

MINUTES
CITY COMMISSION MEETING

March 12, 2012

The City Commission met this date regular session in the Commission Chambers. The Invocation was given by Comm. Shermer 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.
	:	Thomas G. Miller
	:	Neal Shermer
	:	Diane Kelley
Deputy City Clerk	:	Della Rhodes
City Administrator	:	Carl Scott
Police Chief	:	Joe Hart
Fire Chief	:	Mark Norris
City Attorney	:	Doug Wyckoff
City Engineer	:	Roy Petrey
Recorder	:	Lois Davis

Others in attendance: (Not inclusive) James Butler (Cameraman), Joan Morse, Terrilyn Roddy, Washington White, Eric Parsons, Ken Copeland, Ruth Copeland, Dave Beaulieu, Joe Morgan, Terry Griffin, Chad Lee, Clark T. Browning, IV, Don Caverly, Martha Woodcock, Kay Hamilton, Fonzie Winkler

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.

The Mayor welcomed Mrs. Della Rhodes, Deputy City Clerk, who is filling in for Mrs. Johnson, who is out of town.

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.

1. NEW AGENDA ITEMS - Added Agenda Items

Mayor Arnold reported there were no added agenda items. He explained that the purpose of this item is in case one of the Commissioners want to add an item to the agenda, which would require a motion passed by the Commission.

2. NEW AGENDA ITEMS - Resolution No. 04-03-12-12 Amend Budget

Mayor Arnold read Resolution No. 04-03-12-12 a resolution amending the fiscal year 2012 Budget of the City of Valparaiso, Florida; due to an increase in expenditures; authorizing revisions to be made to the monthly financial statements and providing an effective date. \$64,000 will be taken from the Utility Fund for Computer Equipment and Software (SCADA), with the funds to be taken from the Utility Reserve. Comm. Strong stated that the Commission had agreed to make this purchase in December 2011, but it had to be carried over and rolled into the reserves, so now they are taking the money back. COMM. STRONG MADE A MOTION TO ADOPT RESOLUTION 04-03-12-12 AMEND BUDGET. MAYOR ARNOLD SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH 5 - 0 VOTE OF THE COMMISSION.

3. NEW AGENDA ITEMS - Niceville Valparaiso Little League Support

Comm. Kelley stated that she had talked with Mr. Skinner and that he wants to make sure that the money goes to the condition of the fields in Valparaiso. She asked that the item be tabled until April. COMM. KELLEY MADE A MOTION TO TABLE THE NICEVILLE VALPARAISO LITTLE LEAGUE SUPPORT UNTIL THE REGULAR COMMISSION MEETING IN APRIL. COMM. STRONG SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.

Comm. Strong stated that he represented Mayor Arnold at the opening session of the Little League for the girls. He stated that the League expressed appreciation to Valparaiso and Niceville, and he then presented the Mayor a plaque expressing their appreciation.

4. NEW AGENDA ITEMS - Resolution No. 05-03-12-12 Amend Employee Hand Book

Mayor Arnold conducted the reading of the heading of Resolution No. 05-03-12-12 a resolution amending the City of Valparaiso Personnel Policies on military leave for Reserve or National Guard training and providing an effective date. Mrs. Rhodes stated that they called the military personnel attorney and they were told to change it from 17 days to 240 hours, and that the employee needs to make sure they bring in a copy of their orders. Mr. Wyckoff recommended that the City just reflect 115 of the Florida Statute rather than the 240 hours, then if it was changed again, the policy would not have to be changed. Mr. Morgan stated that he agrees on the purpose as far as the resolution, but that he thinks that the Hand Book should be as specific as possible. He stated that the employees deserve the clarity. The Mayor stated that the

Attendance

Citizens'
Concerns
Resident

Citizens'
Concerns
Non-
Resident

Added
Agenda
Items
Resolution
No.
04-03-12-
12
Amend
Budget

Niceville
Valparaiso
Little
League
Support

Resolution
No.
05-03-12-12
Amend
Employee
Hand
Book

reason this was suggested by Mr. Wyckoff is that the Legislation changes from session to session. Mr. Wyckoff stated an easy way to accomplish this is to make sure a copy of resolution is in the Employee Hand Book. COMM. MILLER MADE A MOTION TO ADOPT RESOLUTION NO. 05-03-12-12 AMEND EMPLOYEE HAND BOOK. COMM. KELLEY SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.

