

**MINUTES OF THE MEETING  
OF THE COMMON COUNCIL  
VALPARAISO, INDIANA  
February 27, 2023**

The Common Council of the City of Valparaiso, Indiana, met on Monday February 27, 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, Anderson, and Costas. Councilmember Peterson was absent.

**MINUTES**

**MOTION:** Councilmember Schmidt moved to adopt minutes of the February 13, 2023 meeting. Councilmember Reed seconded the motion. Upon voice vote the motion passed with a 6-0 vote.

**ORDINANCE NO. 26, 2022**

**AN ORDINANCE ANNEXING CERTAIN TERRITORY TO THE CITY OF VALARAISO, INDIANA, PLACING THE SAME WITHIN THE CORPORATE BOUNDARIES THEREOF AND MAKING THE SAME A PART OF THE CITY OF VALPARAISO, INDIANA (THE “IN-49 & VALE PARK RD ANNEXATION”)**

Councilmember Schmidt moved that Ordinance No. 26, 2022 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 advised this is the third time the Council has seen this Ordinance. This Ordinance is driven by the Sports Complex. The zone us rural. They would have to come back to the City if any development were desired. Tonight, the Council will vote to adopt. Citizens have through August, 2023 to remonstrate.

Councilmember Cotton questioned that anyone could remonstrate. He also asked about the one property owner that did not respond to any Notices. Beth Shrader replied the one property owner was properly noticed throughout the process. They have not responded to personal notice or public notice.

**Public Hearing**

Mayor Murphy opened a Public Hearing. Seeing no one wishing to address the Council, Mayor Murphy declared the Public Hearing closed.

**MOTION:** Councilmember Schmidt moved to adopt Ordinance No. 26, 2022. Councilmember Reed seconded the motion and so approved 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 Schmidt moved that Ordinance No. 8, 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.

Mike Jabo addressed the Council. This appropriation will be used for construction of sanitary sewers to replace old and outdated sewers in the area of Campbell, Boundary and Daly Streets. Any unused funds go back into the Cumulative Sewer Fund.

### **Public Hearing**

Mayor Murphy announced Ordinance No. 8, 2023 requires a Public Hearing and presented Proof of Publication that at tonight's meeting the Council will hear comments on the appropriation of \$705,000 in the Cumulative Sewer Fund.

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

**MOTION:** Councilmember Schmidt moved to adopt Ordinance No. 8, 2023. Councilmember Reed seconded the motion. The motion passed with a 6-0 roll call 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 Schmidt moved that Ordinance No. 9, 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. There is pending legislation downstate which if passed would preempt this Ordinance. It is his recommendation to have this on our books. At the last meeting it was discussed voluntarily or involuntarily closing a business and the number of days allowed to be closed. Tonight, they can amend the Ordinance to have involuntary and they can amend the number of days from 30 to 180. Attorney Lyp was asked if a business changed their name would that matter. He replied it does not. As long as a business does not change locations or the number of square feet they are operating in.

Councilmember Cotton said the notion of a name change broadens an expanded offering. Attorney Lyp said if they sell a prohibited pet then it will have to be looked at. Councilmember Cotton asked how 180 days came about. Attorney Lyp explained he wanted the Council to have two options.

Councilmember Anderson stated this business was opened legally under the State of Indiana. The City does not want to be seen as trying to run anyone out of business. The 30 days was a little short.

**MOTION:** Councilmember Reed moved to amend Section 1 (E) the number of consecutive days an exempt store can be not in operation from 30 to 180 for a voluntary abandonment. Councilmember Pupillo seconded the motion. The motion passed with a 6-0 roll call vote.

**MOTION:** Councilmember Schmidt moved to adopt Ordinance No. 9, 2023 as amended. Councilmember Reed seconded the motion. The motion passed with a 6-0 roll call vote.

### **ORDINANCE NO. 10, 2023**

#### **AMENDMENT OF 2023 SALARY ORDINANCE**

Councilmember Schmidt moved that Ordinance No. 10, 2023 be read a first time and considered on first reading. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 10, 2023.

Mike Jabo addressed the Council. He has been using interns in his office. He is proposing to create a GIS Specialist and Coordinator. The job description was done by the person who did the wage study. They have approved adding this position as a PAT D in the 2023 Salary Ordinance.

Councilmember Cotton asked what the salary will be. Mike Jabo replied it will be in the \$40,000 to \$50,000 range.

**MOTION:** Councilmember Cotton moved to suspend the rules. Councilmember Pupillo seconded the motion. The motion passed with a 6-0 roll call vote.

**MOTION:** Councilmember Schmidt moved to adopt Ordinance No. 10, 2023 under suspension of the rules. Councilmember Reed seconded the motion. The motion passed with a 6-0 voice 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 first time and considered on first reading. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 11, 2023.

Attorney Patrick Lyp addressed the Council. He has reviewed the process for the Historic Downtown Liquor Licenses. Currently it is explicit that the owner of a license cannot transfer a license. This was done to keep someone from purchasing a license and then turning around and making a profit selling it. It is intended to get a person an inexpensive license and money saved would be used for the business and employees. The license cannot be put into escrow. If a business fails, the City does not want the license tied up in escrow for any length of time. The restaurant owner is to have a commitment to the type of restaurant, hours etc. If they are an Italian restaurant, they have to stay an Italian restaurant. Down State legislation is pending that would increase the number of liquor licenses from 10 to 15. It would expand the downtown area. The legislation also raises the fee to \$25,000. This money goes to the State for the issuance of that license. As opposed to a Downtown Liquor License Committee, the process would be more of a City Council centric process. The City would provide Notice that applications are being received. City staff would review the applications and submit all to the Council with a recommendation. The Council can then make the recommendation to the ATC to issue a license. There is no rush on this. Maybe it can be discussed again in April. Page 4 contains guiding principles. He suggested Councilmembers review these to see if any changes should be made.

