

MINUTES  
CITY COMMISSION MEETING  
December 10, 2012

The City Commission met this date in regular session in the Commission Chambers. The Invocation was given by Comm. Kelley after which the Pledge of Allegiance was recited. A quorum being present, the meeting was called to order at 6:00 PM with the following in attendance.

Mayor	:	John B. Arnold, Jr.
City Commissioners	:	Heyward H. Strong, Jr.
	:	Diane Kelley
	:	Joe Morgan
City Clerk	:	Tammy Johnson
City Administrator	:	Carl Scott
Police Chief	:	Joe Hart
Public Works Director:		James Valandingham
Library Director	:	David Weatherford
City Attorney	:	Hayward Dykes
City Engineer	:	Roy Petrey
Recorder	:	Beth Millsaps

Others in attendance: (Not inclusive) James Butler (cameraman), Marion Cassell, Clark (Tom) Browning IV, Clark Browning V, Bob Bachelor, Thelma Rhinehart, Bob Webb, Mike Griffin (Bay Beacon)

Mayor Arnold welcomed the audience and state that the Commission was interested in hearing their thoughts and welcomed any comments. He asked that anyone wanting to make any comments should raise his/her hand to be recognized and use the microphone at the podium to address the Commission; he also noted that Comm. Kay Hamilton is out of town. Mayor Arnold also wanted to commend Ms. Connie Terry on the excellent job that she has done in decorating the Commission Chambers for the holidays, and also with his car that he has in the parade every year.

Welcome  
By  
Mayor

1. **CITIZENS' CONCERN (non-agenda items) – Resident**

Thelma Rhinehart, 164 Charles Drive, asked to address the Commission. She said that she is trying to sell her sister's home at 191 Highland Avenue and that a gentleman would like to buy the home but wants something in writing saying that the city will not cutoff the access road. Mayor Arnold said that the City provides an egress and ingress to every platted lot in the City. Mrs. Rhinehardt said this gentleman would like to have that in writing. Mayor Arnold said the Commission would take it under advisement and have Mr. Scott respond in writing by the end of the week.

Citizens'  
Concerns  
Resident

2. **CITIZENS' CONCERN (non-agenda items) – Non Resident**

No non residents wishing to address the Commission at this time.

Citizens'  
Concerns  
Non-  
Resident

1. **NEW AGENDA ITEMS – Added Agenda Items**

Mayor Arnold said there are three items to place on agenda. Mr. Bachelor and Mr. Webb will give a noise update, there is beautification of medians to discuss and Chief Hart's retirement. **MAYOR ARNOLD MADE THE MOTION TO DISCUSS THESE ITEMS, SECONDED BY COMM. MORGAN, WHICH PASSED WITH UNANIMOUS VOTE 4 TO 0 OF THE COMMISSION.**

Added  
Agenda  
Items

2. **NEW AGENDA ITEMS – Ordinance No. 634 Land Use Change R1A to C1 308 Glen Avenue**

Mayor Arnold conducted the first reading of Ordinance No 634 an ordinance Amending its adopting Comprehensive Plan; providing for purpose; providing for land use change to .26 acres of land MOL; providing for future land use map amendment, and providing for an effective date. The parcel is specially described as Plat 2, Block 1, Lot 4, located at 308 Glen Avenue, from Low Density Residential to Commercial, containing .26 acres, more or less. No comments or discussion regarding this Ordinance.

Ordinance  
No. 634  
Land Use  
Change

3. **NEW AGENDA ITEMS - Ordinance No. 635 Rezoning R1A to C1 308 Glen Avenue**

Mayor Arnold conducted the first reading of Ordinance No. 635 an ordinance amending its zoning map; providing for purpose; providing for a zoning change to .26 acres MOL of land from R1A, Single Family Residential to C1, Commercial District Limited providing for zoning map amendment, and providing for an effective date. These two ordinances go hand in hand. Mr. Clark Browning, chair of the Planning Commission, stated that the stipulations were discussed at the Planning Commission Meeting one option is that this property remain a parking lot. Place a stipulation of the 5 to 6 foot buffer and to provide the exit have an L shape off of Hillcrest so that the lights from the vehicles do not shine into the neighbors eyes every evening.

