

MINUTES
CITY COMMISSION MEETING
January 7, 2014

The City Commission met this date in special session in the Commission Chambers. 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
	:	Joe Morgan
City Clerk	:	Tammy Johnson
City Attorney	:	Hayward Dykes
City Administrator	:	Carl Scott
Police Chief	:	Joe Hart
Recorder	:	Beth Millsaps

Others in attendance: (Not inclusive) James Butler (camera), Mike Griffith (Bay Beacon), David Daigle, Jeff Burns, Joe Cobb, Clark (Tom) Browning, IV

Quasi Judicial Hearing – Dangerous Buildings

a. 59 Kelly Way

Mayor Arnold welcomed the audience and said that Comm. Hamilton is out of town and will not be attending this evening. Mayor Arnold asked that Mr. Dykes swear in all those giving testimony this evening. Mr. Dykes swears in Mr. Scott to testify about both matters, 59 Kelly Way and 406 Johnson Street. Mrs. Johnson said that the meeting has been duly advertised and Mr. Dykes said letters have been sent to the listed owners of the properties and to all financial institutions of record. Mayor Arnold polled the Commission regarding anyone contacting them regarding the property located at 59 Kelly Way, if they had received any calls or outside information, Comm. Strong, Comm. Kelley, Comm. Morgan and Mayor Arnold had not received any outside information. Comm. Morgan said the property at Kelly Way notice posted “vacant, abandon” and wanted to make sure that all financial institutions had been contacted regarding the property. Mr. Dykes said the letters were sent to the owner of record and anyone who had a vested interest in the property according to the Okaloosa County tax collector’s office. There are no parties in attendance on behalf of the owners, Mr. and Mrs. Daniel McClendon, nor any of the financial institutions of record.

Mayor Arnold told Mr. Scott that he could present the evidence. Mr. Scott has photo evidence that he would like to submit to the Commission. Mr. Scott said he had been dealing with this property since June 2010 on an original code violation of a blue roof. Comm. Morgan mentioned that it looked as if a new blue roof, temporary roof, had been placed on the property, Mr. Scott said yes he believed it had been placed by the NCS Mortgage. Mr. Scott said on June 23, 2010 he notified Mr. McClendon by letter of the violation(s) and what would have to be done in order to be in compliance. Mr. Scott said over five months past and he was informed that the home was in foreclosure so he notified the bank, Deutsche Bank, of the code violations and what repairs needed to be made in order to bring into compliance, letter dated 11/05/2010. Mr. Scott said on November 20, 2010 he revoked the certificate of occupancy, sending letters once again to Mr. McClendon and Deutsche Bank, stating that due to the violation of numerous city ordinances and that he would be taking the necessary steps to continue the condemnation process, part of which is to have all city services to that property terminated. Mr. Scott said in June 2011 he learned that the bank had dropped the foreclosure process and that the McClendon’s had applied made the deposit to have water and sewer services restored to the residence. Mr. Scott had a verbal conversation with Mr. McClendon prior to June 24, 2011 which he followed with a letter stating what needed to be done to the property in order for it to be livable again. Mr. Scott stated, in person and in the letter, the first step in trying to occupy this property would be for a design professional (architect or engineer) to perform an assessment of the structure and provide a written determination as to the state of alteration necessary to bring the building into compliance with the Florida Building Code. In the letter Mr. Scott stated that occupancy of the structure would cease on or before June 27, 2011, and that the water service would be discontinued on that day. Mr. Scott said on the 12th of December he went to the property and Mr. McClendon was outside painting it even though it was still unlivable and he had not received a design/architect plan to bring the property up to the Florida code. Mr. McClendon spoke to Mr. Scott and said he had hired a company to look into what needed to be done to make the property livable once again. Mr. Scott said he received a copy of the estimate for EMC out of Destin stating that it would be approximately \$35,000 for remediation of structural framing and roofing only, a complete restoration would be approximately \$60,000 to \$70,000 that would be the cost to make the structure completely livable. Mr. Scott said he didn’t hear anything further from Mr. McClendon and on March 20, 2012 he sent a final notification to Mr. McClendon that this matter would be prepared for magistrate action. Mr. Scott said on June 1, 2012 he was notified that Mr. McClendon had once again lost ownership and property was being foreclosed. Mr. Scott said he has been dealing with this guy for over 4 years as the legal property owner, this property continues to drag down the neighborhood it is well beyond the 33 percent rule beyond dangerous property. Mr. Scott said it is to the point where we either a force repair or force the tear down of the property and rebuild. Comm. Morgan asked if we know where Mr. McClendon

