

**MINUTES OF THE MEETING
OF THE COMMON COUNCIL
VALPARAISO, INDIANA
February 13, 2023**

The Common Council of the City of Valparaiso, Indiana, met on Monday February 13, 2023 at 6:00 p.m. in City Hall. Council President Casey Schmidt called the meeting to order. The Pledge of Allegiance was said. Present were Councilmembers Cotton, Schmidt, Pupillo, Peterson, Anderson, and Costas. Councilmember Reed was absent. Mayor Murphy was absent.

MINUTES

MOTION: Councilmember Cotton moved to adopt minutes of the January 23, 2023 meeting. Councilmember Anderson seconded the motion. Upon voice vote the motion passed with a 6-0 vote.

ORDINANCE NO. 6, 2023

**AN ORDINANCE APPROPRIATING FUNDS IN THE FORFEITURE & SEIZED ASSETS
FUND AND PROVIDING FOR PUBLICATION OF NOTICE**

Councilmember Peterson moved that Ordinance No. 6, 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 Cotton seconded the motion. Deputy Clerk-Treasurer Cook read Ordinance No. 6, 2023.

Public Hearing

Councilmember Schmidt announced Ordinance No. 6, 2023 requires a Public Hearing and presented Proof of Publication that at tonight's meeting the Council will hear comments on the appropriation of \$30,000 in the Forfeiture & Seized Assets Fund. Seeing no one wishing to address the Council, he declared the Public Hearing closed.

MOTION: Councilmember Peterson moved to adopt Ordinance No. 6, 2023. Councilmember Cotton seconded the motion. The motion passed with a 6-0 roll call vote.

ORDINANCE NO. 7, 2023

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF VALPARAISO

Councilmember Peterson moved that Ordinance No. 7, 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 Pupillo seconded the motion. Deputy Clerk-Treasurer Cook read the Ordinance.

Beth Shrader advised this is the second reading of the Burlington Beach Memorial Parkway Rezone. If there are any questions she will answer them.

MOTION: Councilmember Peterson moved to adopt Ordinance No. 7, 2023. Councilmember Cotton seconded the motion. The motion passed with a 6-0 roll call vote.

ORDINANCE NO. 8, 2023

AN ORDINANCE APPROPRIATING FUNDS IN THE CUMULATIVE SEWER FUND AND

PROVIDING FOR PUBLICATION OF NOTICE

Councilmember Peterson moved that Ordinance No. 8, 2023 be read a first time and considered on first reading. Councilmember Costas seconded the motion. Deputy Clerk-Treasurer Cook read Ordinance No. 8, 2023.

Mike Jabo addressed the Council. In 2022 the Council adopted Ordinance No. 11, 2022. That Ordinance appropriated \$655,000 for construction of sanitary sewers to replace old and outdated sewers in the area of Campbell, Boundary and Daly Streets. That project was never kicked off. They are going to do it early this year. The funds need to be reappropriated. Due to the environment, he is increasing the amount by \$50,000. Any unused funds go back into the Cumulative Sewer Fund.

Councilmember Cotton - What constitutes Services and Other Charges.

Mike Jabo – Design fees, test fees, inspection fees and the like.

Councilmember Cotton – Based on prior experience you are able to say that \$105,000 is enough?

Mike Jabo – It is a guess but he is comfortable with it.

Councilmember Anderson – What is the general purpose of the rest of the money?

Mike Jabo – It is used for replacement of an existing sewer system.

Steve Poulos – They receive tap on fees on a daily basis. This is an accumulation of those fees.

MOTION: Councilmember Peterson moved to carry Ordinance No. 8, 2023 to the February 27, 2023 meeting. Councilmember Cotton seconded the motion. The motion passed with a 6-0 voice vote.

ORDINANCE NO. 9, 2023

AN ORDINANCE PROHIBITING THE SALE OF DOGS OR CATS BY RETAIL PET STORES BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VALPARAISO, INDIANA

Councilmember Peterson moved that Ordinance No. 9, 2023 be read a first time and considered on first reading. Councilmember Cotton seconded the motion. Deputy Clerk-Treasurer Cook read Ordinance No. 9, 2023.

Attorney Lyp addressed the Council. Earlier this year Puppy Emporium opened in the City. Concerns were raised primarily about the concept of selling the puppies. The only issue disclosed to him was that the owner would not disclose the name of the breeders she purchased puppies from. She is under no obligation to do so. The proposed Ordinance looks prospectively to any additional businesses that wish to come to our community to do a similar or comparable business. Puppy Emporium is exempt from the Ordinance. It also exempts any animal shelters or animal rescue organizations. It looks primarily to the retail sale of cats and dogs. One thing the attorney for the Puppy Emporium requested is in subpart (e) it talks about the grandfathering or the exemption of the Puppy Emporium. The Ordinance says if the Puppy Emporium “ceases” operations for 30 days. The attorney has requested that “cease” be switched to “abandoned”. This would allow for cases such as covid where a business may shut down involuntarily as opposed to voluntarily. The Council does not have to make that decision tonight. At the next meeting they can move to amend if this is something they want. Attorney Lyp also advised there are two bills before the State Legislature which would strip cities and towns of their ability to regulate the sale of cats and dogs in the community. Attorney Lyp recognized Samantha Chapman who is the State Director of the Humane Society. She was a great resource in putting together this Ordinance.

Councilmember Anderson – He asked for an explanation of the State bills.

Attorney Lyp – There are two pending. Both would do essentially the same thing. If a person is in the business of selling puppies or kittens and sees communities beginning to adopt ordinances, one way to circumvent that is to go down state and have authority of local cities and towns preempted and have state law specifically exclude that.

