

**MINUTES OF THE MEETING  
OF THE COMMON COUNCIL  
VALPARAISO, INDIANA**

July 26, 2021

The Common Council of the City of Valparaiso, Indiana, met on Monday July 26, 2021 at 6:00 p.m. in City Hall. Mayor Murphy called the meeting to order. The Pledge of Allegiance was said. Present were Councilmembers Reed, Cotton, Schmidt, Pupillo, Anderson, Costas and Douglas.

**MINUTES**

Councilmember Douglas moved to approve minutes of the July 12, 2021 meeting. Councilmember Reed seconded the motion. Upon voice vote the motion to approve passed with a 7-0 vote.

**Kiwanis**

Mayor Murphy recognized the Valparaiso Noon Kiwanis for 100 years of service. The Valparaiso Noon Kiwanis organization is the 8<sup>th</sup> largest Kiwanis group in the world. Mayor Murphy presented them with a Proclamation,

**Shared Ethics Advisory Commission**

John Bowker is the Council's representative to the Shared Ethics Advisory Commission. The Commission is offering a free training for all municipality boards and commissions. In October there will be a summit for elected officials.

**Water Boil Advisory**

Steve Poulos reported the details of the water main break and water boil advisory from Thursday, July 22<sup>nd</sup>. A contractor hit a pressurized water main on Highway 2. The hole was so severe it was drawing water from the towers at a high rate of speed. It was determined to issue the advisory for everything south of the Grand Trunk Railroad. Steve explained an advisory is precautionary. An order is confirmation there is contamination in the water. The City has never had a Boil Order.

Councilmember Douglas asked if the contractor is responsible for costs. Steve replied he will be in talks with the contractor.

Councilmember Cotton asked why the contractor was cutting so low. Steve replied he has not received that answer yet.

**RESOLUTION NO. 12, 2021**

**A RESOLUTION GRANTING APPROVAL FOR A FAÇADE IMPROVEMENT  
REIMBURSEMENT GRANT FOR DAM FINE PROPERTIES**

**(155, 157 AND 159 LINCOLNWAY)**

Councilmember Douglas moved that Resolution No. 12, 2021 be read and considered for passage. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Resolution No. 12, 2021.

Beth Shrader addressed the Council. This Resolution comes to the Council with a favorable recommendation from the Plan Commission. The total estimated cost of the project is \$144,611.95. The request is for \$25,000 for the front of one building and \$25,000 to be shared with the rear entrance improvements of two buildings, for a total of \$50,000.00.

Councilmember Cotton asked about the \$25,000 for the rear entrance improvements. Beth Shrader explained the grant is \$25,000 for the front entrance and \$25,000 for the rear of all addresses combined.

Councilmember Douglas moved to adopt Resolution No. 12, 2021. Councilmember Reed seconded the motion. Upon roll call vote, the motion to adopt Resolution No. 12, 2021 passed with a 7-0 vote.

**ORDINANCE NO. 12, 2021**

**AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF VALPARAISO**

Councilmember Douglas moved that Ordinance No. 12, 2021 be read a second time by title and a third time in full and be considered for adoption and the opportunity be given for the offering of amendments. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read the Ordinance.

Beth Shrader addressed the Council. This comes to the Council with a favorable recommendation from the Plan Commission. It is a parcel of land on West Street with a request to rezone to Business Park.

Councilmember Douglas clarified that the map presented is the way the area will be zoned. He also asked if the neighbors realize the whole area may at some point be rezoned. Beth Shrader replied the map is accurate and neighbors are aware of the possibilities.

Councilmember Douglas moved to adopt Ordinance No. 12, 2021. Councilmember Reed seconded the motion. Upon roll call vote the motion to adopt Ordinance No. 12, 2021 passed with a 7-0 vote.

**ORDINANCE NO. 15, 2021  
AMENDMENT TO 2021 SALARY ORDINANCES**

Councilmember Douglas moved that Ordinance No. 15, 2021 be read a first time and considered on first reading. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 15, 2021.

Clerk-Treasurer Taylor explained the Police Department has received a grant from Health Linc. The intended use of the funds is to hire a social worker for the Department. This needs to be added to the Salary Ordinance.

