

MINUTES  
CITY COMMISSION MEETING

November 3, 2011

The City Commission met this date in special session in the Commission Chambers. A quorum being present, the meeting was called to order at 6:00 PM with the following in attendance.

Mayor	:	John B. Arnold, Jr.
Commissioners	:	Heyward H. Strong, Jr.
	:	Thomas G. Miller
	:	Neal Shermer
	:	Diane Kelley
City Clerk	:	Tammy Johnson
Police Chief	:	Joe Hart
City Attorney	:	Doug Wyckoff
Recorder	:	Lois Davis

Others in attendance: (Not inclusive) James Butler (Cameraman), Anne T. Kirkpatrick, Herb Jones, Terry Griffin, Clark T. Browning, IV

**Conflict Assessment Negotiating Committee**

Mayor Arnold stated that the purpose of the meeting is to react to correspondence received from the School District of Okaloosa County, for a meeting regarding a possible resolution of this conflict, pursuant to the dispute resolution procedures of Chapter 164 Florida Statutes.

Mr. Wyckoff stated that since he has done several of these, he will tell what this process entails. He stated that the Legislature has set forth for different government entities to resolve disputes, and the intent is to avail each party before filing suit. Mr. Wyckoff stated that there are specific steps to go through, and he further stated that the first step is the letter from the School Board. He stated that the City has ten days to respond, which is Monday, and this is the reason for the meeting. Mr. Wyckoff stated that if the City or School Board fails to participate in good faith, then whoever did and lost in court, would have to pay the attorney fees. He stated that the meeting is to avoid that and hopefully reach resolution. Mr. Wyckoff stated that the School Board had a meeting and voted to do this. He stated that the City has a certified copy of the resolution, and the City needs to respond. Mr. Wyckoff stated that the response should be that the City would love to participate and formulate a team to go. He stated that the School Board suggested November 18<sup>th</sup> or before November 18<sup>th</sup>, which is the date picked out to file suit.

Mayor Arnold stated that this is not the way he reads the State Statute. He stated that if there is no agreement, there has to be a meeting, and it has to be publicly aired. Mr. Wyckoff stated that at the School Board meeting that he attended, they voted to sue. He stated that they have the conflict assessment meeting to assess the conflict, and if there is a tentative resolution, everyone goes back and then schedule another meeting and try to reach a resolution. Mr. Wyckoff stated that if there is no resolution, they have a joint public meeting, within fifty days of receiving the first letter. He further stated that if they do not solve the issue there, they go to mediation, if they cannot agree on a mediator and then go to an independent organization and agree to accept their decision as mediator. Mr. Wyckoff stated that if they do not reach a resolution, everyone agrees to go to court. He stated that he will point out a couple of things, indicating that the team from the City should be advocates for the City's position. Mr. Wyckoff stated that he should be involved, Mr. Scott, who is corresponding and someone who is most knowledgeable about the site should be involved. He suggested Comm. Shermer. Mr. Wyckoff stated that also in the City's response to their letter, it is technically deficient that it does not suggest a particular group or a location of the meeting, so his response would recommend or suggest that the conflict assessment should take place right here. He stated that these are his suggestions. Mr. Wyckoff stated again, the Commission should not be surprised if the Mayor gets served with the law suit.

Mayor Arnold stated that the way he reads it, there is another fifty days before they can serve you a lawsuit. He stated that it is a long process. Mr. Wyckoff disagreed. He stated that this act does not extend any legal time frames, and he further stated that this is the reason the School Board wanted to have that time frame. Mr. Wyckoff stated that his best evaluation is that on November 18<sup>th</sup>, the School Board will sue the City. COMM. STRONG MADE A MOTION THAT THE NEGOTIATION COMMITTEE CONSIST OF MR. WYCKOFF, COMM. SHERMER, AND MR. SCOTT. COMM. SHERMER SECONDED THE MOTION. Mayor Arnold stated that he will take issue with Mr. Wyckoff that they should have advocates on this group of people who will talk with the School Board. He stated that they should have people that will look at the overall picture and not the ones that say elementary school or nothing. The Mayor stated that he thinks that the City wants to try to reach an agreement so they will not have a lawsuit. Mr. Wyckoff disagreed, and stated that no one can strike a deal at these meetings; they can only make recommendations. He further stated that if the Mayor does not think the School Board will have advocates, he is strongly wrong.

Comm. Shermer disagreed and stated that he will explain why. He stated that the School Board has voiced in the paper, in person, and in the letter to us. Comm. Shermer stated that the School Board has said that they will enter into this in good faith, and that he will too. He stated that it is his opinion that both the School Board and City want to enter into negotiations and not a lawsuit. Comm. Miller stated that the way he reads in the paper, the school property would be for the STEMM. Comm. Shermer stated that this is one of the many things that they will talk about in their discussion. He stated that Comm. Miller is exactly right.

Mayor Arnold stated that he wants to amend the motion to delete Mr. Scott from the group and add Comm. Strong. He stated that he does not want to put one of the City employees in this position. Mr. Wyckoff then asked what kind of position is it. Comm. Shermer stated that he is our zoning Commissioner.