Ordinance  
No. 635  
Land Use  
Change

Mr. Browning said that they did receive a copy of a letter from an adjacent land owner and he was at the meeting. Mayor Arnold said to sum it up the Planning Commission held a public meeting regarding the zoning change and it was approved that is how this recommendation reached the Commission. Comm. Morgan said he understood he just wanted to have it as public record that in the meeting it was discussed that the property is to be a parking lot only, Mr. Browning said they discussed the requirements of the parking lot as a C1 and was not sure if it was said to only be a parking lot. Mr. Scott said that it was written into Ordinance No. 634 in the paragraph that the Planning Commission has stipulated that the property be utilized as a commercial parking lot with caveats consistent with the Valparaiso Code of Ordinances. Mayor Arnold said that if they wanted to do something else with the property they would have to come back before the Planning Commission. Comm. Morgan said the issue he has is the land is conveyed just as C1, that a stipulation cannot be carried into the zoning or deed, if property is sold down the road it would just be zoned as C1 and in order to know of restrictions you would have to go back to the Ordinances and down the road that will be, a difficult task to accomplish. Comm. Morgan suggests we look at an Ordinance to incorporate into the zoning for proper restrictions and since time is not an essence for this property they can go ahead with the parking lot under the current residential zoning. This new Ordinance would go hand and hand with the zoning so that the restrictions would be easily known. Mr. Scott said an option one day is to have a new district or change some that we have and do not use develop something like a neighborhood commercial zone but at the present time that isn't available for this property. Comm. Morgan said he understands the limits that we have now but would like to see our zoning change for the properties to be used as they are intended because he feels we will lose visibility on this property. Mr. Dykes said there were several good points on this subject from the legal side that the zoning map needs to be revisited to be more conducive to what the City has planned in the future. Comm. Morgan said he would like to see Cable Bid Update the issue tabled so that the proper zoning is placed, would it cause the applicant a problem if we did this or do they need for it to be C1, it seems as they can go forward with the parking lot as it is in residential. Mr. Browning said if it isn't rezoned as C1 then they would not be required to have the buffer and light restrictions. Comm. Morgan said it was better to go forward with C1 with restrictions and apply the zoning down the road, to make sure owner is amenable to zone with those stipulations. Mrs. Johnson asked why would the applicant want to zone down; she could see where a person would want to go from R1A to C1 but not C1 to neighborhood commercial. Comm. Morgan said he has agreed to that now with the C1 and stipulations and Mayor Arnold agreed that Dr. Harris has agreed to the stipulations. Mr. Browning said that Mr. Griner was there as the representative for Dr. Harris, the contractor for the parking lot. Mayor Arnold said this concludes what we need to do this is the 1<sup>st</sup> reading of both Ordinances with the 2<sup>nd</sup> and final reading to be completed at the January Commission Meeting.

4. **NEW AGENDA ITEMS - Added Agenda Item Noise Update**

Mr. Bob Webb said as of last week the SEIS report is still at air staff for review and most likely would be released in January. He said he called in a noise report last week and was told that there had been 15 reports made in a couple weeks. He said that you can also ask when you call that the Air Force get back with you as a resolution to your report. He said we don't want to make unnecessary reports but if we are bothered by the noise it is not unpatriotic to report, everyone needs to keep up the good work. Mr. Webb also said that he and Mr. Bachelor are formulating a proposal to present to Eglin AFB that would be beneficial to Eglin and to Valparaiso and it has the potential to solve our noise problems. He said they wanted to wait to till the SEIS and then proceed in January with formal presentation to the Air Force for discussion. Mayor Arnold said he appreciated the good work and urged the citizens to call if they had a noise issue. Comm. Strong recommended sending the flier out again with the bills with the phone number to report noise problems.