Chief Balon addressed the Council. He wants a social worker on staff for the officers and for citizens. The only requirement from Health Linc for the Department to receive the grant is that the employee must be fulltime, and benefits must be offered. He is hopeful this will grow into a whole division within the Police Department. The Social Worker will assist in each call if necessary. If children are involved the proper agency will be called. They will contact Adult and Child Protective Services if needed.

Councilmember Reed stated this has been needed. She asked how long the grant money will be received. Chief Balon replied it runs through September of next year. It could be awarded for another year. If it is not awarded again, he has built it into his budget to cover the salary until the end of 2023.

Councilmember Pupillo asked what type of grant this is. Chief Balon replied it is a Federal Grant. There is no guarantee that it will be renewed next year. If not, he will be asking the Council for funding.

Councilmember Costas expressed his thanks for this program. It has been needed.

In response to Councilmember Douglas, Chief Balon stated he would like to have this program up and running by September.

Councilmember Schmidt stated this is well thought out, needed and appreciated.

Councilmember Cotton asked Chief Balon if he knew of any others who had received this grant and how it worked out for them. Chief Balon advised he is not comfortable commenting on other departments. He also explained each municipality is different. He cannot mirror another program. Adjustments can be made along the way.

John Seibert addressed the Council. He explained his Department is shifting and adding positions which will have to be included in the Salary Ordinance. The Department is adding a special events position. The current employee doing that job will be moving into doing just facilities maintenance director. The Park Department has taken over the Market, Movies and Concerts from the Valpo Events Office.

Councilmember Douglas moved that Ordinance No. 15, 2021 be carried over to the August 9, 2021 meeting. Councilmember Reed seconded the motion. Upon voice vote the motion passed with a 7-0 vote.

### **ORDINANCE NO 16, 2021**

### **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO TO ESTABLISH A PROCESS TO ADDRESS CHRONIC DISORDERLY PROPERTY**

Councilmember Douglas moved that Ordinance No. 16, 2021 be read a second time by title and a third time in full and be considered for adoption and the opportunity be given for the offering of amendments. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read the Ordinance.

Attorney Patrick Lyp addressed the Council. He has had a lot of conversations with people and changes have been made to the Ordinance since the last Council meeting. He has looked at similar Ordinances from other communities. The Whereas sections are intended to let citizens know why the City is acting in this way. In Section 1 the definition of a Disorderly Property was cleaned up. In Section 2 Public Nuisance is clarified. In Section 7 a property owner is encouraged to communicate and cooperate with the Valparaiso Police Department and the City's Code Enforcement Department. In Section 9 this was added to acknowledge that there might be situations where people are adversely impacted by the Ordinance. Chief Balon and Attorney Lyp will track how the Ordinance is being administered and look to avoid any unintended consequences. Implementation of this program will be through the City Attorney office as well as the Police Department. It has been determined that in order to be effective, the fines need to be significant. All fines will be handed out if there is little or no cooperation from a landlord. If this Ordinance is adopted tonight, the fines will be delayed until October 1, 2021.

Attorney Lyp discussed some particulars of the Ordinance. If a disgruntled person calls it does not count. An actual citation or arrest must be made before it counts. Suspension of rental abilities is a nuclear option. To enforce this fine, the Board of Works would have to approve, and a Judge would have to find it reasonable. A landlord receiving a fine has the option to petition the board of Works to lower or waive the fine.

The goal of this Ordinance is to reach cooperation with problem units. Since the first reading of this Ordinance some of the problem landlords who are high on the list of violators have reached out to work with the City to fix the problem.

#### Public Comment:

Jan Dick - 2505 Camila Drive. He has been a landlord for 39 years. As a member of the City Council, he voted on the Rental Registration Ordinance. It was his hope that this process would allow the Police Department a means to reach landlords if there were issues. This would allow landlords a chance to remedy a situation before it became a problem. To date he has never received a call. He is aware there have been calls to some of his rental units.

Liz Wuerffel – 401 Institute. Data should come first. There is mounting evidence of negative impact. The City should concentrate on doing what we do well. She presented a study that discusses nuisance ordinances and effect on people with disabilities, people of color, people with mental abuse and mental health issues.

Hope Smith – 606 Brandonburry Drive. She is a nurse. The MSW position should be in place before this Ordinance is passed. This Ordinance will be a burden on families with mental health issues and disabilities. Sometimes medicine administered takes 3-4 weeks to be effective. She is

concerned of fines on nonprofit organizations. The Council should take time and look for further data.

