the DEP for approval. Mr. Scott said because the Commission voted not to allow him to extend the dock any further than before and he can’t give him a permit to build out to 100’ without Commission approval. Mr. Dykes asked if he would be under the old permit or apply for a new one. Mr. Scott said he only has a permit to do what he had exactly there before and he has done that and now he wants to build his addition. Mr. Scott said he has met all the requirements and jumped through all the hoops by the DEP, Corp of Engineers and whatever the city has asked him to do, with the survey report he is not in any conflict of riparian lines and Mr. Scott doesn’t know what else to tell him to do. Mr. Scott said the previous vote we said he could not add to the dock due to the safety hazard and riparian rights and Mr. Bennes has gotten approval to show that isn’t the case so Mr. Scott said he doesn’t know how to advise him any further. Mr. Scott said he has tried to talk to the neighbors on the other side and they never come to the door, the Dylewski had been told this issue was on the agenda yesterday. **COMM. BROWNING MADE A MOTION TO POSTPONE TO NEXT MEETING.** Comm. Browning said the neighbor had said it was too close on her side for her to be able navigate the water safely. Mayor Arnold said it is just kicking the can down the road, Comm. Morgan said he was previously given an answer Comm. Hamilton said everything that was asked of him to do he did and now he is back asking for approval. **COMM. MORGAN SECONDED THE MOTION TO POSTPONE. VOTE OF 2 TO 3 MOTION TO POSTPONE FAILED.** Mayor Arnold said we are back where we started. Comm. Browning said we haven’t received any additional information. Mr. Scott said Mr. Bennes asked what to do concerning the Dylewski’s concerns with riparian rights, the map doesn’t do the situation justice.

Mr. Dykes said presented the survey not in riparian rights violation, he has met all requirements by ordinance. [COMM. HAMILTON MADE A MOTION TO APPROVE MR. BENNES DOCK PERMIT.](#) [COMM. STRONG SECONDED THE MOTION.](#) Comm. Morgan said we are limited to work within the boundaries of the ordinances, [VOTE 5 TO 0 UNANIMOUS TO APPROVE.](#)

Ms. Chris Lanoue, 1277 Bayshore Drive, said she had come before the Commission about a year ago to request permission to repair her dock that had been built with approval of the city. The dock has not been repaired it is falling into the bayou and something needs to be done. She knows the dock is an eyesore, she knows there is a dock discussion next week but she needs a permit to repair her dock. Comm. Morgan said he would meet with her.

**4. NEW ACTION ITEMS – FLOC Voting Delegate**

[COMM. HAMILTON MADE A MOTION TO APPOINT COMM. HEYWARD STRONG AS OUR VOTING DELEGATE.](#) [MAYOR ARNOLD SECONDED THE MOTION WHICH PASSED BY UNANIMOUS VOTE OF THE COMMISSION 5 TO 0.](#)

FLOC  
Voting  
Delegate

**1. OLD BUSINESS – Traffic Signal Maintenance Agreement Update**

Comm. Morgan said on further review of the maintenance agreement it appears some of the items under the new contract are not covered under our Interlocal Agreement with the county. Comm. Morgan said upon recommendation of Dr. Randy Showers with Okaloosa County we should not sign the agreement, he contacted the state and said we declined to sign at this time. He said the state is aware of the issues, our county agreement is currently in place. Comm. Morgan said there is no exposure in not signing and we will be contacted when changes have been made. [COMM. HAMILTON MADE A MOTION NOT TO SIGN THE CONTRACT.](#) [COMM. BROWNING SECONDED THE MOTION WHICH PASSED BY UNANIMOUS VOTE OF THE COMMISSION 5 TO 0.](#)

Traffic  
Signal  
Mainte-  
nance  
Agree-  
ment

**2. OLD BUSINESS – City Hall Roof Update**

Mr. Petrey said the contract was executed last week but does not have an update on the start date, the company has three months to complete job.

City Hall  
Roof  
Update

**3. OLD BUSINESS – Sewer Board Executive Committee Members**

Mayor Arnold said Niceville was not in agreement with changing the existing members so we would let that issue lie.

Sewer  
Board  
Exec.  
Comm.  
Members

**4. OLD BUSINESS – Fleet Maintenance Program**

Mayor Arnold suggested we adopt this program on a trial basis for public works and city hall vehicles to be maintained by public works director or his designee. Mr. Valandingham said the original purpose of this program was to help with our insurance said he doesn't think this plan is the answer for us, it doesn't have the police or fire departments, he would like the opportunity to go back and redesign a plan to fit our city specifically not just generally. Mayor Arnold instructed him to go and do that.

Fleet  
Mainte-  
nance  
Program

**5. OLD BUSINESS – Removal of City Assets from Inventory**

Comm. Morgan gave a brief overview of his idea in controlling this issue, he will provide a copy to all and this will be discussed further at the July meeting.

Removal  
City  
Assets  
Inventory

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

Comm. Morgan had nothing to report.

TPO/  
DOT

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

Comm. Strong said the county is looking at a 1¢ sales tax, he recommends bringing all nine cities together to help negotiate, will have on the OCLOC agenda.

