



city council minutes

MINUTES September 18, 2018 City Council Public Budget Hearing Session: Regular Session 6:30 pm

The Belle Isle City Council met in a regular session on September 18, 2018, at 6:30 p.m. at the City Hall Chambers located at 1600 Nela Avenue, Belle Isle, FL 32809.

Present was:

Mayor Lydia Pisano
Commissioner Gold
Commissioner Anthony Carugno
Commissioner Jeremy Weinsier
Commissioner Mike Sims
Commissioner Harv Readey
Commissioner Jim Partin
Commissioner Sue Nielsen

Absent was:

Also present was City Manager Bob Francis, Attorney Kurt Ardaman, Deputy Chief Grimm and City Clerk Yolanda Quiceno.

CALL TO ORDER

Mayor Pisano called the City Council Budget Hearing session to order at 6:40 pm and the City Clerk confirmed quorum. Commissioner Gold gave the invocation and led the Pledge to the flag.

SECOND PUBLIC BUDGET HEARING AND ADOPTION

Mayor Pisano called for a motion to move the Resolutions 18-11, 18-12, 18-13 and 18-14 for approval with the adoption of the Budget.

Comm Sims moved to move the agenda items as requested.

Comm Nielsen seconded the motion which passed unanimously 7:0.

RESOLUTION NO. 18-11 - RESOLUTION OF THE CITY OF BELLE ISLE, FLORIDA ESTABLISHING THE AD VALOREM TAX LEVY UPON ASSESSED REAL AND BUSINESS PERSONAL PROPERTY TAX ROLLS OF THE YEAR 2018

Mayor Pisano read by title.

Mayor Pisano opened for public comment. There being none she opened for Council discussion.

City Manager Francis said for the record that the City of Belle Isle has a roll back rate of 4.1753, a percentage increase over the roll back rate is 5.42% and the millage rate to be levied will be 4.4018. There will not be an increase in the millage rate this year.

Comm Nielsen moved to approve Resolution 18-11.

Comm Weinsier seconded the motion which passed unanimously upon roll call 7:0.

Comm Nielsen, aye

Comm Partin, aye

Comm Sims, aye

Comm Readey, aye

Comm Weinsier, aye

Comm Carugno, aye

Comm Gold, aye

RESOLUTION NO. 18-12 - RESOLUTION OF THE CITY OF BELLE ISLE, FLORIDA ADOPTING THE ANNUAL BUDGET OF THE CITY OF BELLE ISLE, FLORIDA FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019.

Mayor Pisano read by title.

Mayor Pisano opened for public comment. There being none she opened for Council discussion.

Comm Nielsen moved to approve Resolution 18-12.

Comm Gold seconded the motion which passed unanimously upon roll call 7:0.

Comm Nielsen, aye
Comm Partin, aye
Comm Sims, aye
Comm Readey, aye
Comm Weinsier, aye
Comm Carugno, aye
Comm Gold, aye

RESOLUTION NO. 18-13 - RESOLUTION OF THE CITY OF BELLE ISLE, FLORIDA ADOPTING THE FIVE YEAR CAPITAL IMPROVEMENTS PROGRAM FOR FISCAL YEAR BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2023.

Mayor Pisano read by title.

Mayor Pisano opened for public comment. There being none she opened for Council discussion.

Comm Gold moved to approve Resolution 18-13.

Comm Nielsen seconded the motion which passed unanimously upon roll call 7:0.

Comm Nielsen, aye
Comm Partin, aye
Comm Sims, aye
Comm Readey, aye
Comm Weinsier, aye
Comm Carugno, aye
Comm Gold, aye

RESOLUTION NO. 18-14 - A RESOLUTION OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017 AND ENDING SEPTEMBER 30, 2018, PROVIDING AN EFFECTIVE DATE.

Mayor Pisano read by title.

Mayor Pisano opened for public comment. There being none she opened for Council discussion.

Comm Weinsier moved to approve Resolution 18-14.

Comm Sims seconded the motion which passed unanimously upon roll call 7:0.

