

**MINUTES OF THE MEETING
OF THE COMMON COUNCIL
VALPARAISO, INDIANA
November 12, 2018**

The Common Council of the City of Valparaiso, Indiana, met on Monday November 12, 2018 at 7:00 p.m. in City Hall. Mayor Costas called the meeting to order and led the Pledge of Allegiance. Clerk-Treasurer Swihart called roll. Present were Councilmembers Murphy, Douglas, Hoffman, Reed, Hudson, Cotton and Porter. The City Attorney was not present.

MINUTES

Councilmember Hudson moved to approve the minutes of the October 22, 2018 meeting. Councilmember Reed seconded the motion.

Upon voice vote the motion to approve the October 22, 2018 minutes passed with a 7 -0 vote.

RESOLUTION NO. 15, 2018

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO,
INDIANA, PORTER COUNTY, INDIANA TO DESIGNATE A STRUCTURE AS
BLIGHT**

Councilmember Hudson moved that Resolution No. 15, 2018 be read a first time and considered for passage. Councilmember Reed seconded the motion. Clerk-Treasurer Swihart read Resolution No. 15, 2018. Councilmember Hudson moved to adopt Resolution No. 15, 2018. Councilmember Reed seconded the motion.

Stu Summers addressed the Council. This Resolution is proposing to give permission to demolish the Chase drive-through building located at 106 Jefferson Street. The Porter County Library owns that property. It is under lease to Chase until the end of this year. When the lease is up the Library would like to demolish the building and create a children's outdoor reading park. They hope to receive a Federal grant for 80% of the demolition. Jesse Butz addressed the Council. He explained the benefits of this project.

Mayor Costas announced this Resolution requires a Public Hearing and presented Proof of Publication that at tonight's meeting the Council will hear public comments regarding Resolution No. 15, 2018.

Bill Durnell – 703 Washington. He is in favor of this plan.

Seeing no one else wishing to address the Council, Mayor Costas declared the Public Hearing closed.

Upon roll call vote the motion to adopt Resolution No. 15, 2018 passed with a 7-0 vote.

RESOLUTION NO. 16, 2018

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO,
INDIANA, PORTER COUNTY, INDIANA AUTHORIZING SUBMISSION OF THE
CDBG BLIGHT CLEARANCE PROGRAM GRANT APPLICATION TO THE
INDIANA OFFICE OF COMMUNITY AND RURAL AFFAIRS AND LOCAL MATCH
COMMITMENT**

Councilmember Hudson moved that Resolution No. 16, 2018 be read a first time and considered for passage. Councilmember Reed seconded the motion. Clerk-Treasurer Swihart read Resolution No. 16, 2018. Councilmember Hudson moved to adopt Resolution No. 16, 2018. Councilmember Reed seconded the motion.

Stu Summers discussed the grant on behalf of the Porter County Library Board. It is expected to be for \$72,000. The total estimated cost of demolition is approximately \$80,000. They will submit a proposal and that will be followed up with a site visit. They will be doing fund raising next year and hope to begin construction in 2020.

Councilmember Hudson asked about the paragraph referring to \$263,039 in requisite local funds. They have added the acquisition amount in the grant request. This is a library project. It is coming before the Council for approval because it has to be run through the Clerk-Treasurer's office.

Upon roll call vote the motion to adopt Resolution No. 16, 2018 passed with a 7-0 vote.

ORDINANCE NO. 20, 2018

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, PORTER COUNTY, INDIANA, ANNEXING CERTAIN REAL ESTATE INTO THE CITY OF VALPARAISO, INDIANA, KNOWN AS THE "SPECTACLE DRIVE ANNEXATION"

Councilmember Hudson moved that Ordinance No. 20, 2018 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 Swihart read the Ordinance. Councilmember Hudson moved to adopt Ordinance No. 20, 2018. Councilmember Cotton wanted to second the motion but with an amendment. He was advised it needs to be seconded as is and before the Council before an amendment can be offered. Councilmember Murphy seconded the motion.

Mayor Costas addressed the Council. This Ordinance is about annexation. If the property is developed within the City there are other steps and opportunities to express opinions along the way. Patrick Lyp has prepared an Annexation Agreement.

Patrick Lyp addressed the Council. He explained the requirements and agreements of the Annexation Agreement. The developer has agreed that any storm water going towards County property will release at the County rate and not the City rate. If it exits towards Lake Area Conservancy District, it will be done in accordance with their rules. Regarding Spectacle Drive the County has agreed to redo the entire drive if the City would then take it over. Whether the property is in the County or City it will be developed. Standards for developing are different between the City and County. The City is in a better position to manage the project. Residential zoning is appropriate. The City Planner and Plan Commission have reviewed the conceptual plan and have recommended approval. This Ordinance is not a re-zone. The Annexation Agreement contains language that if there are 29 or less lots they may only have two lots that connect directly to Spectacle Drive. The Agreement has a section stating the Petitioner will contribute approximately \$98,732.21 as the engineer's estimated cost of the right of way improvements to Spectacle Drive. The Annexation Agreement will be recorded. Whoever owns that piece of property will be bound by this Agreement. The City cannot mandate a nature preserve for this property, but they will work with anyone to make it happen if the property is purchased and that is the plan. Leaving the trees as a buffer cannot be a part of the Agreement because it requires a variance from the BZA.

Three final thoughts, Patrick hopes there is trust that the City will do what they say they will. The location of this annexation makes sense. If the Council does not want to annex this property, he would like direction as to how they would like to move forward.

