

MINUTES
CITY COMMISSION MEETING
April 9, 2012

The City Commission met this date in regular session in the Commission Chambers. The Invocation was given by Comm. Strong after which the Pledge of Allegiance was recited. A quorum being present, the meeting was called to order at 6:00 PM with the following in attendance.

Mayor	:	John B. Arnold, Jr.
Commissioners	:	Heyward H. Strong, Jr.
	:	Joe Morgan
	:	Diane Kelley
	:	Kay Hamilton
City Clerk	:	Tammy Johnson
City Administrator	:	Carl Scott
Police Chief	:	Joe Hart
Interim City Attorney	:	Hayward Dykes
Fire Chief	:	Mark Norris
City Engineer	:	Roy Petrey
Recorder	:	Lois Davis

Others in attendance: (Not inclusive) James Butler (Cameraman), Fred Aschauer, Jeff Littrell, Heath Rominger, Terry Griffin, Neal Shermer, Dave Beaulieu, Shelly Foster, Martha Woodcock, Marion Cassell, Lyn Knowles, Joe Stoy, Carol Stoy, Chad Lee, Don Dudas, Tom J. Jackley, Bill Royal, Joe Jimenez, Wilma Jiminez, Fonzie Winkler

Mayor Arnold welcomed the audience and stated that the Commission would be glad to listen to any comments on any item of discussion. He asked that anyone who wanted to be recognized should raise his/her right hand, and he asked that they speak from the podium which has a microphone.

The Mayor gave a special welcome to Mr. Lannie Corbin, Mr. Heath Rominger, Mr. Jeff Littrell, who are here concerning the NVOC Regional Sewer, and Mr. Fred Aschauer from Sundstrom, Friedman, and Fumero. .

1. NEW AGENDA ITEMS - Ratification of Interim City Attorney

During the special meeting of March 26th, the Commission asked the Mayor to seek an interim City Attorney. Mayor Arnold stated that Mr. Hayward Dykes presently serves as the City Attorney for Fort Walton Beach. A copy of the City's agreement is included in the Commission package. MAYOR ARNOLD MADE A MOTION TO APPROVE MR. HAYWARD DYKES OF CONERLY, BOWMAN, AND DYKE, LLP AS THE CITY ATTORNEY. COMM. STRONG SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY.

5. NEW AGENDA ITEMS - Legal Service Request for Quote

Mr. Fred Aschauer of Sundstrom, Friedman, and Fumero has been working with the Commission for many years and represented the City in two actions against the Air Force. He stated that both were settled, and that out of the two cases sprang for what he is here today. Mr. Aschauer stated that Mr. Bradley sued the City in 2008. He stated that Mr. Bradley claims there was a series of telephone calls, attorneys, Mr. Wyckoff and the Commission and was outside the Sunshine Law. Mr. Aschauer also stated that Mr. Bradley claims that to hire his law firm was illegal when there were two Commissioners were absent from the meeting. He stated that Mr. Bradley filed his suit in 2009. Mr. Aschauer stated that on April 30th, they have a case management conference. He stated that he understands that there was a situation between Mr. Wyckoff and the Commission, and that he had received a letter from the Mayor asking that he be the sole lead attorney. Mr. Aschauer stated that it would make things clearer for the record. He stated that Mr. Wyckoff would likely testify for this trial. COMM STRONG MADE A MOTON TO CONFIRM MR. FRED ASCHAUER AND APPOINT HIM AS LEAD COUNSEL IN THE BRADLEY LAWSUIT, REPLACING MR. WYCKOFF. COMM. MORGAN SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.

In response to Comm. Morgan's inquiry concerning where the City is the Bradley suit, Mr. Aschauer stated that the possibility of settling remains; however, Mr. Bradley feels that the Commission violated the Sunshine Law. Mr. Aschauer stated that he would be happy to settle this matter, but Mr. Bradley will not move from this. He stated that he does not believe that there was a violation of the Sunshine Law and that he would not move toward it.

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

There were no resident comments.

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

There were no non-resident comments.

5. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - NVOC Regional Sewer

Mr. Petrey stated that the City of Niceville intends to buy Okaloosa out the capacity In the Regional Sewer System, which necessitates three amendments. Once the buyout is consummated by all signatures, Okaloosa County wants to remain as a customer. After the County diverts their flow, Niceville and Valparaiso have the total capacity and they will need another agreement. Mr. Petrey then gave a little bit of history of the Regional Sewer System for

Welcome
By
Mayor

Welcome
To NVOC
Regional
Sewer and
Attorneys

Ratification
Of
Interim
City
Attorney

Legal
Service
Request
for
Qualifi-
cations

Resident
Concerns
Resident

Resident
Concerns
Non-
Resident

NVOC
Regional
Sewer

the new Commissioners. He stated that NVOC Regional Sewer System was founded 1974 as a means to economically, and cost effectively for Okaloosa County, Niceville and Valparaiso to have a regional sewer system. A supplemental agreement was signed in 1980, and By Laws were adopted in March of 1981, with the facility being completed in 1982. Mr. Petrey stated that in the supplemental language of 1980, it made reference to this utility purchase contract. He stated that the current operation agreement outlines how costs are shared, and they are set to expire in July of this year. Mr. Petrey stated that a construction project is underway to modify the treatment process, for a total project cost of 6.5 million dollars. He stated that Valparaiso owns 20% of the flow capacity. Mr. Petrey stated that Okaloosa has offered to sell to Niceville and then to convert their flow to Fort Walton Beach. He stated that Fort Walton Beach is asking that Niceville pay this portion of the construction cost, and there is language in the agreement that says you can sell you capacity. Mr. Petrey stated that each entity has equal representative on the board. He stated that it is incumbent that all parties be a part of any sale agreement. Mr. Petrey stated that the transfer of the flow cannot occur overnight, and will probably take about two years. He stated that they have already approved the agreement, and what remains to be ratified is for Valparaiso to evaluate the agreement and see how it affects us. Mr. Petrey stated that at the time of adopting the agreement, Okaloosa County would no longer be a part of the board, only Niceville and Valparaiso. He stated that finally once Okaloosa County withdraws their flow, certain costs will decrease, i.e. treatment costs, however, there are certain fixed costs. Mr. Petrey stated that if the County's flow would be taken away, Valparaiso's pro rata rate would increase. He stated that Mr. Corbin has said that it is not fair for Valparaiso to get additional cost, with Niceville getting the benefit. Niceville has agreed to pay the additional cost that Valparaiso would incur. The lengthy discussion included comments from Mr. Lannie Corbin, Mr. Jeff Littrell, and Mr. Heath Rominger.

In further comments made by Mr. Corbin, he thanked Valparaiso for having a part of the Fireworks Trust Fund. Mr. Corbin stated that they now have about \$80,000 in the bank, thanks to the help from Valparaiso. He also thanked the City for allowing Mr. Scott to participate on the committee. Mr. Corbin stated that he has been a real asset.

Mr. Petrey stated that this is timely for Niceville for a lot of reasons, and that Niceville is the biggest part of this. He stated that if the time came that Valparaiso needs affluent, he would not have a problem with going to Niceville and asking for this. Mr. Petrey stated when the NVOC Regional Sewer System first started, the affluent was dumped in the bayou and the area close to Lions Park, but now all the affluent is going out to the reservation, which is a good thing for Niceville and Valparaiso.

Mayor Arnold stated that the only thing he saw was the Operation Agreement, and that his elementary evaluation was all that did was emoralize the sale. He stated that he thinks they need all the documents on the table at the same time. Mayor Arnold stated that his other concern is reuse water.

Mayor Arnold stated that the City wants to cooperate in the agreement which was distributed at the NVOC and has been adopted by the Niceville Council, and Okaloosa County. Mayor Arnold stated that he sent his comments. In response to the Mayor's inquiry concerning the drop dead date, Mr. Littrell stated that notice to proceed construction would be around April 23. Comm. Kelley stated that she appreciated that Niceville is taking care of the additional expenses and that Valparaiso will not have to incur this.

In response to Comm. Morgan's inquiry concerning the \$40,000, Mr. Petrey stated that it is the additional expense. Comm. Strong recommended that two weeks is all he needs, and that he would recommend a meeting as soon as possible. A special meeting was scheduled for 6:00 PM on April 23, 2012.