Comm Nielsen, aye
Comm Partin, aye
Comm Sims, aye
Comm Readey, aye
Comm Weinsier, aye
Comm Carugno, aye
Comm Gold, aye

UNFINISHED BUSINESS

ORDINANCE 18-10 - SECOND READING AND ADOPTION: AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, REGARDING VACATION RENTALS; CREATING A NEW ARTICLE III, CHAPTER 7 OF THE CITY CODE REGULATING VACATION RENTALS; PROVIDING FOR DEFINITIONS, PENALTIES, ENFORCEMENT, RESPONSIBILITIES OF DEPARTMENTS, APPEALS, NOTICE, IMMUNITY FROM PROSECUTION, CONSTRUCTION OF ARTICLE; PROVIDING FOR LICENSE REQUIREMENTS AND PROVISIONS INCLUDING BUT NOT LIMITED TO PROCEDURES, APPLICATIONS, MODIFICATIONS, DURATION, RENEWALS, AND NONTRANSFERABILITY; PROVIDING FOR VESTED RIGHTS/WAIVER/ESTOPPEL; PROVIDING FOR DUTIES OF VACATION RENTAL OWNER; PROVIDING FOR INSPECTIONS; PROVIDING FOR STANDARDS AND REQUIREMENTS FOR VACATION RENTALS INCLUDING BUT NOT LIMITED TO MINIMUM SAFETY AND OPERATIONAL REQUIREMENTS, OCCUPANCY, PARKING, NOISE AND LIGHT STANDARDS VIOLATIONS OF THE LAW, ADVERTISING, STATE AND COUNTY REGISTRATION, PROHIBITION OF OCCUPANCY, VIOLATIONS AND PENALTIES; PROVIDING FOR A SUNSET; PROVIDING FOR THE CONTINUED VALIDITY OF SECTION 7-30, CITY CODE; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

City Manager Francis read Ordinance 18-10 by title.

Mayor Pisano opened for the Public Hearing and gave a brief overview of the hearing process.

1. Jim Guthy residing at 1610 Fulmer Road spoke in opposition of the ordinance. The ordinance does not clarify the vetting process and should have a minimum qualification requirement. In addition, he shared his concern with the 30-minute rule requirement for the homeowner and the additional insurance on the property.
2. Ken Meinicke residing at 2826 Cullen Lake Shore Drive spoke in opposition of the ordinance. He said there are many hotels in Orlando and we do not need them in our neighborhood.
3. Lauren Velazquez residing at 5851 Cove Drive spoke in opposition of the ordinance. She shared her concern with transient visitor safety, community, and respectful citizens.
4. Gene Aiello residing at 5008 Belleville Avenue spoke in opposition of the ordinance.
5. Marie Aiello residing at 5008 Belleville Avenue spoke in opposition of the ordinance.
6. Paul Kelley residing at 4907 Gramont Avenue spoke in opposition of the ordinance.
7. Heather Meinicke residing at 2826 Cullen Lake Shore Drive spoke in opposition of the ordinance and is in agreement with Lauren Velazquez.
8. Pam Carter residing at 5101 Cove Drive spoke in opposition of the ordinance.
9. Patricia Reid residing at 1748 Colleen Drive shared her concerns and spoke in opposition to the ordinance. She further called for a referendum and asked for the Mayor to veto the approval of the ordinance if passed by City Council.
10. Greg Fries residing at 1524 Idaho Avenue shared his concerns and spoke of the differences between vacation rentals and Airbnbs. He noted that the ordinance should be rewritten and should be crafted around primarily Airbnbs.
11. Chris Shenefelt residing at 2222 Hoffner Avenue spoke in favor of Airbnbs and said he and his family stays in Airbnbs. He finds that Airbnb hosts are a great ambassador for a community and he supports the ordinance.
12. James Locie residing at 3207 Cullen Lake Shore Drive spoke in opposition of the ordinance and shared his concern with the loss of property values if the ordinance passes.
13. Robin Locie residing at 3207 Cullen Lake Shore Drive spoke in opposition.
14. Bill Borgemeister residing at 1524 Idaho Avenue spoke in opposition to the ordinance and referenced the number of quests that would be allowed, the sunset provision and if the homeowner would be required to follow ADA requirements. Peter Kovechev residing at 5120 St. Germaine Avenue spoke in favor of the ordinance. He stated two weeks ago Council approved for this to move forward. In the last two weeks, the community has strongly voiced their opinion against the ordinance. For the record, he said there has not been one call or a legitimate complaint about an Airbnb guest. He believes the community should trust in the City Council to see through what they put forward for approval. In closing, he asked the City Attorney if he is truly in violation of the code since the current ordinance does not clearly reference short term rentals or Airbnbs.
15. William Brooks was not present to speak.
16. Michelle Rowe residing at 3544 Country Lake Drive and has a neighbor who operates an Airbnb. She spoke in favor of short-term rentals that are owner-occupied.