Dangerous
Buildings
59 Kelly
Way

lives now, Mr. Scott said in Ft. Walton Beach. Comm. Kelley asked if the property owner had a preference as to what should be done to the property, Mr. Scott said none that he has communicated to him. Mayor Arnold asked if there was anyone that would like to give public testimony or would like to be heard. Comm. Morgan stated that as a realtor himself he is weary of this type matter, it is an action of police power to force something to be done to this property. Mr. Dykes asked if there were anymore questions for Mr. Scott regarding this matter. Comm. Morgan asked if there were any letters or complaints from the neighborhood. Mr. Scott said most code enforcement matters are verbal in nature and over the years he had many complaints, that Chief Hart could also verify that. Chief Hart said there had been multi calls and complaints regarding this property. Mayor Arnold again asks if there was anyone in attendance that would like to be heard. Mrs. Johnson said the papers that Mr. Scott was reading from would need to be admitted as evidence. Mayor Arnold said in accordance with our code 98-256 thru 266 on dangerous buildings the City either has to force repair or tear down. Mr. Dykes said after all evidence is submitted the Commission must confer on the issue, have to make written findings of fact and issue an order on the decision. Mr. Dykes said the code has 10 criteria for dangerous buildings and whether 1 or 10 it doesn't matter, if 33% or more damage, issue an order of decision tonight. Mayor Arnold read from the Code of Ordinance section 98-226 and the criteria of dangerous building.

Mayor Arnold said this property met several of these requirements and the city could require the property owner to tear the structure down and the cost of the tear down would go to the property owner. Comm. Morgan said one of the last correspondence shows the property is being foreclosed on again, Mr. Dykes said even with the property in foreclosure the city could have the property torn down and our lien would be listed and would run with the other liens on the property, we would try to insure the city would be protected as possible unfortunately we would have to use public funds on private property. Comm. Morgan asked if Mr. Scott had been able to get inside, Mr. Scott said yes when it rains it is like it rains inside, roof trusses have buckled, it is starting to lean on the inside, walls started to buckle, there is no way to salvage what is there. He said the blue roofs that have been installed were making it worse.

Mr. Dykes said as part of procedures the property owners have 10 days from when property is declared as "dangerous building" to demolish or repair. Comm. Morgan said there didn't seem to be an option but to declare the building as a dangerous building and force repair. He said at least 59 Kelly Way was secure, the windows were still intact, the blue roof had most likely been installed by the mortgage company, he isn't sure the building is a danger to the public. Mr. Scott said the order we can specify that the owner has 30 days or 60 days to put the building back together or in 60 days it will be torn down. Mr. Dykes said in the ordinance it says 10 days we can say make sure property is vacated and secured, don't have to do everything within 10 days. Comm. Morgan doesn't want to just make an order. Mr. Dykes said once the city has looked at property and declared it to be a dangerous building it is best to take action sooner rather than later. Mr. Scott recommends that a notice be issued and specific days be set as to when the property will be put down.

MAYOR ARNOLD MADE A MOTION THE DWELLING AT 59 KELLY WAY BE DECLARED A DANGEROUS BUILDING, BECAUSE 33% OR MORE OF THE DAMAGE OR DETERIORATION OF THE SUPPORTING MEMBER OR MEMBERS, OR 50% OF DAMAGE OR DETERIORATION OF THE NONSUPPORTING ENCLOSING OR OUTSIDE WALLS OR COVERING. ALSO IT HAS BECOME SO DILAPIDATED, SO DECAYED, UNSAFE, UNSANITARY WHICH UTTERLY FAILS TO PROVIDE THE AMENITIES ESSENTIAL TO DECENT LIVING THAT IT IS UNFIT FOR HUMAN HABITATION THE OWNERS OF RECORD BE PUT ON NOTICE THEY HAVE 30 DAYS TO EVALUATE TO REHABILITATE OR TEAR DOWN OR WITHIN 60 DAYS HAVE TO INITIATE ACTION ON WHAT THE OWNERS CHOOSE TO DO. Mr. Dykes said if you give time frame, they don't meet the actions then what will the Commission do. Mayor Arnold said at 90 days if no action the matter will come back before the City Commission. COMM. MORGAN SECONDED THE MOTION, WHICH PASSED BY 4 TO 0 UNANIMOUS VOTE OF THE COMMISSION.