5. NEW AGENDA ITEMS - Legal Services Request for Quote

Mayor Arnold stated that as directed at the special meeting, he and Mr. Scott drafted this RFQ. After discussion by the Commission, Comm. Morgan stated that he felt that the RFQ was excellent. Comm. Kelley suggested deleting the three county limitation from which applicants could apply. Attorney Dykes stated that from his experience, you open up the field when the area is unlimited and would probably get more applications. He stated that it would be easier for someone to come to the City if a person was from the local area. COMM. KELLEY MADE A MOTION TO NOT LIMIT THE AREA FROM WHERE THE PROPOSALS MAY BE ACCEPTED AND THAT THE CRITERIA WOULD CONTAIN FOUR FACTORS. COMM. MORGAN SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION. In connection with costs to attend meetings, Attorney Dykes stated that this is something the Commission can negotiate.

Legal
Services
Request
For
Qualifica-
tions

4. NEW AGENDA ITEMS - Animal Control

Mrs. Carol Stoy, 114 Edwards Circle, stated that she decided to see what the town really wanted, and she found out that they do want a leash law. She stated that there were probably less than ten names on her petition that did not want the leash law. Mrs. Stoy stated that she wants her town to be safe and not be afraid of being attacked by a dog running lose. She then gave Ms. Johnson the list of names for the record. Mayor Arnold stated that the Commission revised the ordinance, but Mrs. Stoy stated that voice control does not work. Comm. Kelley stated that she has not heard anything from anyone about this. Comm. Hamilton stated that her son and

Animal
Control

granddaughter were attacked by a pit bull. She stated that owner of the dog that attacked her son paid a \$50 fine. Attorney Dykes recommended looking to see if there are some areas that might need changing. Comm. Morgan stated that there is a strong community of people that have dogs. The six incidents that Chief Hart looked at would have been taken care of with the current existing laws. Comm. Morgan is that his point is that they need to ask the interim Attorney Dykes to get with Mr. Scott to determine whether the Animal Control ordinance needs to be revised or totally rewritten. Mr. Griffin stated that the current ordinance includes the leash law, and that does not understand what the deal is because the ordinance was just recently changed. Mr. Griffin stated that he controls his dogs, which is what the ordinance says. Comm. Kelley stated that she thinks they are trying to make it more specified. Mr. Griffin stated that when a person leaves their yard with their dog, they should leash them.

Mrs. Woodcock, 229 Chicago Avenue, stated that she feels that dog owners should be held responsible, if you have to put more teeth into the ordinance for a fine. She further stated that there are people in her neighborhood you use voice control with dogs and there is no problem.

The resident who lives at 115 Edwards Circle, stated that there are a lot of dogs in his area and that twice dogs have come after him. He asked Chief Hart who was responsible if a dog bit him, and how would they determine the owner. Chief Hart stated that he did not call the Police Department. Chief Hart then explained the fines for the different offenses of the Animal Control Ordinance. He further stated that if the offense is severe enough it can be elevated to a bad dog charge. Chief Hart stated that they have a \$5,000 budget to handle the animal issue. He stated that most of the people have pet friendly dogs. He stated that they try to save the City as much money as possible, so if possible, if there is no problem, they try to return the dogs to their owners. Chief Hart stated as far as enforcing the Animal Control Ordinance, they cannot be everyone at once, so they ask the citizens to call the Police Department if there are any problems. He then stated that a resident has a right to defend themselves.

Mr. Bill Royal, 409 Lincoln Avenue, asked the Commission not to change the Animal Control Ordinance; however, the Jimenez's at 165 Charles Drive, spoke in favor of changing it. The Stoy's, 114 Edwards Circle, were also in favor of changing the ordinance. Mrs. Stoy stated that it was also for the safety of the animals, and stated that she would call Chief Hart the next time she had a problem with a dog.

6. NEW AGENDA ITEMS - Niceville Valparaiso Little League Support

Comm. Kelley recommended donating \$2,000 from the Parks Budget to the Niceville Valparaiso Little League to help with the maintenance of the field and for lighting the field. Mr. Valandingham stated that Public Works has been making a lot of repairs. Comm. Kelley stated that she would want to support anything that helps the young people. In response to the Mayor's inquiry, Comm. Kelley stated that the City donated \$2,500 last year. Mr. Valandingham stated that the \$2,500 does not include some of the repairs they did. He stated that the City repaired the dugout, lighting, and recently resodded, thereby increasing the water bill. Mayor Arnold stated that he wants to help the Little League, but seeing the lights on at all different times, gives the Commission a reason to worry about it. COMM. KELLEY MADE A MOTION TO DONATE \$2,500 TO SUPPORT THE NICEVILLE VALPARAISO LITTLE LEAGUE. MAYOR ARNOLD SECONDED THE MOTION. . Comm. Strong made a statement that going back to the 1970's since we do not have a full time recreation department that we would help maintain the facilities and pay the utilities and the were responsible for the operation cost that is what we have done for many years. I do not know how they are going to keep the field maintained. Comm. Strong asked if the Little League has agreed to this, Comm. Kelley stated yes she has talked to Mr. Louis Skinner. Ms. Johnson stated that the water is metered but the City pays for it, and she further stated that there is a volume cap on the sewer. Ms. Johnson stated that the City will get everything turned off and put the water sewer and electricity in the name of Niceville Valparaiso Little League. After all the bills are paid, subtract that from the \$2500 and send the remainder to the NVLL. THE VOTE WAS HELD ON THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.