George Terrell – 708 Lafayette. He feels the Council should get data first. They should learn what the unintended consequences will be. They need to gather data and talk to people. Community involvement and community safety is important. This Ordinance is a hammer. That is not the way to get a problem fixed. He does not want to see this Ordinance passed tonight.

Mitch Peters – 99 Matridge. At Respite House they have had no police calls in 11 years. He feels the City should partner with other organizations and deal with issues in another way. He believes what is being said today. But who will be here and what will they think in 20 years from now?

Amy Nondorf – 2256 Beautycreek Court. She asked for clarification that wellness and mental health calls do not count towards a violation. She suggested the fines collected could go towards the MSW salary.

Alison Shutte – 401 Institute. Her concern is for non-profits. She agrees the fines make people accountable, but the other side is what can be done to help a situation. What will be done to change a situation. She wants the Council to put off voting tonight.

Jarod Sequi – 405 Monroe. He feels the language regarding appeals, waiver, cooperation are all vague. He asked if this would encourage landlords to raise rent to keep out trouble tenants. He feels there needs to be more discussion and therefore the vote should be delayed.

Sam Burdet – 1905 Wood Street. In talking at work about this Ordinance her co-workers said, “like Jamestown”. She feels community-based approach is better than fine based.

Mayor Murphy and Attorney Lyp replied to comments. Communication. This Ordinance is drafted in response to concerns. There have been conversations where there are problems. There has been no cooperation, so now they have prepared this Ordinance.

Negative Impact and Unintended Consequences. Based on comments received it has been stated in the Ordinance that the City encourages anyone needing assistance to call. Landlords need to say to their tenants that they should call them instead of 911.

Burden to families with mental health issues. The Police Department will have a social worker on staff. This person can help get resources for the person involved.

Why penalties first. This Ordinance is not the start of this process. They have tried to have conversations with trouble landlords with no response. A lot of other communities have their Ordinance as “one and you are done”. The City’s Ordinance gives the landlord chances to fix a problem.

Mayor Murphy read into the record the list of prohibited conduct:

(A) "Prohibited Conduct" shall mean activities occurring in violation of the statutes or ordinances relating to any of the following:

- 1) Gambling, as defined in IC 35-45-5-1;
- 2) Battery, as defined in IC 35-42-2-1;
- 3) Contributing to the delinquency of a minor, as defined in IC 35-46-1-8;
- 4) Resisting law enforcement, as defined in IC 35-44.1-3-1;
- 5) Disorderly conduct, as defined in IC 35-45-1-3;
- 6) Criminal recklessness, as defined in IC 35-42-2-2;
- 7) Discharge of firearms, as prohibited by City Code §130.05-.06;
- 8) Harassment as defined in IC 35-45-2-2;
- 9) Unreasonable noise, as prohibited by City Code §130.02;
- 10) Failure to keep vacant property secured against entry, in violation of IC 36-7-9-1 et seq. (Unsafe Building Law).
- 11) Violations of any of the following Indiana statutes governing the sale, possession, delivery or receipt of alcoholic beverages:
  - a) Sales, delivery or possession in violation of IC 7.1-5-1-1;
  - b) Illegal possession by a minor in violation of IC 7.1-5-7-7;
  - c) Furnishing alcohol to a minor in violation of IC 7.1-5-7-8;
  - d) Inducing a minor to possess alcohol in violation of IC 7.1-5-7-15;
  - e) Sale or delivery of alcoholic beverages to intoxicated persons in violation of IC 7.1-5-10-15;
  - f) Receipt of alcoholic beverages from a person who does not hold a permit in violation of IC 7.1-5-10-5;
  - g) Public Intoxication in violation of IC 7.1-5-1-3
  - h) Purchase of alcoholic beverages from a person who does not hold a permit in violation of IC 7.1-5-10-7; or
  - i) Visiting or maintaining a common nuisance or any other violation of IC 35-45-1-5.
- 12) Violations of any of the following Indiana statutes governing:
  - a) Prostitution in violation of IC 35-45-4-2;
  - b) Making an unlawful proposition in violation of IC 35-45-4-3; or
  - c) Promoting prostitution or juvenile prostitution in violation of IC 35-45-4-4.
- 13) Violations of any of the following Indiana statutes governing:
  - a) Criminal gang activity in violation of IC 35-45-9-3;
  - b) Criminal gang intimidation in violation of IC 35-45-9-4; or
  - c) Criminal gang recruitment in violation of IC 35-45-9-5.
- 14) Violations of any of the following Indiana statutes governing:
  - a) Dealing in cocaine or a narcotic drug in violation of IC 35-48-4-1;
  - b) Dealing in methamphetamine in violation of IC 35-48-4-1.1 and/or manufacturing methamphetamine in violation of IC 35-48-4-1.2;
  - c) Dealing in a schedule I, II or III controlled substance or controlled substance analog in violation of IC 35-48-4-2;
  - d) Dealing in a schedule IV controlled substance or controlled substance analog in violation of IC 35-48-4-3;
  - e) Dealing in a schedule V controlled substance or controlled substance analog in violation of IC 35-48-4-4;
  - f) Dealing in marijuana, hash oil, hashish, salvia, a synthetic drug, as defined by IC 35-31.5-2-321 or IC 25-26-13-4.1 as those statutes are from time to time amended, or a controlled substance analog, as defined in IC 35-48-1-9.3 and/or IC 35-48-4-10. The distribution of low THC hemp extract in full compliance with IC 24-4-21-1 et seq. is excluded from this subpart.
  - g) Use or possession of any of the substances described in subsections (a) through and including (f), above, or the sale, use or possession of any other illicit narcotics or dangerous controlled substances; or
  - h) Dealing in a controlled substance by a practitioner in violation of IC 35-48-4-1.5.