Mayor Pisano recognized Former Mayor Pete Crotty and Linda Chapin.

17. Linda Chapin residing at 5202 Hoffner Avenue spoke in opposition of the ordinance as it is written. It is very broad, allows for too much use and unintended consequences. She is in favor of further review and creation of a task force to explore all options before passing an ordinance.
18. Gayle Bouch residing at 2205 Cross Lake Road gave her time to Holly Bobrowski.
19. Genie Hollingsworth residing at 2229 Nela Avenue said she has two neighbors who were not aware of this agenda item. She further stated that she is opposed to a live-in owner short-term rental.
20. Emily Wakley residing at 3019 Indian Drive said this is a difficult issue and is in support of short-term rentals but not in Belle Isle. She shared her concerns and said the ordinance will change the neighborhood and would like this issue to place for a vote by all residents.
21. Daniel Boytos residing at 2224 Homewood spoke in opposition to the ordinance and is in agreement with the other speakers. It will take away the small feel of the community, add unwanted density and will add complexity and an additional layer of cost to the city.
22. Karl Shuck residing at 1658 Wind Willow Road spoke in opposition to the ordinance and said this ordinance open the doors to other residents renting out their homes.
23. Eric Spaulding residing at 5386 Chiswich Avenue said the reason the original 2008 rental ordinance was passed was to control and monitor the number of rentals in a residential community. In addition, Home Rule is very important and we must preserve it.
24. Charles Motley residing at 1805 Swann Avenue spoke in favor of the ordinance. He shared his motivation for establishing an Airbnb.
25. Candee Brooks residing at 5218 St Regis Place spoke in opposition of the ordinance and provided a copy of her comments for the record. She spoke on the flaws in the ordinance and said they are misleading, erroneous and will create unintended consequences that will diminish the quality of life in Belle Isle.
26. George Rodan residing at 3531 Edlinham Court spoke in opposition of the Ordinance. He finds that the community is based on families. Allowing Airbnbs will not be beneficial and will affect the quality of life for our communities. He is very disappointed with the decision put forward by the City Council.
27. Burke Hammond residing at 7410 Daetwyler Drive spoke in opposition of the ordinance. He spoke of other cities and some of the challenges they are facing. He said the City will not be able to bounce back if it gives away home rule.
28. Michael Jungen residing at 2010 Hoffner Avenue spoke in support of the ordinance and said he is in support of the new technologies available to all residents. He would like to see this ordinance passed with a one year trial period.
29. Renee Rodam residing at 3531 Edlinham Court spoke in opposition of the ordinance. She shared her concerns and said this ordinance will take away from the safety in her neighborhood and be additional cost to the city. In closing, she noted that some of these issues can also be covered within the HOA and asked for Council to reconsider the proposed ordinance and not pass it.
30. Carla Stols residing at 7410 Daetwyler spoke in opposition of the ordinance and ask that the City to research the effects Airbnbs have in small towns.
31. Kerrie Furlow residing at 1713 Idaho spoke in opposition of the ordinance and said there are enough hotels in the area to accommodate the vacationers. She said transient lodging will bring transient behavior.

32. Pam Lowe residing at 3543 Country Lakes Drive spoke in favor of the ordinance. She shared some of her experiences as an Airbnb host she said many of the vacationers have enriched her life. She submitted 8 petition pages with signatures in favor of the ordinance.
33. Holly Bobrowski residing at 2400 Hoffner Avenue spoke in opposition of the ordinance. She said this ordinance is not restricted to a host management agreement. The vast majority of the community does not want short-term rentals and do not want to lose home rule rights. Ms. Bobrowski provided 42 petition pages with signatures in opposition to the ordinance.

There being no further comments, Mayor Pisano closed citizen comments and opened for Council discussion.

Comm Nielsen said she is happy to see many in attendance. There are many strong feelings for and against the ordinance. She spoke on the upkeep of existing Airbnbs in her neighborhood and said the property values in her neighborhood have actually gone up. Comm Nielsen motioned that the vote be tabled tonight. She does not believe it would be wise to vote on this ordinance tonight and wants to allow the residents to organize for a referendum according to the Charter. In the meantime, she would like the City Manager to publish more information on this ordinance to better communicate with all residents.