7. NEW AGENDA ITEMS - Commission Meetings Airing on Channel 37

Comm. Hamilton asked why couldn't the City air all the Commission meetings (regular and special) on Channel 37. She stated that she would like for it to be consistent. Comm. Strong stated that he had previously suggested that all the meetings be put on real time, so everyone could tape their own meetings. In response to Ms. Johnson's inquiry, Mr. Bennett stated that the meetings could be real time. After further discussion, the consensus was to air all (regular and special meetings) on the day following the meeting. Mr. Bennett stated that he would leave it up to Ms. Johnson to give him the schedule.

1. OLD BUSINESS - Gulf Power Franchise Update

Mayor Arnold stated that the Pole License Agreement has been signed and that he sees no hurry with the Gulf Power Franchise, so he asked Ms. Johnson to remove the item from the agenda.

2. OLD BUSINESS - Sidewalks Update Plat VI & Plat 1

Mr. Valandingham stated that the sidewalks in Plat 1 are about 60% complete, and that he anticipates they will be finished in another six weeks. Mr. Petrey stated that the contractor is

trying to schedule a final inspection this week for the sidewalks in Plat VI. He stated that they will be close to certifying the project.

3. OLD BUSINESS - Indian Shores Street Update

Mr. Petrey stated that the contractor is still scheduled to mobilize this week. Mr. Winkler, member of the Homeowners Association then presented a PowerPoint presentation showing two patches at Safe Harbor and Jasmine and then one at the end of Safe Harbor. In response to Mr. Winkler's inquiry, Mr. Petrey stated that he did not know who made the patch. Mr. Winkler also showed a picture of a sewer lid that has been properly covered. He thanked Mr. Petrey for communicating with Mr. Able and asked that he continue to do so and keep this item on the agenda.

Indian Shores
Street Update

4. OLD BUSINESS - Alcoa Update

Mr. Petrey and Mr. Valandingham talked with ALCOA representatives and got some details and asked some pertinent questions. At present, the City is in a holding pattern with ALCOA in where they go with this process. Mr. Petrey stated that he got strong feelings that ALCOA is for commercial operations. He stated that they will have to wait and see at that time. Mr. Petrey stated that they are waiting on ALCOA to tell the City what they plan to do. Mayor Arnold stated that they can remove ammonia better than three points per million, not nitrogen as thought. Mr. Petrey stated that ALCOA gave him information about a plant in Saudi Arabia. He stated that they have pilot programs and they are looking at doing a commercial plant and selling it.

Alcoa
Update

5. OLD BUSINESS - Elementary School Zoning

Mr. Scott stated that the City has started the process for rezoning the Valparaiso Elementary School. He stated that that Mr. Pete Smith has been notified to furnish a list of the affected homeowners. Mr. Scott stated that they are in the starting over process. Mr. Shermer stated that with the Mayor's permission he would like to deliver them to the Commission at this time. He stated that in looking at the remarks, he thinks they will be better now. Mayor Arnold stated that the normal process is to make comments at the Planning Commission quasi-judicial hearing. Mr. Shermer stated that he thinks that the Commission has already made up their mind and he does not think that it is appropriate. He stated that he considers his information to be pertinent with the current zoning. Comm. Hamilton stated that she does not think it is appropriate. Com. Morgan stated that the Commission does want to hear comments, but there is nothing for the Commission to decide. Mr. Shermer stated that no citizen has ever been refused the right to speak in a Commission meeting. Mayor Arnold stated that his remarks would be more appropriate at a later date.

Elementary
School
Zoning

Mayor Arnold stated that decided to revisit the issue, but there has been no decision to do this or that. Mr. Shermer stated that the Mayor wants to refuse a resident the right to speak on the zoning process. Attorney Dykes stated that this is just an update. Mr. Shermer stated that it is old business and it is an agenda item. Mayor Arnold reiterated that there is no decision to be made and that the proper time to make comments is at the Planning Commission hearing, and then at the Commission before they make their final decision.

1. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - TPO/DOT

Comm. Morgan reported that the TPO/DOT meeting would be held later this month.

2. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Stormwater

There were no new stormwater issues.

3. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Legal Activities

Attorney Dykes stated that Mr. Bowman is now handling two cases, and that he talked with him. He stated that it is prudent to recommend having a special executive session. Mr. Dykes stated that one case involves the Willingham case. After discussion, the consensus was to schedule the executive session at 6:45 PM on Monday, April 17, 2012. Attorney Dykes will contact Mr. Bowman.

TPO/DOT
Stormwater

5. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Precinct 15 Polling Location

Mayor Arnold reported that the City was notified by Mr. Lutz that the polling location for Precinct will be moved from the Mitchell Building to the Fellowship Hall at Valparaiso First Baptist Church.

4. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Planning Commission Report

Chairman Woodcock reported that the Planning Commission met on March 13th, and further stated that the third Tuesday of the month is the regular meeting day. She stated that the Planning Commission elected Mr. Tom Browning as Vice Chair. Chairman Woodcock and Mr. Browning will serve in their capacity until October 12, 2012. She stated that some of the members were concerned about the way the sidewalks were being put in Plat 1, and Mr. Carson stated that they sidewalks did not appear to meet the new standards. Chairman Woodcock stated that she understands, it would be at least thirty days before the rezoning for the Elementary School hearing would come before the Planning Commission.

Precinct
15
Polling

7. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Okaloosa League of Cities Meeting April 17, 2012

Okaloosa
League of
Cities
Meeting

Mayor Arnold asked that anyone attending the League of Cities Dinner meeting being held at Sound side will be hosted by Mary Esther should contact M. Johnson.

NW
Florida
LOC
Summer
Meeting

8. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Northwest Florida League of Cities Summer Meeting May 11, 2012

Mayor Arnold reminded the Commission that the summer meeting of the Northwest Florida League of Cities will be held on May 11, 2012.

9. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - City Web Page

Comm. Kelley stated that Niceville High School students are working competitively to design a new web page for the City. She stated that she is impressed with the students' level of creation. Mayor Arnold commended Comm. Kelley for her work on this project.

City Web
Page

10. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Etc. Easter Egg Hunt

Mayor Arnold thanked Comm. Kelley for doing a good job in the parks and for the successful Easter Egg Hunt recently held in Lincoln Park. He stated that he had heard nothing but good things about this event, and that he was looking forward to making this an annual event. Comm. Kelley stated that she would estimate two hundred plus people were in the park.

Easter
Egg
Hung

10. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Library

Comm. Kelley stated that the library would close all day on August 24, 2012. Mr. Weatherford then gave an update of the activities being held in the library, i.e., story time, French and Spanish, an inside egg hunt, and movie days.

Library

1. ADMINISTRATIVE ITEMS - Minutes

COMM. KELLEY MADE A MOTION TO APPROVE THE MINUTES OF MARCH 12, 2012 AS WRITTEN. COMM. MORGAN SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION. March 12, 2012.

Minutes
12 March
2012

COMM. STRONG MADE A MOTION TO APPROVE THE MINUTES OF MARCH 20, 2012 AS WRITTEN. COMM. HAMILTON SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.

Minutes
20 March
2012

COMM. HAMILTON MADE A MOTION TO APPROVE THE MINUTES OF MARCH 26, 2012 AS WRITTEN. COMM. MORGAN SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.

Minutes
26 March
2012

2. ADMINISTRATIVE ITEMS - 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 UNANIMOUSLY.

Bills
Payable

3. ADMINISTRATIVE ITEMS - Etc. - Legal Services Request for Quote

Comm. Morgan stated that in looking at the agenda, he noted that the request for quotes should be changed to request for qualifications.

Legal
Services
for
Quote

ADJOURN

There being no further business to be brought before the Commission, the meeting adjourned at 8:17 PM.

John B. Arnold, Jr.
Mayor

Heyward H. Strong, Jr.
Chair, VCA

ATTEST:

Tammy Johnson, CMC
City Clerk

April 9, 2012

The DVD labeled April 9, 2012 contains the audio and video of this meeting and will be kept as a permanent part of these minutes.