Mayor Murphy stated he supports this Ordinance. There are not that many problems in the City, but there are some where there has been no cooperation. The issuance of fines has been delayed until October. In September the Council will get data that shows what has happened as a result of this Ordinance. At that time, the Council has the option to amend the Ordinance if they desire.

Councilmember Douglas clarified the Council has the opportunity to amend. If there is no arrest or citation it does not count as a violation. Out of the 176 calls to one building last year, eight resulted in arrests, five were referred to the Prosecutor and there were numerous citations for noise and firearm issues.

Councilmember Douglas stated in Section 3 he would like to see “the City *may* notify the owner” to read “*shall*”. Councilmember Douglas stated he supports this Ordinance but feels it is unfortunate the City has to do this. The effect of the Ordinance is what troubles him.

Councilmember Cotton suggested the nuisance calls seem to be ones that did not end in an arrest or citation. He feels this could be better taken care of by a social worker. He fears the unintended consequences will manifest. Chief Balon discussed the pressure this creates on his officers and the lack of cooperation from some of the landlords.

Councilmember Reed stated the intent of this Ordinance is not to cause harm to individuals, but something needs to make them accountable. She would like to have time to compare this Ordinance with others. Chief Balon replied he has talked with South Bend. They are in the process of adjusting their procedures. Councilmember Reed stated if this Ordinance is passed tonight, she would like to see a yearly report on the data of calls and fines collected.

Councilmember Pupillo stated the basic rule of government is to provide order and safety for citizens. This Ordinance addresses that issue. He feels this should be voted on tonight.

Councilmember Costas stated accountability is important. Unfortunately, landlords have not been cooperative. We cannot do anything if we are not safe. He supports this Ordinance.

Councilmember Schmidt stated he was frustrated at first when he saw the numbers. This is an escalating problem with no help from the landlords. He supports this Ordinance. \$1 Million Dollars of taxpayer money went to the one address to cover the police calls. He would like to see the vote tonight.

Councilmember Anderson stated he supports this Ordinance and would like to see it move forward tonight. He agrees the highest issue is safety for citizens.

Councilmember Cotton stated no one wanting to put off the vote is not in favor of safety for the citizens. He just feels there should be more time to collect data before voting and doing the job better.

Councilmember Pupillo stated the Council will help citizens. If they feel they are unfairly targeted they should call their Councilmember. He is in favor of “shall” instead of “may” in section 3. He also likes the idea of putting fine money toward the MSW in the Police Department.

Councilmember Costas moved to adopt Ordinance No. 16, 2021 with the change of “may” to “shall” in section 3 and the typo error in section 2a-C. Councilmember Schmidt seconded the motion. Upon roll call vote the motion to adopt Ordinance No. 16, 2021 passed with a 5-2 vote. Councilmembers Cotton and Douglas voted No.

