

MINUTES OF THE MEETING

OF THE COMMON COUNCIL VALPARAISO, INDIANA

August 28, 2023

The Common Council of the City of Valparaiso, Indiana, met on Monday August 28, 2023 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, Peterson, Anderson, and Costas.

MINUTES

MOTION: Councilmember Schmidt moved to adopt minutes of the July 24, 2023 Council meeting. Councilmember Reed seconded the motion. Upon voice vote the motion passed with a 7-0 vote.

RESOLUTION NO. 7, 2023

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, APPROVING AMENDMENTS TO TWO LEASES WITH THE CITY OF VALPARAISO BUILDING CORPORATION, AND ADDRESSING OTHER MATTERS RELATED THERETO

Councilmember Schmidt moved that Resolution No. 7, 2023 be read and considered for passage. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Resolution No. 7, 2023.

Andy Mouser of Baker Tilly addressed the Council. This is refinancing to save interest. There is \$3.5 Million Dollars outstanding on the 2013 Bonds with a 5% interest rate. This will result in savings of \$10-\$15,000 per year. The Building Corporation approved the refinancing on August 14th.

Councilmember Cotton – The bonds would be trading to the call price? They are not at a premium?

Andy Mouser – There is a 5% coupon on the outstanding bonds. The savings will be \$10-\$15,000 per year net of all financing costs.

MOTION: Councilmember Schmidt moved to adopt Resolution No. 7, 2023. Councilmember Reed seconded the motion. Upon Roll Call vote the motion to adopt Resolution No. 7, 2023 was passed with a 7-0 vote.

ORDINANCE NO. 11, 2023

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, ADOPTING SECOND AMENDED CRITERIA FOR LICENSE ALLOCATION AND APPLICANT COMPLIANCE FOR A HISTORIC DOWNTOWN LIQUOR LICENSE

Councilmember Schmidt moved that Ordinance No. 11, 2023 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. Initially there was a committee who reviewed applications for the Historic Downtown Liquor License. They then gave their recommendations to the Council. At that time there were 10 licenses available. The Council makes their recommendation to the Indiana Alcohol and Tobacco Commission. In 2015 the licenses were made non-transferable. The City can petition to not renew or take back any license if a restaurant does not follow the requirements. If a restaurant is closed for more than six months,

the license reverts to the State. In 2023 the State increased the number of licenses available from 10 to 15. They expanded the area that is covered and raised the cost of the license. In Ordinance 11, 2023 it provides that the City will issue a Notice that they are accepting applications for licenses. The City is looking to have more diverse restaurants downtown. City staff will review the applications to make sure the applicant will qualify for a license. They will share their comments with the Council. The primary change is eliminating references to “upscale” and “fine dining” and replacing it with “quality” when referring to the dining experience. If this is approved tonight the first step is to let citizens know they are accepting applications for licenses.

Councilmember Cotton – There are considerable changes. He feels tonight should be considered first reading.

Councilmember Costas – Councilmember Cotton had said previously he has a problem with the “upscale” reference. Is there anything else he has a problem with?

Councilmember Cotton – It was our initial desire to replace the Liquor Commission. It was his desire that as applications come in, they get forwarded to the Council. A metric should be fine dining. He wants the Council to evaluate the applications.

Councilmember Anderson – There are people that have their plans on hold to open a restaurant but need to apply for this first. They have had months to discuss this.

Councilmember Peterson – Will the City staff review be from one Department or multiple?

Attorney Patrick Lyp – It will probably be more than one – The Planner, Administration and Attorney. The staff review is not to be the same as the Committee was. They are reviewing to make sure the applicants can pass the requirements. All the applications will be on the City’s web page.

Councilmember Reed – She appreciates the Council involvement.

MOTION: Councilmember Schmidt moved to adopt Ordinance No. 11, 2023. Councilmember Reed seconded the motion. Upon Roll Call vote the motion to adopt Ordinance No. 11, 2023 was passed with a 6-1 vote. Councilmember Cotton voted No.

MOTION: Councilmember Schmidt moved to have Attorney Lyp post Notice the City is accepting applications for a Historic Downtown Liquor License. Applications will be accepted until September 20, 2023. Upon voice vote the motion passed with a 7-0 vote.