Comm Weinsier shared comments he recently received from residents with concerns that the short-term rental ordinance was being passed without resident notice or input. Commissioner Weinsier listed 9 meeting dates where discussion of short-term rentals was noticed for discussion, including one workshop dedicated solely to that issue. He also listed the many ways the city has improved communication to residents and made meetings more accessible.

Comm Weinsier stated that although he initially had many concerns about passing a short-term rental ordinance, his position as a council member reflected public sentiment on short-term rentals which were overwhelmingly positive every time the issue was discussed at a meeting. Commissioner Weinsier further stated that although he is happy that so many residents were finally making themselves heard on this issue and that he would support their position, he asked that residents pay attention to future agendas and stop waiting until the last minute to make their opinions known.

Comm Carugno spoke of a letter submitted to the City Attorney asking to have him recused from voting on Ordinance 18-10 because of a possible violation due to certain discussions with some constituents. He, for the record, denies the charge and stated that his discussions are allowed under Sunshine Law and he has never tried to influence his fellow commissioners on this issue.

Comm Carugno said he has received many emails, calls, and discussions on this Ordinance. He spoke in opposition to this ordinance and stated that a change of lifestyle for a few does not constitute a change to an ordinance that has been protecting our City.

Comm Sims said a few recent events; public sentiment and the possible loss of Home Rule have helped him decide to vote the ordinance down instead of tabling the ordinance as previously motioned.

Comm Partin shared his personal views. He said if City Council does not hear from all the people it makes it very difficult to make a decision for or against any issue representing their constituents. In short, due to the many emails and calls, he has received he is voting no on the ordinance and would like to allow residents the opportunity to put forward a referendum for the next election.

Comm Gold said he is very sympathetic to those who may lose their additional income and shared his opinion. He was in favor of the ordinance because he believes the City Manager has put forward a very good document. He, however, does not believe that it protects us from Section 7-30 and 50-103 and may be easily challenged.

Comm Readey said he agrees with Comm Gold. He believes this ordinance will make it a little difficult to start an Airbnb and place some necessary controls. The council may have read the public wrong by moving forward with the ordinance and asked that the City table the motion and send more information about short-term rentals to inform all residents.

Mayor Pisano said, if this ordinance passes tonight, the Windsor Place HOA would not be able to change their covenants to restrict short-term rentals in their neighborhood.

Comm Nielsen asked for the attorney's advice in regard to the Home Rule question.

Attorney Ardaman spoke briefly of Home Rule and how it applies to a motion of Ordinance 18-10. He stated that the City currently has protection from short-term rentals in the Code that will safeguard the City if this passes in the Legislature. The proposed change to the Ordinance is enforceable; however, it does create an opportunity for argument and possible lawsuits.

After further discussion, Comm Nielsen motioned to table the ordinance to allow everyone the opportunity to weigh in on the decision and encourage the residents to put a referendum forward.

Comm Readey seconded the motion for discussion.

Comm Weinsier said it appears that the Council does not have a clear path forward and may need to vote the ordinance down.

Comm Gold said the Council should vote the ordinance down and look to an alternative to accommodate the current Airbnb homes.

Comm Carugno asked for clarification of a referendum. Attorney Ardaman said it is an option allowed by the Code and has been motioned by Comm Nielsen.

Mayor Pisano asked if the voters chose to allow Airbnbs what does that do to home rule. Attorney Ardaman said it depends on the language in that ballot. If the voters allow Airbnbs it may put the overall complete prohibitions more at risk. If the ballot is crafted to protect the current ordinance it can be as effective as the proposed ordinance.

Comm Partin said he believes to vote the ordinance down give the residents the opportunity to vote on the use.

Mayor Pisano called for the vote. The motion failed 6:1 with Comm Partin, Comm Sims, Comm Readey, Comm Weinsier, Comm Carugno and Comm Gold – nay.

Comm Sims moved to disapprove the ordinance.

Comm Partin seconded the motion which passed unanimously 7:0.

Comm Readey asked if the existing Airbnb host is allowed to continue business as usual until this issue can be resolved.