### **ORDINANCE NO. 18, 2021**

#### **AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF VALPARAISO**

Councilmember Douglas moved that Ordinance No. 18, 2021 be read a first time and considered on first reading. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 18, 2021.

Beth Shrader addressed the Council. This comes to the Council with a favorable recommendation from the Plan Commission. It is regarding property located owned by Bob and Melissa Wanek and located at 415 Madison. The request is to change the current zoning of Public Space to NC-60.

Councilmember Costas stated he lives in this neighborhood and supports this rezoning. He feels the Park Department should consider purchasing at least one of the lots from the property owners.

Councilmember Douglas moved that Ordinance No. 18, 2021 be carried over to the August 9, 2021 meeting. Councilmember Reed seconded the motion. Upon voice vote the motion passed with a 7-0 vote.

### **ORDINANCE NO. 17, 2021**

#### **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, ESTABLISHING REGULATIONS GOVERNING PARKING IN THE EAST GATE AND UNIVERSITY PROMENADE AREAS**

Councilmember Douglas moved that Ordinance No. 17, 2021 be read a second time by title and a third time in full and be considered for adoption and the opportunity be given for the offering of amendments. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read the Ordinance.

Attorney Lyp addressed the Council. A change has been made stating the Board of Works has the authority to change the maps but cannot change the number of parking spots.

Councilmember Cotton discussed McIntyre Court. With the students not there, at least six cars per day have been parked on the street. Chief Balon reported there have been no calls on this issue.

Councilmember Reed stated every day there are cars that are nonresidents of McIntyre Court parked on the street.

Councilmember Douglas moved to adopt Ordinance No. 17, 2021. Councilmember Reed seconded the motion. Upon roll call vote the motion to adopt Ordinance No. 17, 2021 passed with a 6-1 vote. Councilmembers Cotton voted No.

### **ORDINANCE NO. 19, 2021**

#### **ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, REZONING PROPERTY FROM GENERAL COMMERCIAL (CG) DISTRICT AND URBAN RESIDENTIAL (UR) DISTRICT TO PUD, PLANNED UNIT DEVELOPMENT, KNOWN AS “UPTOWN EAST”**

Councilmember Douglas moved that Ordinance No. 19, 2021 be read a first time and considered on first reading. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 19, 2021.

Beth Shrader addressed the Council. This comes to the Council with a favorable recommendation from the Plan Commission.

Attorney Todd Leeth, on behalf of Eastgate Developers, addressed the Council. This development has four buildings. Two have commercial space. The project is fully developed. There is nothing new except building 2 will be renovated to have affordable workforce housing. The developer has received variances for parking from the BZA with conditions and commitments. This development was built before the UDO was implemented. In order to codify the standards required of them, they are requesting a PUD zoning. At the Plan Commission there were a handful of people concerned about the parking. Section 18 refers to parking written commitments requested by the BZA. Attorney Leeth requested this matter be carried to the August 9, 2021 meeting,

Councilmember Cotton stated he feels 100% of the student parking should be for VU students only. Attorney Leeth explained by law they cannot ask if a tenant is a student let alone a VU student. Attorney Leeth stated the parking spaces are exactly the same as before.

Councilmember Douglas moved that Ordinance No. 19, 2021 be carried over to the August 9, 2021 meeting. Councilmember Reed seconded the motion. Upon voice vote the motion passed with a 7-0 vote.

#### **Public Comment**

Barbara Dahlmer – 614 Yellowstone. She spoke to the Council regarding Indiana Citizens Redistricting Commission. She encouraged the Council to take a stance on fair districting maps.

Carol Stoner – 157 McIntyre Court. She is grateful for the apartments. However, there is a parking issue. She explained a day when she called the Valparaiso Police Department regarding vehicles parked on McIntyre that did not belong to residents of the street. In speaking with people when they came back to their cars, they just did not want to buy a permit to park. This issue is particularly bad in the winter when there are cars parked on the street and the plows are not able to make more than one path down the street.

### **Council Reports**

Mayor Murphy announced Attorney Lyp and Chief Balon have been working on an Ordinance which would allow the use of golf carts in Valparaiso. This will be presented to the Traffic and Safety Committee and then to the Council for review and adoption.

The meeting adjourned at 9:06 p.m.

/s/ Holly Taylor, Clerk-Treasurer