ORDINANCE NO. 27. 2023

AN ORDINANCE APPROPRIATING FUNDS IN THE FIRE PROTECTION TERRITORY FUND AND PROVIDING FOR PUBLICATION OF NOTICE

Councilmember Schmidt moved that Ordinance No. 27, 2023, be read a first time and considered on first reading. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 27, 2023.

Chad Dutz addressed the Council. This appropriation is to cover various maintenance expenses. The costs of labor have gone up. Specialized mechanics are required to work on fire trucks.

MOTION: Councilmember Schmidt moved to carry Ordinance No. 27, 2023 to the September 11, 2023 meeting. Councilmember Reed seconded the motion. Upon voice vote the motion to carry passed with a 7-0 vote.

Other Business

Steve Poulos addressed the Board. The Stormwater Board was created in 1996. Since that time the City has made great strides in assessing the operation and condition of the underground stormwater utility assets and having a financial plan in place to ensure that these assets are improved, maintained, and repaired. Part of the critical infrastructure needs determined by the City include attention to Beauty Creek as community growth, land use change, heavier rainstorms, steep terrain, and sandy soil conditions have contributed to the soil erosion conditions and property impacts within the watershed. The City hired an engineering consultant in 2015 to study the watershed and provide regional solutions to improve conditions. The completed study and feedback from residents determined a need to reduce the flow of water by constructing upland detention ponds and this plan was integrated within the City's revised 2017 Stormwater Master Plan.

The public private partnership executed in 2019 with the City provided an opportunity to strategically locate planned detention ponds at the far north west and north east corner of the Brooks development. Neighboring storm sewer systems from Candlewood, Keystone and the main Beauty Creek channel will now be diverted toward the newly created detention basins with the outcome of reducing downstream flow rates. This is a critical piece and a continuation of many of the Beauty Creek watershed projects. Bank stabilization projects have also been accomplished and are currently underway along the channels immediately downstream from these pond improvements.

The engineering estimates to construct the two regional 100 acre-foot stormwater basins, stormwater reroutes, road, over pass and other public improvements was valued at \$9.7 Million Dollars of which 70% will accommodate the City's regional stormwater needs from the 1000 acres of surrounding land plus the neighboring Candlewood and Keystone stormwater systems and the remaining 30% of the stormwater needs are attributed directly to the Brooks development. Based on this ratio, the City agreed to finance \$6.8 Million Dollars of these public improvements through economic development bonds.

Unforeseen matters and changes in the scope of the project as a result of requests by the City resulted in various change orders. Because this work was not identified in the original contract scope, the developer requested additional compensation. The change orders were carefully reviewed, negotiated and are documented within the pay applications as provided by the contractor and supported with appropriate invoices which were reviewed by City staff and the legal department. The final change order not to exceed \$827,802 was approved by the Valparaiso City Utilities Board of Directors and Board of Works and Public Safety. The change orders resulted in final cost of approximately \$7.5 Million Dollars. The intent of the public private partnership was to take advantage of the opportunity to strategically locate large scale stormwater detention basins while minimizing the cost of these public improvements for the City. An independent engineering evaluation confirmed if the City had attempted to construct this project alone, the cost for the storm water improvements and extension of Vale Park Road would have been in excess of \$13 Million dollars in 2019.

Due to the execution of long term stormwater plans, City residents have and will continue to receive quality of life improvements with reduced surface flooding, significant reduction in basement backups, reduced combined sewer overflow events, lower discharge volumes into Salt Creek and the reduction of property losses during heavy rain events.

Councilmember Cotton – Where is the money coming from?

Steve Poulos – Bond money, stormwater budget and LIT money.

Councilmember Cotton – The Council passed a Resolution for a bond not to exceed \$6.7 Million Dollars. He is surprised this extension doesn't come back to them for consideration. This seems like a broken promise to the taxpayers. It sounds like the developer is in trouble and the City is bailing him out.

Council Liaison Reports

Councilmember Peterson – The Park Board met last Tuesday. He reported the Sports Complex has been placed on hold. The bids came in substantially higher than anticipated. The land is still in the City and zoned Park. The money is being held and can only be used for parks.