1. OLD BUSINESS - Gulf Power Pole License Agreement

Mr. Wyckoff stated that as they discussed before, the Gulf Power Franchise is not the big issue. He stated that the Pole License Agreement is the big issue. Mr. Wyckoff then gave the Commission a memo from the attorneys concerning what would be the final negotiated Pole License Agreement. He stated that back in 2002, Gulf Power unilaterally raised the pole attachment fee and it was at that time the City's Agreement had lapsed, so there were a lot of discussions. Mr. Wyckoff stated that the City held the money "escrow", which he understands is \$300,000. Comm. Miller stated that this originated when the FCC had established their rate. Mr. Wyckoff stated that about that same time several entities sued Gulf Power, which languished in the courts for years. He stated that ultimately in 2006, Alabama courts ruled that Gulf Power was wrong. Mr. Wyckoff stated that Gulf Power was taking the position that if they have to move anything, it was at capacity. Gulf Power lost, but said they were going to collect this money until a binding determination. Mr. Wyckoff stated that having lost in the 11th Circuit in the Alabama case, Southern Company sought to intervene and reinstated a case with the FCC. On February 22, the DC Circuit said they were a participant in the Alabama Power and they said they could not litigate again. He stated that there is a memo written on February 6th about what the rates will be, and it appears to be the rates that Alabama and Mississippi are charging everyone. Mr. Wyckoff stated that it is pretty safe to agree to these rates; however, technically, they could file another appeal, but he would give them no chance of winning at all. He stated that other than that, this agreement has predominately been negotiated by Mr. Bruce Beard, with Southern Company, with Mr. Wyckoff's input. Mr. Wyckoff stated that there are a few things that aren't perfect for Valparaiso, but no financial, not worth continuing to go around and around. He recommended that Valparaiso go ahead and execute the document that Southern Company's lawyers have agreed to. Mr. Wyckoff stated that if the City wants to protect itself 100%, it is his recommendation that they investigate the possibility of a security bond, which would probably cost about \$35,000. Concerning whether a surety bond is necessary, Mr. Wyckoff stated that he would not do it. Mayor Arnold recommended that this be rescheduled for the April Commission meeting to see what affect this would have on the Cable Department. Mr. Wyckoff stated really the only time issue on this is that once the franchise expires, the franchise continues under the old agreement and the City would still be obligated to collect the old rate.

Comm. Miller stated that he would like to vote on this because he will not be here at the April meeting. Comm. Kelley stated that she just found the memo lying on her seat tonight. She stated that just scanning the memo, she would personally like to read it. Mr. Wyckoff stated that he emailed the memo to the City of February 23rd, and Mayor Arnold stated that he emailed it to Mr. Bennett. Mr. Bennett stated that he has done a cursor review of the document and most of the pole attachment verbiage is boilerplate for TV Cable. He stated that he is not certain, but there were a couple of things that would impact cable, but not financially. Mr. Wyckoff stated that Mr. Beard's recommendation certainly wasn't worth haggling over. He stated that they have not had a problem doing work, making attachments, etc. Mr. Wyckoff stated that he knows it is a long document and that he had been through it many times.