b. 406 JOHNSON STREET

Mayor Arnold asked the Commissioners if they had received any information regarding this property, to which they had not, Mayor Arnold also said that he had not received any information or spoke to anyone regarding the property. Mayor Arnold stated there is no representation of the applicant in attendance this evening. Mr. Scott said this property has gone through a similar process as 59 Kelly Way through the code enforcement process. Mr. Scott said he spoke with the owner yesterday, Mr. Deepak Patel, and that as of January 27 of this year he will have sole ownership in this property and he asked if he could have till March 1st to clean this property and have it put on the ground, those are his wishes and he asked that Mr. Scott convey this to the Commission. Mr. Scott said Mr. Patel didn't feel the need to be at the meeting this evening, this is what he would like for the Commission to do and felt Mr. Scott could convey his wishes to the Commission. Mr. Scott said this structure is even worse because we have had evidence of people getting into this property, old mattresses have been found, there has been evidence of kids using the property for a club house, Mr. Scott said one day he could see this

**Dangerous
Buildings
406
Johnson St.**

property just being a fire. Mr. Scott said there are no windows in the structure, no security and a complete eyesore for the last 4 years just like 59 Kelly Way. Comm. Morgan asked if the owner would be willing to secure the property. Mr. Scott said he doesn't think that will happen, Mr. Patel has already hired a company to have the structure put on the ground. Mr. Scott said it has been in this state of disrepair for the last 2 years. Comm. Morgan asked when people started stripping the electrical wiring out of it. Mr. Scott said it has been going on awhile, he has been working on this since March 2010 overtime the property has gone further and further to disrepair. Mr. Scott said his recommendation to the Commission would be to give Mr. Patel the time to have the structure on the ground on or before March 1st. Mayor Arnold asked if any member of the public. Mr. Scott said he doesn't want to postpone the hearing just to move forward. Mayor Arnold said we could do as we did with 59 Kelly Way give the 30 day and 60 day time restrictions and 90 days back before the Commission if nothing has been done, that would give Mr. Patel pass the March 1st deadline that he requested. Mr. Scott has photographic evidence and also a file that he will present into evidence as part of the permanent record. Mr. Dykes asked what Mr. Scott felt would qualify this building as a dangerous structure. Mr. Scott said this building meets all of the criteria for being a dangerous structure per the code of ordinances, it was a public safety hazard and in his opinion the structure was not salvageable. MAYOR ARNOLD MADE A MOTION TO DECLARE THE DWELLING AT 406 JOHNSON STREET A DANGEROUS BUILDING, THE STRUCTURE HAS BEEN DAMAGED BY WIND AND OTHER CAUSES SO AS TO HAVE BECOME DANGEROUS TO LIFE, SAFETY, MORALS OR THE GENERAL HEALTH AND WELFARE OF THE OCCUPANTS OR THE PEOPLE OF THE CITY, IT HAS BECOME SO DILAPIDATED, SO DECAYED, UNSAFE, UNSANITARY AND SO UTTERLY FAILS TO PROVIDE ADEQUATE AMENITIES ESSENTIAL TO DECENT LIVING THAT IS UNFIT FOR HUMAN HABITATION AND THE BASIC FACILITY IS UNSAFE, UNSANITARY OR DANGEROUS ARE LIKELY TO CAUSE SICKNESS OR DANGEROUS TO THE HEALTH, MORALS, SAFETY AND THE GENERAL WELFARE TO THE PEOPLE OF THE CITY OF VALPARAISO BY THE VIRTUE IT IS AN ATTRACTIVE NUISANCE. WE HAVE HAD KIDS AND VAGRANTS PLAYING AND LIVING IN THE FACILITY FROM TIME TO TIME. MAYOR ARNOLD SUGGESTS WE GIVE THE OWNER OF RECORD 30 DAYS TO EVALUATE THE SITUATION AS TO THE ACTION HE WANTS TO TAKE, AN ADDITIONAL 60 DAYS TO INITIATE THAT ACTION WHETHER IT BE TEAR DOWN OR REHAB OR WHATEVER. COMM. MORGAN SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY BY A VOTE OF 4 TO 0. Mayor Arnold said if nothing is done in 90 days it will come back before the Commission.