Mr. Herb Jones stated that he owes all an apology, and further stated that he has interest because it will raise the property values for him and others. He stated that a charter school in an area, could lift the competitive advantage of both Lewis and the charter school. Mr. Jones stated that this is what the expert is saying. He stated that what the students are doing now is totally different, and that he thinks they have an outstanding school system in Okaloosa County. Mr. Jones stated that the charter school requires that each parent must commit so many hours to work with the school. He stated that this is one of the things that makes the charter school so superior to a public school. Mr. Jones further stated that he did go to the meeting of the School Board a couple weeks ago and he heard Mr. Wyckoff give a short, precise answer to their questions. He stated that he did not get that the School Board would be giving a good accommodating resolution. Mr. Jones stated that they could upgrade Lewis and that as far as the STEMM, they have to have children that are grounded in math, reading, and science to have STEMM. He stated that there is no reason that both cannot reside in the same place. Mayor Arnold stated that according to our Ordinance, as it stands today, they could not implement the STEMM at Valparaiso Elementary. Comm. Shermer stated that there is room for special exceptions and variances. He stated that most of you know, Dr. Tibbetts expressed her opinion in the newspaper that the site would be a good place to house a STEMM training site and to teach them the method for STEMM. Comm. Shermer stated that in these negotiations, it is foreseeable that these could be done in charter schools. He stated that Somerset Academy is one of the best in knowing about STEMM. Comm. Shermer stated that the paper said that a STEMM place does not require the amount area that they are talking about.

Mr. Larry McCain stated that he has a suggestion, and stated that number one, he is amazed that the Board of Education is driving this agenda. He stated that speaking strictly from a taxpayer's point of view, he does not like being pushed into a corner. Mr. McCain stated that he did not ever realize that the Board of Education had anything to do with rezoning, and further asked if he is missing the point. Mayor Arnold stated that he thinks they are objecting to what the City did. Mr. McCain stated that they have a building that has been sitting for months. He stated that Comm. Shermer is a sound proponent for it. Mr. McCain stated that having come from education, if they have a union, there are good and bad teachers. Mayor Arnold stated that he does not think that the Board of Education objected to a charter school, but objected to the rezoning. Mr. McCain stated that he thinks that it frightens them that if a charter school comes in, they will have some competition. Mayor Arnold stated that they did not need the ordinance. Comm. Shermer stated that this is not what they said. He stated that they needed the ordinances to correct a fifty year oversight of the property to be Commercial Limited. Comm. Shermer stated that they needed them to protect the residents of Valparaiso. Mr. McCain stated that if they agree that a charter school can be placed there, then probably, as Comm. Shermer suggested, maybe the City could allow other activities to take place. He suggests that through both parties, it is a legal problem, but they need to sit down with somebody and tell them that the City does not like the threat. In response to Mr. Browning's inquiry concerning whether anyone had asked the School Board what they were going to do with the property, Mr. Wyckoff stated that they are on record stating that they have no plans for the property.

Mr. John Miller, 54 Jackson, stated that the City has every right to change the zoning. He further stated that he thinks there should be only advocates on the committee and he disagreed with the Mayor's comments. Mr. Miller stated that to start with someone who does not want the rezoning is just ludicrous. He stated that he does not want to go in there with someone that has already quit.

Mr. Terry Griffin, 253 Grandview Avenue, stated that he will go with what he has already said, indicating that he does not agree with the City being able to take over property. He stated that in Okaloosa County, there are over 100,000 people that own a piece of that property. Mr. Griffin further stated that there are some people who have some sour grapes about closing Valparaiso Elementary. He stated that the school closed and then the Commission asked Comm. Shermer to do a study on a charter school. Mr. Griffin stated that all they are doing now is bringing the City into another lawsuit. He stated that he is opposed to continual conflicts outside the City, and that he thinks they should go into the conflict resolution. Mr. Griffin stated that he advocates that they try to find a school to come in here, and let the school do their job and find the property. He stated that they are not brokers for them. Mr. Griffin stated that the City has become the broker for Academica or whoever else wants to come in here. He further stated that he thinks that the City is not in the business of being school managers.

Mr. Wyckoff stated that a government agency is immunized from municipal zoning, which he then read. Mr. Griffin stated that the City position has become one that they are going

to have a school regardless. I agree you are doing this so a school can come into Valparaiso, but I don't agree that you are not trying to move the school in Valparaiso. Mr. Griffin stated that this is his opinion and this is all he needs to say. Mayor Arnold stated that he thinks that the School Board has approved the application for Somerset. Mr. Griffin stated that the charter school and the School Board has the responsibility to work together. He stated that the City is not the catalyst to make sure that the school goes into Valparaiso Elementary. Mr. Griffin stated that he is a great supporter of Valparaiso and its functions but when it comes to taking someone's property, he is against that. He stated that they could do the same thing to someone else as they are doing to the School Board. Mayor Arnold stated that he thinks all of the ordinances are premature until they have all the noise data on the F-35's. Comm. Shermer stated that they will cross that bridge when they get to it. Mayor Arnold stated that the noise curves they have at this time is not suitable.

Mr. John Miller stated that this is a commercial piece of property. He further stated that he respects Mr. Griffin's opinion on a lot of things. Mr. Griffin stated that he asked Mr. Wyckoff if they could do this to his property, and Mr. Wyckoff told him yes. Comm. Shermer stated that the whole purpose of zoning is to protect the City. He stated that it is supposed to be for protecting the interest of the City of Valparaiso.

THE VOTE WAS HELD ON THE MOTION, WHICH PASSED WITH A 3 - 2 VOTE OF THE COMMISSION, WITH MAYOR ARNOLD AND COMM. KELLEY VOTING IN THE NEGATIVE.

**ADJOURN**

There being no further business to be brought before the Commission, the meeting adjourned at 6:35 PM.

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John B. Arnold, Jr.  
Mayor

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Thomas G. Miller  
Chair, VCA

ATTEST:

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Tammy Johnson, CMC  
City Clerk

November 3, 2011

\*\*\*The DVD labeled November 3, 2011 contains the audio and video of this meeting and will be kept as a permanent part of these minutes.\*\*\*