Mayor Arnold stated that he was concerned with the coordination whether it made any difference or not. He stated that he felt that they should get a recommendation from Mr. Bennett. Mr. Bennett stated that the City has a real good rapport with Gulf Power and he does not personally see anything that raises a red flag. Mr. Bennett stated that it is a lot more economical to attach to Gulf Power and let them maintain the pole. He stated that this is a five year contract. Comm. Miller stated that most of the developments now days install the utilities underground. In response to the Mayor's inquiry concerning whether this final agreement is the same as the one that Mr. Wyckoff sent a month ago, he stated that the last change was August 2011. He stated that you should authorize the Mayor to signs this; it eliminates the agreement to escrow money. Comm. Shermer asked Mr. Bennett if he was good with it, based on his overview. Mr. Morgan stated that he still has some concerns. Mayor Arnold stated that once the pole attachment is settled, the franchise agreement can be negotiated. COMM. MILLER MADE A MOTION TO EXECUTE THE GULF POWER POLE LICENSE AGREEMENT. COMM. STRONG SECONDED THE MOTION. Mr. Bennett also recommended that the City execute the agreement. Comm. Kelley felt that it would be best to put off. THE VOTE WAS HELD ON THE MOTION, WHICH PASSED WITH A VOTE OF 4 - 1, WITH COMM. KELLEY VOTING IN THE NEGATIVE.

3 OLD BUSINESS - Sidewalk Update Plat VI & Plat 1

Mr. Petrey stated that at the February Commission meeting he stated that there was an encroachment issue and to construct the sidewalk, they would need to get an encroachment. He stated that the proceeded with the design because the property owner had indicated that she was out of town but when she got home, she would give the City an encroachment. Mr. Petrey stated

that the property owner asked to have a couple of days to review with her attorney, and now it looks like it will not be forthcoming. He stated that he has the original change order. Mr. Petrey stated that he thinks they can construct the sidewalk from Grandview to East Ferndell and from Mississippi to the corner where they have the right of way. He recommended that the City go ahead and approve this tonight and build the sidewalk where the City has the right of way. Mr. Petrey stated that the cost would be \$65,000. He stated that his hopes are that the homeowner will reconsider when she sees this. **COMM. MILLER MADE A MOTION TO PROCEED WITH THE SIDEWALK AS RECOMMENDED BY THE CITY ENGINEER. MAYOR ARNOLD SECONDED THE MOTION.** Mr. Griffin stated that if the City just leaves out a portion of sidewalk, they have just set the City up for a lawsuit. Mr. Petrey stated if the liability exists today, it will still exist. **THE VOTE WAS HELD ON THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.**

Mr. Scott reported that the City crew is doing a good job and are continuing to work on the sidewalks in Plat 1, and have finished a section of Westview.

4. OLD BUSINESS - School Charter Study Status

Comm. Shermer stated that as far as he knows the meetings will continue on the school charter study status (Chapter 164). He stated that he would encourage the City to strongly advocate to enforce the zoning and secure the boundaries of the City of Valparaiso.

School
Charter
Study
Status

5. OLD BUSINESS - Indian Shores Street Update

Mr. Petrey reported that the contractor is waiting on the change order for the sidewalks before he starts the street repairs. He stated that he will let Mr. Winkler know when they will start construction. Mr. Winkler stated that he does not know who did it, but there is now an asphalt patch at Jasmine Avenue and Aucilla Cove. He further stated that two manholes have temporary lids on them, but there are three on Safe Harbor that have not been touched. Mayor Arnold stated that Comm. Strong is taking and will take care of this.

Indian
Shores
Street
Update

6. OLD BUSINESS - ALCOA Update

Concerning the ALCO pilot project that was previously discussed by the Commission, Mr. Wyckoff stated that about a month ago he received he was contacted by ALCOA, who now has a new Chief Technical Officer who is interested in getting their system commercially viable. He stated that he had talked with Mr. Valandingham and Comm. Strong about this. Mr. Wyckoff stated that it would cost about \$15,000 for labor if the City wants to move forward as soon as possible they need to find \$15,000 or budget an equivalent amount for next year. Comm. Strong stated that there is no power on the site, and that the property they thought had an easement belongs to the government. He stated that they are looking at getting an easement and power, but thinks it would be worth while to do, but they need to get everything solved. Mayor Arnold stated that they are talking about a 50,000 gallon sewer plant, which uses no chemicals, no electricity, no man power. Comm. Shermer stated that this is a very exciting project. In response to Comm. Kelley's comment, Mr. Wyckoff stated that Mr. Petrey had seen the presentations. Comm. Kelley stated that she just wanted to make sure that everyone was involved. Mayor Arnold stated that the big factor is the nutrient removal, indicating that the new sewer plant in Fort Walton Beach does not meet this criteria, nor does the Regional Sewer System. Comm. Shermer stated that this is just a test system, and further stating that it can be modular, indicating that they could have could have small booster plants throughout the City. He stated that it greatly reduces the cost and would definitely be a great opportunity for the City. Mr. Wyckoff stated that ALCOA has guaranteed that it will meet all state and federal standards. Mr. Wyckoff expressed his concern for a deadline in order to ensure that this moves forward. Comm. Strong will spearhead trying to get an easement from the government, after which power could be installed.

