

**MINUTES OF THE MEETING  
OF THE COMMON COUNCIL  
VALPARAISO, INDIANA  
February 28, 2022**

The Common Council of the City of Valparaiso, Indiana, met on Monday February 28, 2022 at 6:00 p.m. in City Hall. Councilmember Douglas called the meeting to order. The Pledge of Allegiance was said. Present were Councilmembers Reed, Cotton, Schmidt, Pupillo, Anderson, Costas, and Douglas.

**MINUTES**

Councilmember Reed moved to approve minutes of the February 14, 2022 meeting. Councilmember Schmidt seconded the motion.

Councilmember Cotton discussed his desire to have the minutes as soon as they are prepared. Waiting until it is four days before the Council meeting is not efficient. It is not as fresh in your mind by then. He would like to see it revert to getting them as soon as they are prepared.

Upon voice vote the motion to approve passed with a 7-0 vote.

Clerk-Treasurer Taylor explained she opted to have the minutes go with the packets sent by the mayor's office on Thursday only because it was duplicating work. Councilmember Douglas stated this could be discussed outside of the meeting and figure out what works best. Councilmember Cotton restated that it would be better to get the minutes sooner rather than with the packet.

**ORDINANCE NO. 3, 2022**

**AN ORDINANCE APPROPRIATING FUNDS IN THE CAPITAL EQUIPMENT FUND AND PROVIDING FOR PUBLICATION OF NOTICE**

Councilmember Reed moved that Ordinance No. 3, 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 Schmidt seconded the motion. Clerk-Treasurer Taylor read the Ordinance.

These funds will be used for the purchase of police squad cars.

Councilmember Douglas announced that Ordinance No. 3, 2022 requires a Public Hearing and presented Proof of Publication that at tonight's meeting the Council will consider an appropriation in the Capital Equipment Fund. Attorney Lyp announced there were no electronic requests for information. Seeing no one wishing to address the Council, Councilmember Douglas declared the Public Hearing closed.

Councilmember Reed moved to adopt Ordinance No. 3, 2022. Councilmember Schmidt seconded the motion. Upon roll call vote the motion passed with a 7-0 vote.

**ORDINANCE NO. 4, 2022**

**AN ORDINANCE APPROPRIATING FUNDS IN THE UNSAFE BUILDING FUND AND PROVIDING FOR PUBLICATION OF NOTICE**

Councilmember Reed moved that Ordinance No. 4, 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 Schmidt seconded the motion. Clerk-Treasurer Taylor read the Ordinance.

Councilmember Douglas announced that Ordinance No. 4, 2022 requires a Public Hearing and presented Proof of Publication that at tonight's meeting the Council will consider an appropriation in the Unsafe Building Fund. Attorney Lyp announced there were no electronic requests for information. Seeing no one wishing to address the Council, Councilmember Douglas declared the Public Hearing closed.

Councilmember Reed moved to adopt Ordinance No. 4, 2022. Councilmember Schmidt seconded the motion. Upon roll call vote the motion passed with a 7-0 vote.

## **ORDINANCE NO. 5, 2022**

### **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, ESTABLISHING THE CITY OF VALPARAISO REDEVELOPMENT AUTHORITY**

Councilmember Reed moved that Ordinance No. 5, 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 Schmidt seconded the motion. Clerk-Treasurer Taylor read the Ordinance.

Attorney Lyp explained the need for the Authority is for a parking garage. He cannot find where any Authority in the State of Indiana has exercised eminent domain. The Authority has no ability to raise any revenue. It can only acquire money from the Council or receive lease payments. The Authority is analogous to a holding corporation. This is not creating any new authority or power. The Board will consist of three members. One of the three will be a Councilmember.

Councilmember Anderson asked how the money that is collected by the Authority gets spent. Attorney Lyp explained the money will be taken by the Authority. It will then be paid towards the debt. This will be governed by a multi-party agreement. The only way the Authority can obtain money is through collection of lease money or the Council or another government entity.

Councilmember Cotton stated he feels this is like what was done with the Garmon building. In that case the VEDC held the building. He referred to the opinion letter of 2010 of Greg Zoeller and that the Council might be bypassed. He notes in the current ordinance the scope of power is quite broad. He feels we have the VEDC and this is what should be used instead of creating the Authority.

Councilmember Pupillo asked if there are any examples of an Authority operating outside of its bounds as intended. Attorney Lyp explained Greg Zoeller's opinion was written at the request of the State Board of Accounts for an auditing purpose. Imagine the worst-case scenario. The Authority decides to go rouge. They do not have a dime to their name. They have no ability to pay for anything. The VEDC is a private not for profit entity who agreed to partner with the City. No one can force them to take on that responsibility. They probably do not want to oversee a municipal parking garage. Councilmember Pupillo asked if a non-profit were in charge would a councilmember be on it. Attorney Lyp answered no.