5. **NEW AGENDA ITEMS - Resolution No. 13-12-10-12 Appoint a Planning Commission Board Member**

Mayor Arnold read Resolution No. 13-12-10-12 a resolution appointing Mr. Joseph Cobb, a volunteer, to the Planning Commission. Mr. Cobb has requested appointment to the Commission and he meets all qualifications to serve on said Commission, adopting the Resolution as of 10 December 2012 for term to expire 30 September 2017. COMM. STRONG MADE THE MOTION TO ADOPT RESOLUTION 13-12-10-12 A RESOLUTION TO APPOINT MR. JOSEPH COBB TO THE PLANNING COMMISSION AS OF 10 DECEMBER 2012 UNTIL 30 SEPTEMBER 2017; COMM. MORGAN SECONDED THE MOTION, WHICH PASSED WITH A UNANIMOUS VOTE OF COMMISSION 4 TO 0.

6. **NEW AGENDA ITEM - Cable Bid Update**

Mayor Arnold said this is an update on the modem that is needed to take care of our internet problem. Mayor Arnold said the bids had been opened on Wednesday of this week and that the lowest bid came in under \$50,000, approximately \$41,000 and some ancillary charges.

Added  
Agenda  
Noise  
Update

Reso-  
lution  
No. 13-  
12-10-12

Cable Bid  
Update

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Reso-  
lution  
No. 13-  
12-10-12

Cable Bid  
Update

Attorney  
Contract4. **OLD BUSINESS - Attorney Contract**

Mr. Dykes said he looked at the contract provided by Dennis Davey PA out of Jacksonville and confirmed this contract would be a contingency contract with no monthly or hourly costs only pay if City wins the case. He said they will be no out of pocket or upfront expenses. Comm. Strong asked if he thought we should pursue this, Mr. Dykes said moving forward with a malpractice case against the previous council, that he has reviewed the contract but he does not practice this type of law and neither does anyone in his firm but the other firm feels strongly enough to take the case. Comm. Kelley asked what the downside would be; Mr. Dykes said monetarily there isn't one, just negative publicity. Comm. Strong stated that this is the only way we would be able to recover any money that was lost. Mr. Dykes said that this firm has asked for transcripts and court orders and truly vetted this case so they feel strong in going forward. **COMM. KELLEY MADE THE MOTION TO ACCEPT THE CONTRACT TO GO FORWARD WITH THIS CASE, MAYOR ARNOLD SECONDED THE MOTION.** Comm. Morgan said that coming into office he wanted to reduce the litigation and feels that we are going after the wrong people, the deep pockets vs. the person responsible. Mayor Arnold said look at the cost to the taxpayer only way to get any money back for them, we wouldn't be able to get all of it back by any stretch of the imagination but at least something. Mr. Dykes said this would be more a case of dealing with the insurance company of the attorney's office that is how it has been explained to him. **VOTE ON THE MOTION PASSED UNANIMOUSLY BY VOTE OF 4 TO 0.**

5. **OLD BUSINESS - Roberts Litigation Appeal**Roberts  
Litigation  
Appeal

Mr. Dykes said that the summary judgment of Robert's case, Mr. Roberts requested that the City vacate a portion of Bayshore Drive and the City denied that request and Mr. Robert's filed suit, the City defended this suit and recently the court ruled the evidence did not show that the plated area was ever properly dedicated to the City that portion of Bayshore Drive adjacent to Mr. Robert's property going towards Tom's Bayou thereby vacated. He said that plat has been thrown out by the court and due to this ruling coming out on November 20<sup>th</sup> if the City desires we need to file an appeal within 30 days. Mr. Dykes said he has discussed with Mr. Bowman, the council of record on this case, he said if the City wants to appeal most likely the Florida League of Cities would pay for the appeal. Mr. Dykes said Commission needed to decide tonight to appeal or not. Comm. Strong said this could be a major problem if we were to lose that plat we have roads and utilities over there and the problems just go on and on. Comm. Morgan said that the roads, water towers, all of that would not be affected for us to continue with this would just be beyond him. Comm. Strong said it affects the whole plat not just a part, Comm. Morgan said no current lots are useable. Mr. Dykes said the order read that "offer for dedication was rejected prior to acceptance, either in 1951 by executing the Deed of Cession with the US Government", he said that is why he said the court is saying there was never acceptance. Comm. Morgan said we should leave this alone. **MAYOR ARNOLD MADE THE MOTION TO APPEAL JUDGE'S RULING IN ROBERT'S LITIGATION, MOTION SECONDED BY COMM. STRONG; VOTE WAS 3 TO 1 IN FAVOR WITH COMM. MORGAN VOTING IN THE NEGATIVE.**