Mayor Arnold closed the quasi judicial hearing.

ORDINANCE NO. 651 Postpone Election Date of Charter Referendum

Mayor Arnold said this is an ordinance to postpone the March election til August. Mayor Arnold said this has two advantages the City will pay less in the cost of the election and also with referendum being voted on in conjunction with a county election we should have a larger voter turn out. Comm. Morgan asked if there is still something happening in March. Mr. Dykes said in an email that Mrs. Johnson had forwarded from Mr. Lux, Supervisor of Elections, that indicated since there were no contested races we as a city would have to pay the whole way to carry the referendum on the ballot in March but if we wished to move to August then the cost would only be \$1800 for advertising. Mrs. Johnson said elections usually cost around \$4,500. Mr. Dykes said if the city still wishes to have the election March that is fine but the city will carry the cost of the entire election where as if the election is postponed the city will pay a lot less. Mrs. Johnson said actually the cost to put the referendum in August would be about \$1,000. Mayor Arnold believes there will be more interest at the polls if it is in conjunction with a county election. Comm. Morgan said he would just like to have this over with, there has been a whole year of discussion, we pushed the discussion to have everything ready for the March election, he would rather not have a new Commission involved in the discussion of it, just have whatever form of government set for when the new Commission begins. Mrs. Johnson said it wasn't going to take effect until October. Mayor Arnold said he would like to poll the Commission which doesn't mean they agree but will have the final reading on the Ordinance at the January 22nd meeting. Vote of 4 to 0 by unanimous vote of the Commission. Mrs. Johnson verified the second reading will be on the 22nd of January.

ORDINANCE NO. 649 LAND USE CHANGE R1A TO C1 306 OKALOOSA AVENUE

Mayor Arnold read Ordinance No. 649, an ordinance of the City of Valparaiso, amending its adopted comprehensive plan; providing for purpose; providing for land use change to .26 acres of land mol; providing for future land use map amendment, and providing for an effective date. Mayor Arnold said this is the property located behind the Valparaiso Tom Thumb, they want to use that part of land as a parking lot

ORDINANCE NO. 650 REZONING R1A TO C1 306 OKALOOSA AVENUE

Mayor Arnold this is a companion to Ordinance No. 649. Mayor Arnold read Ordinance No. 650, an ordinance of the City of Valparaiso, amending its zoning map; providing for a purpose; providing for a zoning change to .26 acres mol of land from R1A, single family

Ordinance
No. 651
Postpone
Election
Date of
Charter
Refer-
endum

Ordinance
No. 649
Land Use
Change
306
Okaloosa
Ave

Ordinance
No. 650
Rezoning
306
Okaloosa
Avenue

residential to C1, commercial district limited; proving for zoning map amendment, and proving for an effective date. Mayor Arnold said anytime there is a zoning change there are two ordinances one to amend the comprehensive plan and one to amend the zoning map. COMM. STRONG MADE A MOTION TO APPROVE BOTH ORDINANCES 649 AND 650, SECONDED BY MAYOR ARNOLD. Comm. Morgan asked Mr. Browning, Planning Commission chair, where we were at regarding developing a mixed use zoning, looking for something that might preserve the property lines. Mayor Arnold said we have the limited commercial use which is what was used by the Compass Rose. Mr. Browning said the Compass Rose actually goes deeper into the neighborhood than what the Tom Thumb is requesting. A brief discussion followed. Mayor Arnold said the second reading of the Ordinances will be on January 22. VOTE OF 4 TO 0, UNANIMOUS VOTE OF THE COMMISSION.

Adjourn

ADJOURN

There being no further business to be brought before the Commission, the meeting adjourned at 7:04 PM.

John B. Arnold, Jr.
Mayor

Heyward H. Strong, Jr.
Chair, VCA

ATTEST:

Tammy Johnson, CMC
City Clerk

January 7, 2014

The DVD labeled January 7, 2014 contains the audio and video of this meeting and will be kept as a permanent part of these minutes.