Storm-  
water

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

Mr. Dykes said in regards to the city vs. CAJTDM the court has ordered that the city prepare its own survey, can't use the survey Mr. Matthew's is using. Mr. Dykes said Polyengineering will do the survey and the city will be billed for this service, this money will not come from the league. Mr. Petrey said the cost will not exceed \$5,500. [COMM. STRONG MADE A MOTION TO FUND THE SURVEY AT A MAXIMUM \\$5,500 USING GENERAL FUND RESERVE.](#) [COMM. BROWNING SECONDED THE MOTION.](#) Comm. Hamilton said this is exactly what she was concerned with I don't want the city losing money over this suit. [VOTE OF COMMISSION 5 TO 0 UNANIMOUS.](#)

Legal  
Activ-  
ities

Mr. Dykes said in the Willingham case we are still waiting on courts order to prepare for trial. He said Mr. Bowman has asked the court to review the case and dismiss all claims if that is not granted there will be one claim that will move forward and he feels confident in the city's chances.

Mr. Dykes said in regards to Rose, Sundstrum, Bentley and Wyckoff matter, they have made an offer of \$5,000 and we have made a counter offer of no less than \$250,000, they came back with \$25,000. This matter is being placed on next week's agenda. He said if we intend to file malpractice lawsuit it would need to be filed by July 25<sup>th</sup>. Mayor Arnold asked what the percentage of the settlement would go to Mr. Davey. Mr. Dykes said he believes it would be in line with the step down system, normal 25% prior to suit, 33 1/3% if it goes to suit and up to 40%, if it goes to appeal we do not pay any attorney fees at this time.

**4. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS – Median Beautification Update**

Comm. Morgan said Phase II has been submitted as approved.

Median  
Beauti-  
fication

**5. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS – Planning Commission Update**

Planning  
Comm.  
Update

- Nothing to report at this time.
- 6. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS- Visioning Committee Update**  
 Vision Comm Update Mr. Cobb said plan is to have a preliminary plan by the end of the year. He said the May meeting did not have a quorum, but with results of the survey he feels they are putting together a meaningful report.
- 7. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS – CDBG update**  
 CDBG Update No new information.
- 8. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS – Uncle John’s Day**  
 Uncle John’s Day Mayor Arnold said Uncle John’s Day, our annual employee appreciation day, will be June 13<sup>th</sup> at 11 am.
- 9. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS – Special Meeting & Budget Workshop**  
 Special Meeting & Budget Workshop Mayor Arnold said there will be a special meeting and budget workshop meeting on June 16<sup>th</sup> at 6PM.
- 10. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS – Park Closures for July 4<sup>th</sup> Activities**  
 Park Closures Mayor Arnold said Twin Cities Park will be closed from July 3<sup>rd</sup> to July 5<sup>th</sup> to allow for the barge launch for the fireworks show in the bayou. Also, Lincoln Park will be closed to boat launching all day July 4<sup>th</sup>, to allow for our activities in the park.
- 11. REPORTS/CORRESPONDENCE/ANNOUNCEMENTS – Etc.**  
 Etc. Transit System Comm. Strong said the county is trying to get the cities to participate in the transit system. Our cost would be approximately \$2,500, the executive board is not in favor of this.
- Public Private Group Comm. Strong said there is also a public private relationship group that meets and he gave a copy of the paperwork to Mr. Scott to circulate. The next meeting will be July 21<sup>st</sup> at the college. Mayor Arnold said that he and Mr. Scott went to the kick off meeting and didn’t feel that it held anything for Valparaiso. Comm. Strong said we could add to it, he would like to add we would like to get the property from the bridge to the base. He said they stated that one of the options is a 50 year lease or swap of property.
- OCLOC Comm. Strong said the next OCLOC dinner meeting will be July 24<sup>th</sup>.
- Smoke Testing Mr. Valandingham said they will start smoke testing the sewer lines on Wednesday and Thursday. Utility crew is dropping a door hanger at the homes in the area, there could be white smoke visible throughout the city.
- 1. ADMINISTRATIVE ITEMS – Minutes**  
 Minutes 12 May 2014 **COMM. STRONG MADE A MOTION TO APPROVE MINUTES FROM MAY 12, 2014 AS PRESENTED. COMM. HAMILTON SECONDED THE MOTION WHICH PASSED BY UNANIMOUS VOTE OF THE COMMISSION 5 TO 0.**
- Minutes 27 May 2014 **COMM. HAMILTON MADE A MOTION TO APPROVE THE MINUTES FROM MAY 27, 2014 AS PRESENTED. COMM. BROWNING SECONDED THE MOTION, WHICH PASSED BY UNANIMOUS VOTE OF THE COMMISSION 5 TO 0.**
- 2. ADMINISTRATIVE ITEMS – Bills Payable**  
 Bills Payable **COMM. STRONG MADE A MOTION TO PAY THE REGULAR BILLS AND VCA BILLS AS OUTLINED IN THE FINANCIAL STATEMENT(S). COMM. MORGAN SECONDED THE MOTION, WHICH PASSED BY UNANIMOUS VOTE OF THE COMMISSION 5 TO 0.**
- ADJOURN**  
 Adjourn There being no further business to be brought before the Commission, the meeting was adjourned at 7:48 PM.

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

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

ATTEST:

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

June 9, 2014

\*\*\*The DVD labeled June 9, 2014 contains the audio and video of this meeting and will be kept as a permanent part of these minutes.\*\*\*