1. **REPORTS/CORRESPONDENCE/ANNOUNCEMENTS - TPO/DOT**

TPO/DOT

Comm. Morgan said he appreciated the Bay Beacon's due diligence in an article recently published concerning bridge. He said that there are several lists of bridge repairs and replacements that have been discussed and the TPO has a meeting this week and will discuss the Tom's Bayou Bridge. Comm. Morgan said more research would need to be done to find out if the bridge would need to be replaced or just what needs to be taken care of we have water and sewer lines under the bridge and that would have to be taken care of at additional cost. Comm. Strong commended Comm. Morgan on "hitting the ground running" to take care of these issues.

Stormwater

2. **REPORTS/CORRESPONDENCE/ANNOUNCEMENTS - Stormwater**

Mr. Scott said he has no stormwater items to discuss.

2. **REPORTS/CORRESPONDENCE/ANNOUNCEMENTS - Legal Activities**Legal  
Activities

Mr. Dykes said several issues had been covered except for the Bradley case. He said the City had recently had an executive session to accept a settlement draft agreement. Mr. Dykes said he had reviewed the settlement agreement and had a copy to give to the Commission for their review, it is a basic settlement agreement saying that we will pay \$182,291.26 to Mr. Bradley's legal counsel and with that Mr. Bradley will withdraw suit for attorney fees and costs and we will dismiss our option to appeal. Mr. Dykes said he reviewed the settlement and is comfortable with the agreement and asked the Commission to look over and if they approve to make a motion and vote so that the Mayor will be able to sign the agreement. Mayor Arnold said it is almost exactly as it had been discussed. **COMM. MORGAN MADE A MOTION TO DIRECT THE MAYOR TO SIGN THE SETTLEMENT AGREEMENT, COMM. STRONG SECONDED THE MOTION, MOTION PASSED UNANIMOUSLY WITH A 4 TO 0 VOTE**

OF THE COMMISSION. Mrs. Johnson verified with Mr. Dykes that once everything is signed by both parties that the records of executive sessions will be open to the public.

4. **REPORTS/CORRESPONDENCE/ANNOUNCEMENTS - Planning Commission Report**

Planning  
Commission  
Report

Mr. Browning said that all business had previously been discussed with the quasi judicial meeting regarding the rezone of 308 Glen Avenue.

5. **REPORTS/CORRESPONDENCE/ANNOUNCEMENTS - City Park Update**

City Park  
Update

Mr. Valandingham said that TJ Brooks Park also known as Echo Park he wanted to thank Ms. Cassell and Ms. Shirley for all of the efforts and donations. We have received the playground equipment from the STEMM center, previously Valparaiso Elementary, and that we have received dirt to work on the drainage problem that we have been having there. Mr. Valandingham said that Mr. Scott and Mrs. Johnson are in contact with Okaloosa County regarding the boating improvement grant money. Mr. Valandingham said last Saturday in Perrine Park the Heritage Museum had their annual Yule of Yesteryear event and that Ms. Gina is very grateful for our assistance in setting the park up. He said that public works prepared the park and stage for the event and that the event went well. Mayor Arnold said they did have a nice crowd all day long. Comm. Kelley said she has checked on the sign for TJ Brooks Park and the update is that with the storm in New York it has delayed the process, also because our seal has so much detail it had to be sent out to another company for work so hopefully within two weeks we should receive the sign.

Clark Browning V, 223 Bayshore Drive, asked that we look into doing something at Florida Park to help with the drainage and the tall grass around the area. He said with the water standing and the tall grass there are snakes everywhere and thought maybe the City could do something to bush hog the grass and find away to reduce the number of snakes that come to the area. Mayor Arnold said he would have our engineer take a look to see what if anything could be done about the drainage, that the park also has underground streams that feed into it.

Mayor Arnold said he would like to schedule something in T J Brooks Park to give plaques to Ms. Cassell and Ms. Shirley for all of their contributions to the park. He said the City would like to formally recognize all they have done for the park and the City owes them a debt of gratitude that we can never repay but we would like to schedule something, after the holidays when Ms. Shirley is up to it.