Councilmember Cotton – The ARPA Plan stated this money was for a sports complex. Is it in jeopardy now? Will the City be in compliance with having the money committed by 2024 and spent by 2026? Can the money be given back to ARPA and reallocated?

Attorney Lyp – If ARPA Funds received were less than \$10 Million no Plan had to be made. The City made the decision to follow the State guidelines and adopted a plan.

Councilmember Schmidt – He hopes to continue with the sports complex in the future. The RDC is moving forward with the Journeyman which will be opening in October and the Linc project.

Councilmember Pupillo – The MAAC event was this past weekend. It was good to see our first responders in action. The Fire Department had two new firefighters sworn in tonight and five promotions. The firearms safety class will be at the MAAC on August 30th. The next Traffic and Safety meeting is September 18th.

Councilmember Reed - She hopes the land acquired for the sports complex is put to use. At the September 11th Council meeting the School Corporation will present their 2024 budget. Safe storage information and materials will be distributed.

Community Update

Attorney Lyp discussed the pending lawsuit filed against the City by a current City employee. The insurance company has accepted the claim and will cover the City's costs. Tina Bengs will be assisting the City with the lawsuit. The headline in the NWI Times was inaccurate. It states an "Ex-City Employee" has filed a lawsuit. The Plaintiff in this lawsuit is still employed by the City. Those mentioned in the lawsuit want the opportunity to comment. However, per his advice he has asked them not to respond. He reminded everyone that just because there is a claim it does not mean the City is guilty.

Every employer should fairly compensate all employees for the same job with similar working conditions and responsibility. September 18th is International Equal Pay Day. Issues of equal pay are not limited to gender. There is discrimination based on race, religion, ethnicity, and disability whether intentional or otherwise. A claim for equal pay does not mean an employer is guilty of discrimination.

The lawsuit references the pay difference between the City IT Director and HR Director. It is accurate that the IT Director is paid more. But is that a valid comparison? Would you compare the City's Building Commissioner with the Park Director? The lawsuit references an audit of the HR Department. It references the use of a wage consultant to prepare a wage study. The lawsuit references the City conducted an internal investigation of the allegations. He guesses that no one in the public has seen or read any of those audits, reports or studies. Those documents might contain valuable information to review before jumping to conclusions that the City is guilty of any level of discrimination. Based on his review he is very comfortable stating the City has not engaged in the acts of discrimination alleged in the Complaint and intends to vigorously defend itself. He is sure there are those who have questions and concerns. Hopefully tonight he has answered some of those questions. When able, the City will provide additional information. The City will be open and transparent as it can be while valuing the privacy of all of its employees. Some opportunists will post their questionable observations and try to mislead with misinformation. That is unfortunate but in the age of social media it is an environment we find ourselves in.

PUBLIC COMMENTS

Barb Domer – 614 Yellowstone. It is unsettling that as a taxpayer the City is involved in a lawsuit. The Equal Pay Act requires that men and women in the same workplace, get equal pay for equal work. Females makeup 52% of the city population. Females make up only 29% of the director level department heads. The average pay for females is less than the male peers. City government needs to be more transparent.

Hannah Trueblood – 703 McCord. She reminded the Council there is an Ethics Pledge which was signed as an Ordinance in 2005. She read parts of the Ordinance.

Walt Breitinger – 608 Academy. The sports complex was using astroturf for the fields. They should consider grass fields. It would be safer and cheaper. It would be better for the environment. He again requested the Council have Dr. Julie Peller on the Agenda to do a presentation on plastic pollution.

Mike Mirochna – 605 Washington. The Council is the fiduciary body. The City Council and RDC are investing \$14 Million in a parking garage instead of something that benefits everybody. This money could pay for the sports complex. The RDC invested \$200,000 in the Thormahlen project. This building has eight apartments, three retail spots and parking on site. This shows we have done smart deals before. The parking garage should have been done like the Thormahlen project. Steve Poulos left out that the City is paving road paving, new roads and paying fines up to \$50,000 for the developer of Brooks.

The meeting adjourned at 7:07 p.m.
/s/ Holly Taylor, Clerk-Treasurer