Councilmember Reed stated with having a Councilmember serve on the Authority Board she is comfortable.

Councilmember Schmidt stated this has been well thought out. It is not a power grab. We have our Building Department to do condemnations. There are protective layers that protect the Council.

Councilmember Douglas asked for clarification that anything the Authority does is public. Attorney Lyp replied that is correct. And with the VEDC it is all private. Councilmember Douglas asked if the Council decided it no longer wanted the Authority could they rescind it. Attorney Lyp said they could and the ownership of the parking garage would revert to the City.

Councilmember Cotton discussed voting in lockstep. The Councilmember on the Board should be bipartisan. He feels the only way to stop the Authority would be to go to Court. Attorney Lyp stated that is not true. The Council would dissolve the Authority. The Council is forming it and they can uniform it.

Councilmember Reed moved to adopt Ordinance No. 5, 2022. Councilmember Schmidt seconded the motion. Upon roll call vote the motion passed with a 6-1 vote. Councilmember Cotton voted No.

### **ORDINANCE NO. 6, 2022**

#### **AN ORDINANCE REESTABLISHING THE CUMULATIVE CAPITAL DEVELOPMENT (CCD) FUND AND PROVIDING FOR PUBLICATION OF NOTICE UNDER INDIANA CODE 36-9-15.5**

Councilmember Reed moved that Ordinance No. 6, 2022 be read a first time and considered on first reading. Councilmember Schmidt seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 6, 2022.

Eric Walsh of Baker-Tilly addressed the Council. The City of Valparaiso already has a CCD Fund with a tax rate of .0124 per \$100 of net assessed value. Under State Statute this Fund can be reestablished to a maximum rate of 4 cents. This does take a Public Hearing. That would be at the March 14<sup>th</sup> meeting if they decide to go ahead. It then gets filed with the DLGF and would not be in effect until 2023. The 4 cents would generate beginning in 2023, approximately \$510,000 per year for the City. These funds can be used for any general purpose. The CCD Fund is a rate driven fund. Once you hit the max of 4 cents, as the assessed value grows in the City, the tax rate comes down for this one. So the City's growing tax base has been generating the same dollar amount each year with the tax rate going down. On an annual basis the City can adjust to the 4 cents.

Councilmember Cotton stated people with assessed value over \$150,000 probably will not see an increase because they have already maxed out.

Councilmember Reed moved to carry Ordinance No. 6, 2022 to the March 14, 2022 meeting. Councilmember Schmidt seconded the motion. Upon voice vote the motion passed with a 7-0 vote.

### **ORDINANCE NO. 7, 2022**

#### **AN ORDINANCE APPROVING EXPENDITURE OF FUNDS IN THE PARK NON-REVERTING CAPITAL FUND AND PROVIDING FOR PUBLICATION OF NOTICE**

Councilmember Reed moved that Ordinance No. 7, 2022 be read a first time and considered on first reading. Councilmember Schmidt seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 7, 2022.

John Seibert addressed the Council. There will be a Public Hearing on this at the March 14<sup>th</sup> meeting. It has been passed unanimously by the Park Board at its February 22<sup>nd</sup> meeting. These are golf course revenues accumulated for capital improvements. They can be spent on golf course improvements only. He presented a list of improvements at a cost of \$105,000.00.

Councilmember Douglas stated he was at the last Park Board meeting. These improvements are needed.

Councilmember Pupillo asked if this is a conservative quote. John Seibert reported it is and they are held for 35 days or until March 17<sup>th</sup>.

Councilmember Costas asked about the range lights. Dan McQuire explained this is replacing some of the lights and a lift that will be used to replace the bulbs. The cart path will be resurfaced only. The flooring is for the Creekside Club House. This is a 22 year replacement issue.

Councilmember Schmidt stated he supports this fully. John Seibert added it has been a remarkable change in golf. Councilmember Schmidt said he knows the retired people have been asking for a lot of these changes. John Seibert added the young people are beginning to golf.

Councilmember Cotton noted that Creekside got the most money for repairs. John Seibert replied this was based on what was needed. Last year they spent more on Forest Park than Creekside.

Councilmember Reed thanked John and his team for all they do. John stated it is important that it is a team and a lot of great partners.

Councilmember Reed moved to carry Ordinance No. 7, 2022 to the March 14, 2022 meeting. Councilmember Schmidt seconded the motion. Upon voice vote the motion passed with a 7-0 vote.

### **Reports**

Councilmember Reed announced the school board appointment applications went live on the city's website today. Applications will be accepted until April 22<sup>nd</sup>. The schedule for the process is also on the website.