6. **REPORTS/CORRESPONDENCE/ANNOUNCEMENTS - Visioning Committee Initial Meeting**

Vision  
Committee  
Meeting

Mayor Arnold said the Visioning Committee would hold its first meeting on 21 January 2013, he asked if we had yet confirmed ten members, Mr. Scott said not as of yet.

7. **REPORTS/CORRESPONDENCE/ANNOUNCEMENTS - Etc.**

Etc.

Mayor Arnold said he would like to invite members of the Commission to the annual employee Christmas party and dinner will be held the 15<sup>th</sup> of December at 6 pm.

Comm. Strong said it was a great Christmas parade and Mayor Arnold said it was one of the longest we had.

1. **ADMINISTRATIVE ITEMS - Employee Christmas Bonus**

Employee  
Christmas  
Bonuses

MAYOR ARNOLD MADE A MOTION TO GIVE EACH EMPLOYEE \$100 CHRISTMAS BONUS AND THE CITY WILL PAY THE TAXES ON THE CHECK SO THAT THE EMPLOYEE GETS THE WHOLE \$100, COMM. STRONG SECONDED THE MOTION. Comm. Morgan wanted to verify where the funds would be coming from, Mrs. Johnson said the \$6300 would be in other wages and the additional \$600 for taxes would be in the tax line item. Comm. Morgan wanted it noted that we will be decreasing the amount of carry over by \$1000. MOTION PASSED UNANIMOUSLY WITH A 4 TO 0 VOTE.

2. **ADMINISTRATIVE ITEMS - Minutes**

Minutes  
13 Nov 12

COMM. STRONG MADE A MOTION THAT THE MINUTES OF 13 NOVEMBER 2012 BE APPROVED AS WRITTEN; COMM. MORGAN SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 4 TO 0 VOTE OF COMMISSION.

COMM. STRONG MADE MOTION THAT MINUTES FROM 19 NOVEMBER 2012 BE APPROVED WITH A CORRECTION OF ADDING MR. HEYWARD DYKES AS ATTORNEY IN BEGINNING OF MINUTES, COMM. KELLEY SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 4 TO 0 VOTE OF COMMISSION.

Minutes  
19 Nov 12

3. **ADMINISTRATIVE ITEMS - Bills Payable**

Bills  
Payable

COMM. STRONG MADE A MOTION TO PAY THE REGULAR BILLS AND VCA BILLS AS OUTLINED IN THE FINANCIAL STATEMENT(S). COMM. KELLEY SECONDED THE MOTION, WHICH PASSED UNANIMOUSLY WITH A 4 TO 0 VOTE OF THE COMMISSION.

4. **ADMINISTRATIVE ITEMS - Etc.**

Etc.  
Chief  
Hart's  
Retire-  
ment

Mayor Arnold announced that Chief Hart would be retired as of 31 January 2013; he has no choice as this is part of the DROP program. Mayor Arnold said we would like to rehire

Chief Hart but that would have to be six months later. We could appoint Capt. Bruckelmeyer as interim Police Chief and after six months time we could advertise for new chief and as long as Chief Hart competed well with other candidates he could be rehired without risking losing any retirement money. Mr. Dykes said based on Chief Hart's retirement situation with the State he would have to be out of employment for 6 months before he could reapply with the City of Valparaiso or any other City for that matter so that he would not lose any of his retirement benefits from the DROP program. Mayor Arnold asked if this would be as a contractor or regular employee, Mr. Dykes said as long as the 6 month time period has been accomplished then he could be rehired as a regular employee.

Adjourn

**ADJOURN**

There being no further business to be brought before the Commission, the meeting adjourned at 7:21 PM.

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John B. Arnold, Jr.  
Mayor

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Heyward H. Strong, Jr.  
Chair, VCA

ATTEST:

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Tammy Johnson, CMC  
City Clerk

December 10, 2012

\*\*\*The DVD labeled December 10, 2012 contains the audio and video of this meeting and will be kept as a permanent part of these minutes.\*\*\*