Councilmember Hoffman asked if the Ordinance and Annexation Agreement are two separate votes. They are two votes.

Councilmember Porter asked about storm water. The rules to be followed would be both the County and VLACD if the water exits toward their land.

Councilmember Reed asked about the MOU from the County. She asked if this should be in place first. Patrick explained if time were not an issue he would prefer that the MOU was in place.

Councilmember Hoffman discussed Patrick's request for direction moving forward should the annexation be denied. She feels this is a unique annexation and should be looked at that way.

Councilmember Cotton discussed the need for more time to review this and for another option to come to the table before the annexation is voted on. He feels there should be a moratorium.

Mayor Costas discussed change creates angst. This property is an island. The City should manage it. Property beyond this project cannot be annexed. The City is in a better position to deal with the issues of drainage and road construction merely because they do more of it than the County. There are people who are here to express their opinion. There are also 34,000 people that the elected officials represent and are not here because they are ok with this annexation. The City's job is to listen and address issues. The biggest question is who is in a better position to deal with the development.

Mayor Costas advised Councilmember Cotton he will be given the opportunity to speak again. At this time, it is open for any councilmembers to generally comment about this matter. Then if Councilmember Cotton wants to propose an amendment, he may do so.

Councilmember Cotton stated his vote is predicated on whether or not this can be annexed with a moratorium. Mayor Costas explained Ordinance No. 20, 2018 is what is before the Council tonight. Councilmember Cotton stated he has the ability to vote one way or another based on what may subsequently happen. Mayor Costas commented a vote against the Ordinance would be a vote for a moratorium until it is brought up again.

Councilmember Hoffman stated she is not sure it would work having a moratorium with a set time limit.

Patrick Lyp explained the property could be annexed with a stipulation not to develop for a certain amount of time.

Councilmember Murphy discussed developments to the north and south that have tapped in to City water and sewer. These residents now get City services but don't pay for a lot of what they are receiving. A new annexation would be required to sign a waiver of remonstrance to annexation. Because it is zoned residential the residents will be using City utilities. Patrick Lyp explained if the Council denies the annexation the utilities can still provide the services. After 15 years a waiver or annexation is void and cannot be enforced. Typically this is done when there is not contiguity.

Councilmember Porter stated she has heard from people expressing concern that this has been fast tracked. She asked Patrick to address the time issue. Patrick explained the one meeting of the Plan Commission was the only one that was done outside of the normal time line for an annexation. If you use State law as the bar, this is slower. For the City of Valparaiso, it is about average.

Councilmember Cotton stated he is reflecting the voice of constituents that feel this is moving fast. His desire is to create a circumstance that in this Agreement where there can be a window prior to development so that the letter from the Petitioner to evaluate proposals can be considered. This has been an aggressive process. Mayor Costas corrected and said this is standard procedure. He asked Councilmember Cotton if he has a motion to amend.

Councilmember Cotton moved to amend the Annexation Agreement: "It is further agreed that the Kilmers shall, in the annexation agreement, grant a period of time sufficient to permit any governmental agency or 501(c) (3) organization which can come forth, prior to the beginning of any construction, with evidence they can pay the Kilmers an amount equal to or exceeding the appraised value as determined by a certified appraiser acceptable to the City of Valparaiso."

Councilmember Hudson asked where Councilmember Cotton would like this put in the Ordinance. Councilmember Cotton replied this is his first annexation and he would need advice from legal counsel where this should be inserted. Patrick Lyp replied the amendment would go in the Annexation Agreement. He has a concern about this because in a sense it is telling the property owners who they would be required to sell the land to. A moratorium might have some traction. But to self-impose on the property owners who they must sell to would not be legal. Todd Leeth agreed with Patrick and assured the Council if this were added, the Petitioner would not sign the Agreement and would go before a Judge to make sure he agreed with their determination. If the intent is to build in some time before filing the subdivision application, they could agree to that.

Councilmember Douglas discussed there are a lot of steps to go through before a shovel is put to the dirt for development.

Mayor Costas asked for clarification from Todd Leeth regarding a time period. Todd replied the Petitioner would agree not to petition for subdivision approval for three months following the action tonight. A developer who would purchase the property will be bound by the Ordinance and the Annexation Agreement. The Agreement runs with the land.

Mayor Costas asked Councilmember Cotton if he was ok with the Agreement and did not want to offer an amendment since the Petitioner is amending the Agreement. Councilmember Cotton answered yes.

Councilmember Hudson discussed an email that this was all predetermined and the Council was not listening. She assured everyone this was not predetermined nor being rushed through. Some of the Councilmembers have attended meetings prior to the Council meeting so they have heard it more than at the Council meeting. The fact that this is a request from the property owner is important. The Fiscal Plan is an opportunity for the Council to make sure the City can cover the cost of expenses. The Council has to be mindful that this is private property. The City can make sure it is developed in a manner that will not hurt anybody. The zoning request by the Plan Commission was done due to the berm.

Councilmember Porter addressed her frustration over the element of trust. This has consequential actions. It sets off a chain of events. Basically they have to trust that everyone will do as they have said they will do.

Upon roll call vote the motion to adopt Ordinance No. 20, 2018 failed with a 3-4 vote. Councilmembers Hoffman, Reed, Cotton and Porter voted no.

The meeting adjourned at 8:33 p.m.

/s/ Sharon Swihart, Clerk-Treasurer