ALCOA
Update

In response to Mrs. Woodcock's inquiry concerning whether the City would be divorcing their relationship with the Regional Sewer System, or would they maintain capacity, Comm. Shermer stated that this would be to just divert some of that into this little facility to see if it works. Mayor Arnold stated that they are just trying to prove a new technology. He stated that it is a State of the Art system. Comm. Shermer stated that this does not commit the City to anything.

1. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - TPO/DOT

In response to Comm. Miller's comment that a representative needs to be appointed to the TPO/DOT, Mayor Arnold stated that he would take care of this. Comm. Strong stated that he attended the last meeting and that he put the information in Comm. Miller's mailbox.

TPO/DOT

2. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Stormwater

Mr. Scott reported one new stormwater issue at Bayshore Point.

3. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Legal Activities

Mr. Wyckoff reported that Mr. Bradley was challenging the FOIA and ROD lawsuits and that he has filed a motion for a jury trial. He stated that typically, according to the rules, they have to request a jury trial. Mr. Wyckoff stated that the motion fails to meet the criteria. Motion for summary judgment should be filed next month.

Stormwater

Legal
Activities

Mr. Wyckoff stated that the City filed a motion to dismiss in federal court. Mr. Willingham's deposition will be taken on March 26th.

Planning
Commission

4. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Planning Commission Report

Mrs. Woodcock gave the report and stated that she is the acting Chair for the Planning Commission. She stated that Mr. Crosby has taken a leave of absence from the Planning Commission and has stated that he does not want to continue as Chair.

5. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Insurance Services Office - Public Protection Classification

Chief Norris reported that he has received the ISO report and that Valparaiso has retained its 4 rating, and has actually improved. He stated that it is a very thorough report, and informed the residents that the ISO rating actually sets the insurance rates for the homes. Mayor Arnold commended the Fire Department for a job well done. Comm. Strong stated that there are 47,242 grades of the different fire departments and that they are in the top 15%. He stated that in the State of Florida, Valparaiso is in the top one third. Copies of the lengthy report are available at City Hall.

6. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - NVOC Regional Sewer

Mayor Arnold stated that the board has recommended that North Florida Construction of Clarksville, Florida be awarded the \$6,055,000 for the upgrade on the system, which includes a rapid infiltration system. He stated that the board cannot award a contract, so the Niceville City Council will do it. The Mayor stated that the County has been very aggressive, indicating they have a contract with the Air Force for Field 3. He stated that they have a new 6.5 million gallon per day plant. Mayor Arnold stated that there will be no increase in user fees due to the buyout, but there will be an increase to maintain the new technology, which is something they have to do. He stated that they are going to rapid infiltration for economical reasons. Mayor stated that it looks like it will be about a \$2.00 or \$2.11 per month increase. He stated that this is one of the reasons that the City is so interested in the pilot plant with ALCOA.

11. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Etc.- Library Website

Mr. Weatherford stated that the Library has a very user friendly website. He stated that Mr. Shipley has spent about three months 3 months getting it perfected. Mr. Weatherford stated that eBooks will soon be available on the website. He informed the audience that the Library has a French and Spanish class for anyone interested in learning these languages. Mr. Weatherford stated that the things going on at the Library are very impressive. He stated that the first Thursday of the month is early release for Lewis School so they are showing a movie for the children. Mr. Weatherford stated that Dr. Jill White is also offering a book discussion book at the Library. He stated that the genealogy history class has twenty students. Mayor Arnold stated that Comm. Kelley has been very dynamic in working with the Library. Comm. Kelley stated the Library cards are free and she encouraged the residents to get a Library card if they didn't have one.

7. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - NWFL League of Cities Meeting - Valparaiso March 15, 2012

Valparaiso will be hosting the Northwest Florida League of Cities meeting which will be held on March 15, 2012. Dinner will be served at 6:00 PM.

8. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - March 19, 2012 Reception for Comm. Miller 2 - 4 PM

Mayor Arnold stated a reception will be for Comm. Miller from 2 - 4 PM on March 19, 2012, honoring him for his service to the City. He encouraged everyone to stop by and wish Him and well in the future and to thank him for his work during his sixteen years as Commissioner.

9. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - March 20, 2012 Swearing In Ceremony 12:00 PM

Mayor Arnold stated that the swearing in for the new Commissioners will be held at noon on March 20th, 2012. In response to Mr. Wyckoff's request, Mayor Arnold excused him from attending the organizational meeting at 6:00 PM.

10. REPORTS CORRESPONDENCE / ANNOUNCEMENTS -Letter of Commendation

Mayor Arnold reported that he had received a letter of commendation from Mr. David Bush for the Public Works crew for doing an excellent job in the collection of solid waste items and yard debris.

1. ADMINISTRATIVE ITEMS - Minutes

COMM. STRONG MADE A MOTION THAT THE MINUTES OF FEBRUARY 13, 2012 BE APPROVED AS WRITTEN. COMM. KELLEY SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.

As information Mayor Arnold stated that the Commission package also included a copy of the last Conflict Assessment Meeting. Mayor Arnold stated that the package also contained a copy of the buyout proposal, recommendation, and operating agreement. He asked that the Commissioners give him any comments on the operating agreement.

2. ADMINISTRATIVE ITEMS - Bills Payable

COMM. STRONG MADE A MOTION TO PAY THE REGULAR BILLS AND

Insurance Services Office Public Protection Classification

NVOC Regional Sewer

Library Website

NWFL League of Cities Meeting

Reception for Comm. Miller

Swearing In Ceremony

Letter of Commendation

Minutes 13 February 2012

Bills Payable

VCA BILLS AS OUTLINED AS BILLS AS OUTLINED IN THE FINANCIAL STATEMENT(S). COMM. MILLER SECONDED THE MOTION, WHICH WAS UNANIMOUSLY WITH A 5 - 0 VOTE OF THE COMMISSION.

3. ADMINISTRATIVE ITEMS - Presentation of Plaques to Comm. Miller and Comm. Shermer

Presentation of Plaques to Comm. Miller and Comm. Shermer

Mayor Arnold stated that next Tuesday, the terms of Comm. Miller and Comm. Shermer will expire. He stated that Comm. Miller has served sixteen years and Comm. Shermer has served two years. The Mayor then read a lengthy list of accomplishments in the Cable Department while Comm. Miller served on the Commission. One of the many accomplishments was the Upgrade/Expansion of the cable system. The Mayor stated that Comm. Shermer has been very active in trying to get a charter school in Valparaiso. He then presented each Commissioner a plaque with dollar coins (4) for the four years and (2) two years served during their last term.

4. REPORTS / CORRESPONDENCE / ANNOUNCEMENTS - Etc. Recycling

Recycling

Mayor Arnold reported that the City will begin a recycling program probably about April

1. He stated that they plan to have a trailer located behind City Hall and at Lewis School.

4. REPORTS / CORRESPONDENCE/ ANNOUNCEMENTS - Thank You

Thank You to Police and Fire Departments

Mrs. Miller expressed her appreciation to the Fire Department and Police Department for all their assistance during Comm. Miller's medical issues.

ADJOURN

Adjourn

There being no further business to be brought before the Commission, the meeting adjourned at 7:27 PM.

John B. Arnold, Jr.
Mayor

Heyward H. Strong, Jr.
Chair, VCA

ATTEST:

Tammy Johnson, CMC
City Clerk

March 12, 2012

The DVD labeled March 12, 2012 contains the audio and video of this meeting and will be kept as a permanent part of these minutes.