Attorney Lyp discussed the process for ARPA. The portal on the web page has received 122 responses. The portal will be live until tomorrow at noon. At that point all responses will be compiled and given to the Council. Meetings will be set up with Councilmembers to discuss responses. And then produce a plan.

Councilmember Cotton discussed his concern that not all have had a chance to state their comments. It could end up that not all the money is allocated. That would be a reason to leave the portal open to receive more comments.

Councilmember Douglas stated the portal is just one way to communicate. Citizens have many ways to let the City know their thoughts on how to allocate.

Councilmember Schmidt stated Valparaiso for all Generations was a great presentation. The presentation is on the web page.

John Seibert announced Public Input sessions for the projects are Monday March 7<sup>th</sup> – Legacy Parks. March 8<sup>th</sup> – the sports complex. March 9<sup>th</sup> the Adult Center for Enrichment. All are at 5:00 in the Welter Room. These are the first of many public hearings to come.

### **Public Comments**

Walt Breitingner – 608 Academy. He is talking about the mud washing into Beauty Creek. He attended meetings where experts promised the citizens there would be no problems. About a week ago a massive amount of mud washed into Beauty Creek. The land should not have been stripped of all its vegetation. Measures should have been taken to protect the creek from mud. He requests the city make sure the maximum fines possible are imposed. The developer should remediate Beauty Creek. He has seen a letter from the City stating that this recent development was brought on by rain, warm weather and snow melt. It was not a recent development. It was recent travesty. It was brought on by complete disregard for proper storm water management practices.

Art Elwood – 1701 Boca Lago. This is a public private venture. We have been let down by two entities. It is his understanding that this was brought to light by a citizen on Friday. By Monday equipment was working on the problem. A couple of Councilmen were on site. He wonders if this is a conflict of interest if any of these Councilmen purchased property in the Brooks and are going to vote on anything that goes further from here.

Jessica Jepsen – 1259 Sherwood. She discussed the School Board. There is no accountability anymore. It is one thing for a citizen to do their work and bring it to the school board. It is another for the Superintendent to call a citizen irresponsible for doing their work. This is totally out of line. She is right that the Superintendent has lied. The school board needs to be accountable to the citizens. Right now they are not accountable to anyone.

Gary Brown – 203 Harrison. The Brooks has turned into a mud hole. His fears are realized. When City Hall was at Hayes Leonard there was a meeting and everyone was promised what a great project this was going to be. Anyone can see they did not do anything to prepare for the weather. Fish will die from this. There must be penalties. It is bad for the reputation of the City. They were promised the retention pond at the top would hold water. There is none in the ditch. All the water is going downhill. The Councilmembers should go look for themselves.

Dennis Alonzo – 3109 Winter Park Drive. He is here for himself. Inaccuracies are floating around. On December 2<sup>nd</sup> when the foundation work started the entire creek was blocked. There were water issues in the foundation that had to be repaired. The mud had to be scooped out. Some rebar had to be redone. Forms had to be redone. On December 14<sup>th</sup> or 15<sup>th</sup> the foundation was poured. The creek remains blocked. Water was supposed to go into the big retaining pond and then slowly released. Why wasn't the creek put into the big pond? Pumps should have been put at the south end to pump around the work site. This is not uncommon. This needs to be inspected. He is concerned about the oversight of this project. He does not want taxpayer money to have to fix something down the line. Let's get this done correctly so the road that will be going through lasts as long as it is supposed to.

Mike Jabo – City Engineer. Last week at the Board of Works a presentation was made and earlier in the week at the Utility Board. In that presentation Matt incorrectly stated the contractor would be in next week. Actually he will be at the next Board of Works meeting on March 11<sup>th</sup>. There was over an inch of rain, ice melt and frozen ground. This is a recipe for disaster. People could have done better. Once it was brought to their attention staff was out there immediately. Once it dried up, corrective action began. The culvert is not expected for another week or so. Staff has been working with IDEM. The foundation will be inspected at the contractor's expense. The contractor has been issued a violation.

Councilmember Douglas recapped what Mike Jabo reported.

Councilmember Pupillo asked if any further remediation will take place before the March 11<sup>th</sup> meeting. Mike Jabo said they have talked to the contractor about additional items they would like to see.

Councilmember Cotton talked about the remedy between now and then. Will pumps be put in to divert water into the big basin. Mike Jabo said they have put in coffer dams. They are set at a lower level. The purpose is to catch all the sediment that might be in the water. Pumping is difficult. Once the culverts are in there will be 15 to 20 feet of fill on top of them. Councilmember Cotton asked if the measures that have been taken are sufficient to avert another breach. Mike replied a breach of the channel yes. It will stop the dirt and not the water.

The meeting adjourned at 7:34 p.m.

/s/ Holly Taylor, Clerk-Treasurer