Councilmember Anderson – When the Committee was the group that issued these licenses, what was the process?

Attorney Lyp – There were different ways. When there were more licenses available, a restaurateur would come to the City and say they had a location and concept. The Economic Development Director would work with them and make sure they followed the guidelines. The Committee would vet the applicant. Then it would be presented to the Council.

Councilmember Cotton – The current area is 700? This does not sound as Council centric as he had hoped. The Council is competent to receive confidential requests or letters of interest as the Committee has been doing.

Attorney Patrick Lyp – It is 750. This doubles the amount. The same rule of non-contact was in place for the Committee. The process is to insure the Council is the decision makers. Any documents the Council wants to see they will be able to see.

Councilmember Reed – As Vice President, she would not make a decision based solely on what she thinks. They will talk to all Council members to see which ones they feel should be moved forward. That is the only fair way to do it.

Councilmember Costas – He envisions this being like the school board process. It seems to work. If a restaurant wants to sell, and the buyer wants to keep it the same, change it or move it, how does that play out?

Attorney Lyp – He referred to page 6 Sale of the Restaurant. If it stays the same and a new person is put in, then it requires Council approval and sign a new Written Commitments. If it is the same but moves to a different location, that should not cause an issue. When there is a change in concept, that could create some concern. It is a balancing act to see what the value is of the license and knowing what businesses will try to do.

Councilmember Costas – He asked about a person who has a 2-way license in another part of town. They want to move downtown and take advantage of a three-way license.

Attorney Lyp – That would be treated as a new applicant.

**MOTION:** Councilmember Schmidt moved to carry Ordinance No. 11, 2023 to a future meeting. Councilmember Reed seconded the motion. The motion passed with a 6-0 voice vote.

### **ORDINANCE NO. 12, 2023**

#### **AN ORDINANCE APPROPRIATING FUNDS IN THE MUNICIPAL EXCISE SURTAX FUND AND PROVIDING FOR PUBLICATION OF NOTICE**

Councilmember Schmidt moved that Ordinance No. 12, 2023 be read a first time and considered on first reading. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 12, 2023.

Mike Jabo addressed the Council. This is customary for road rehabilitation season. These funds accumulate monthly. The appropriation amount is \$500,000.00. The funds are available to match funds with the projects.

Councilmember Cotton – He would like a projection of what work will be done.

Mike Jabo – He has not published that yet. He has not gotten confirmation from INDOT.

**MOTION:** Councilmember Schmidt moved to carry Ordinance No. 12, 2023 to the March 13, 2023 meeting. Councilmember Reed seconded the motion. The motion passed with a 6-0 voice vote.

### **ORDINANCE NO. 13, 2023**

#### **AN ORDINANCE APPROPRIATING FUNDS IN THE MUNICIPAL WHEEL TAX FUND AND PROVIDING FOR PUBLICATION OF NOTICE**

Councilmember Schmidt moved that Ordinance No. 13, 2023 be read a first time and considered on first reading. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 13, 2023.

Mike Jabo addressed the Council. This is the same as Ordinance No. 12, 2023. The appropriation amount is \$40,000.00.

**MOTION:** Councilmember Schmidt moved to carry Ordinance No. 13, 2023 to the March 13, 2023 meeting. Councilmember Reed seconded the motion. The motion passed with a 6-0 voice vote.

## COMMUNITY UPDATE

Attorney Patrick Lyp discussed the Human Relations Council. He relayed a story about a citizen who was disabled and a heave in the sidewalk made it a challenge for him to get outside and walk. Within 48 hours of hearing about this, the situation was fixed. The citizen was appreciative. From that instance, the City looked at March as National Disability Awareness Month. The City is putting community educational material together. This is the first year but should be a wonderful opportunity for the community to learn about various challenges.

## COUNCIL LIAISON

Councilmember Reed – 2023 School Board Appointment Schedule:

February 28 - Application available online

April 21<sup>st</sup> Noon – Application due online or at Clerk-Treasurers office

April 24<sup>th</sup> 5:00 pm. - If necessary, Executive Session of Council to reduce applicant pool to four

April 25-28 – Applicants notified of May 1<sup>st</sup> interview time. Questions sent to each applicant.

May 1- First round of interviews

May 2-8 - Questions from public due online

May 15 - Second round of interviews with questions submitted by public. City Council will vote to appoint School Board member following second interview.

This year's appointment must be a Democrat. There was discussion regarding how to determine an applicant is a Democrat.

## PUBLIC COMMENTS

Mayor Murphy advised those who wish to speak to the Council, that any speaker who engages in personal attacks, and/or acts in an uncivil manner will be stopped and may be prohibited from future opportunities to address the Council.

Barb Domer – 614 Yellowstone. There has been no progress on the No Through Truck signs. This must be a procedural issue. She would like to know what criteria is used. Is it the price of real estate?

Mary Abraitus – 605 Yellowstone. Nothing has been done. Nothing has been acknowledged. There has not been a display of good judgment. There is nothing fair, ethical, honest, and most importantly trustworthy, a basic requirement for public officials. Her expectation and the City's role is to meet the needs to the community at the forefront. She referred to abuses and what can be considered as kickbacks.

Mayor Murphy advised he will not tolerate this type of language in this Chambers. The City has listened on this issue. They have engaged. They have given City staff opportunities to talk to them. She doesn't like the answer given. She is coming to complain. Which is her right. But making those kinds of accusations is untenable and will not be allowed in this Chamber.

The meeting adjourned at 7:29 p.m.

/s/ Holly Taylor, Clerk-Treasurer