Councilmember Cotton – He is concerned that the State can pre-empt local rule. He thinks 30 days is inconsistent with what is generally afforded to a business that is non-conforming and grandfathered. The amount of time given to other businesses before they are no longer exempt under the non-conforming standard is up to six months. It sounds like 30 days is an onerous burden and not consistent with what we do. He would like to see this body extend that period of time to six months. He doesn't think the City wants to be seen as harsh and unfair. He likes the Ordinance. He just has the one problem.

Attorney Lyp – In terms of the Zoning Code a zone can change and a business which was once allowed is no longer allowed. The term we use is legal non-conforming. If that use is not continued for six months then it is deemed to be abandoned. By adopting this Ordinance to a certain degree you are taking the position that all things being equal you prefer not to have this within the City. The question comes down to how you view this activity. You can do six months. You can do “cease operations” versus “abandon operations”. Fundamentally this comes down to how you view this activity and if you want to be more restrictive on 30 days or less restrictive for six months.

Councilmember Cotton – He just wants to be fair.

Councilmember Anderson – Did the attorney object to the 30 days or just the circumstance?

Attorney Lyp – The only discussion they had was on the 30 days and having “cease” versus “abandon”.

Councilmember Pupillo – They didn't have an issue with the 30 days versus six months or was he just not aware?

Attorney Lyp – Our conversation focused on what would happen if covid came again and things closed down again. Would his client be impacted because she had to close down. He understands voluntary versus involuntary. He does not feel changing to abandoned would be unreasonable and would be consistent with not penalizing someone for an action they have to take involuntarily.

MOTION: Councilmember Peterson moved to carry Ordinance No. 9, 2023 to the February 27, 2023 meeting. Councilmember Cotton seconded the motion. The motion passed with a 6-0 voice vote.

COMMUNITY UPDATE

Attorney Lyp updated the Council on the property located at 1425 Glendale. This property is in receivership. There is a proposed sale. The sale amount will cover all contractors and suppliers. There is additional litigation regarding the use of the property. The City has taken the stance that two years is enough time on the resolution of this project and it should be wrapped up.

COUNCIL LIAISON

Councilmember Cotton – While researching the Yellowstone Road issue he has learned that Yellowstone is part of the historic Yellowstone Trail. Maybe that is why some earlier Council had the No Truck Traffic signs put up. He cannot find an explanation of the weight issue with the bridge on Campbell.

Councilmember Peterson – The Park Board met January 25th. The Annual Report was presented. The demand for golf remains high. The skateboard park should be under way soon.

Councilmember Costas – The Urschel Hotel is underway. Work should begin on the parking lot connected with the Linc project soon.

Councilmember Pupillo – The Fire Department had a Promotion Ceremony tonight prior to the Council meeting. Chief McIntyre and Superintendent McCall have advised they are adding two more school resource officers. Currently VCS has three school resource officers. Portage has five and Duneland has six. The VPD has and will continue to cover costs of this operation but would like to see the School Corporation take on some of the cost. The School Board meeting will be Thursday.

Councilmember Schmidt – Congratulations to the firefighters. He supports what Councilmember Pupillo said about the schools.

Councilmember Cotton – Asked Chief McIntyre if two new positions will cover everything. Chief McIntyre responded yes.

PUBLIC COMMENTS

Barb Domer – 614 Yellowstone. She has heard the changes being made on Yellowstone. These are a start but are not enough. She read the 2019 BOW minutes where the No Through Trucks signs were allowed to be taken down. There were two reasons given. The weight of trucks on the bridge on Campbell street, and on Froberg the site line for pulling out onto Highway 130. The situation at Froberg and 130 has been corrected with a traffic signal. She was informed that the County maintains the bridges in the City. She reached out to the County. Commissioner Regnitz assured her that Campbell Street bridge is safe and there are no issues with trucks and weights on the bridge. There has to be another reason why the signs were removed. The reason she found was Mike Jabo said if the trucks come down Campbell they will go through downtown. So why not? Maybe it is the residents on Campbell and Lincolnway that do not want the truck traffic, pollution and dust going into their homes. The Council can have the No Through Truck signs put back up.

Kathy Watts – 2518 Eisenhower. No decision should be made without hearing from those affected by the decision. There are housing challenges for the working disabled individuals. Ramps in sidewalks have been installed. Mothers with strollers, elderly with walkers, runners, and bike riders are all people who use them. They are convenient. She is asking for the affected to be invited into the policies and discussions. What about asking the Linc to build one or two accessible apartments in exchange for their TIF dollars. Ask a person in Jamestown how difficult it is to get to a doctor appointment, then pick up your medicine from CVS and then get back home.

Michelle - 428 East US Highway 6. Ordinance No, 9, 2023 is needed. Future stores should be banned from selling kittens and puppies.

Walt Breitinger – 608 Academy. He received a call from a lady saying Salt Creek was muddy downstream from Journeyman. He went to the site and saw that the silt fences were not installed correctly or had been torn down and mud was running over the fence into the wetlands and then into Salt Creek. There was a lot of silt in the creek.

Mary Abraitus – 605 Yellowstone. The issue is taking the No Through Truck signs down. The City intentionally shifted from the existing truck route on Campbell Street because of St. Paul Square. The report does not take into account the feelings of the people it affects on Yellowstone. They may have to declare themselves endangered species. Thank you Mr. Cotton. She discussed an accident that happened on Yellowstone and the issues and costs involved.

The meeting adjourned at 6:55 p.m.

/s/ Holly Taylor, Clerk-Treasurer