

MINUTES  
CITY COMMISSION MEETING  
June 6, 2012

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.
	:	Joe Morgan
	:	Kay Hamilton
City Clerk	:	Tammy Johnson
City Attorney	:	Hayward Dykes
Special Counsel	:	

Others in attendance: Frederick Aschauer (Attorney) (By Telephone), Brenda Douglas (Court Reporter), Joan Morse (Camera), Mike Griffith (Bay Beacon)

**EXECUTIVE SESSION**

Mayor Arnold stated that the meeting was duly advertised. Mayor Arnold read aloud the "Notice of Special Meeting and Executive Session" concerning pending litigation in Bradley vs. City of Valparaiso, Case No. 2009-CA-001965. Anticipated time is between fifteen minutes to half hour. The Mayor declared the meeting recessed at 6:03 PM.

Executive  
Session  
Bradley  
Case

**SPECIAL MEETING**

The special meeting resumed at 6:30 PM.

Mr. Aschauer informed the Commission that Friday Mr. Bentley from his office will be deposed and this would require Mr. Bentley to testify about certain matters which may be attorney client privilege. I want the Commission to be aware and authorize Mr. Bentley to testify in these matters in regard to the filing on the FOIA lawsuit, Mr. Bentley will testify to the decision to filling that lawsuit and he determined it was necessary to protect the city's interest. With regard to the ROD lawsuit he will testify to his schedule and the purpose of picking the date in February 2009. I believe his testimony is necessary as part of our defense. Mr. Bentley may have to get into matters that our attorney client privilege. Any waiver of this privilege would be limited and only to those specific areas. Under my understanding of case law this would not open Mr. Bentley up to questions about all conversation he has had with the Commission and Mr. Wyckoff overtime. It would potentially open up questions about any discussions he may have has with Doug on scheduling of ROD or filing of the FOIA. I believe this testimony is necessary for me to present the City's defense. If it is the City's desire not to waive the privilege then Mr. Bentley will not testify and I will not have available to the city as part of its defense his testimony. I do believe I need his testimony to prevail in this lawsuit if we do go to trial.

So I would ask the commission to waive the attorney client privilege as to those two matters and nothing further waive be limited by law since we are using this as a shield.

MAYOR ARNOLD MADE A MOTION THAT THE COMMISSION WAIVE MR. BENTLEY'S ATTORNEY PRIVILEGE FOR TESTIMONY IN THE BRADLEY SUIT ON THE FILING OF THE FOIA LAWSUIT AND THE SCHEDULE OF THE SPECIAL SESSION FOR THE ROD LAWSUIT BACKGRUND. COMM. MORGAN SECOND THE MOTION, WHICH PASSES UNANIMOUSLY.

COMM. HAMILTON MADE A MOTION THAT WE OFFER \$45,000 AS A FINAL OFFER WITH THE EXPIRATION TO BE AT 12:00 NOON FRIDAY CENTRAL TIME. MAYOR ARNOLD SECOND THE MOTION, WHICH PASSES UNANIMOUSLY.

**ADJOURN**

There being no further business to be brought before the Commission, the meeting adjourned at 6: 40 PM.

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John B. Arnold, Jr.  
Mayor

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Heyward H. Strong  
Chair, VCA

ATTEST:

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Tammy Johnson, CMC  
City Clerk

\*\*\*The DVD labeled June 6, 2012 contains the audio and video and will be kept as a permanent part of these minutes.\*\*\*