Comm Weinsier said the prior motion regarding suspending enforcement was that it would be until this issue is resolved. He stated that it has been resolved and moved to discontinue the motion of suspended enforcement.

Comm Carugno seconded the motion for discussion.

Comm Carugno asked the current Airbnb hosts how far in advance are they booked with vacationers.

Peter Kovechev, Pam Lowe and Charles Motley said they are booked out until March 2018.

After discussion, Comm Weinsier rescinded the motion.

Comm Carugno seconded.

Comm Carugno said since this issue has been resolved he motioned to not allow short-term rentals/airbnbs, and to rescind the suspension of enforcement on the date of when this motion is passed.

Comm Partin seconded the motion.

Comm Readey said it would not be right to end this and have the current Airbnb hosts to owe the cancellation fees of future bookings.

The motion passed 4:3 with Comm Gold, Comm Nielsen, and Comm Readey – nay.

Mayor Pisano called for a five-minute recess.

NEW BUSINESS

APPEAL of the Planning & Zoning Board's decision to deny Public Hearing Case #2018-07-015.

Pursuant to Belle Isle Code Sec. 42-64, the Council shall consider and take action on a requested variance from Sec. 54-2 (a) Substandard Lots of Record, to allow for each individual lot (Lot 4 and Lot 5) that comprises the currently developed parcel to be redeveloped as individual lots instead of being required to be aggregated as one tract, and allow for a reduction from the Sec. 50-73.- Site and building requirements, for the R-1-AA required minimum lot width of 85 feet, in anticipation of a lot split request on the subject parcel, that would result in each lot respectively retaining their historical substandard lot width of 70.06 feet, submitted by applicant Nancy Conicella, Esquire, for the property located at 6820 Seminole Drive, Belle Isle, FL 32812 also known as Parcel #29-23-30-4389-02-040.

City Manager Francis stated that the P&Z Board denied a variance for a lot split zoning for 6820 Seminole Drive. Miranda Fitzgerald, representing the applicant, is present to ask City Council for reconsideration of the denial and that the variance is allowed.

Miranda Fitzgerald Attorney with Lowndes Drosdick Cantor and Reed Law Firm representing the applicant Chris Comins is here to appeal a variance denial that was originally approved by the P&Z Board in a hearing that took place in January 2017. She gave a brief history of the request that was initiated with the original request submitted by Daryl Carter. She stated that the issue is whether or not that lot can be split into two lots measuring 70.6 feet each and restore what was originally the dimension of two lots under the historic plat. Attorney Fitzgerald referenced a copy of a historic plat and stated that it is important to understand when the variance was submitted originally, it was very clear that Daryl Carter was asking for a variance so that he can split this one lot back into two lots with the historic configuration. In addition, the existing home was going to be demolished if the variance was approved.

on January 24, 2017, the P&Z Board granted a variance from the lot width dimensions that was put in place after the historic plat was completed allowing 85-foot lot minimum widths. In order to go back to a lot width of 70 feet, it takes two things, (1) a variance for the lot width dimensions in the R-1-AA zoning, and (2) an approval of the lot split. The dual application was submitted and approved by the Planning & Zoning Board.

Attorney Fitzgerald provided a transcript of the January 24th hearing and provided a summary of the sequence of events. She noted that everyone that spoke from the Public that evening were in favor of the variance and proposed lot split, which included comments from resident and neighbor Richard Weinsier. No one spoke in opposition. As a point of reference, she spoke of the discussion that occurred between the Board members and transcribed on Page 11 of 13.

Three months after unanimous approval of the dual application Daryl Carter assigns the contract on these two lots to Mr. Comins in entity name. Attorney Fitzgerald stated that her client has every intention to do exactly what Daryl Carter intended to do with this lot which was to build substantial homes on two separate lots.

In March 2018, one year and three months later, Mr. Comins receives a letter from the City stating that the variance has expired and the approved variance and lot split is no longer valid per Section 42-67 of the Code. Attorney Fitzgerald said there is no way an individual can get all permits approved for two homes and demolish a home within six months per code. This is not the type of variance that just can expire in a year because this was a variance coupled with a lot split that was not appealed. There is a tremendous hardship from the standpoint of reliance; the purpose and intent were known by the Board before approval.

The remedy that was provided in the letter from the City was that the applicant re submit the application, coupled with the lot split and get the variance re-approved. The City has concluded that the variance has expired, however, under the Code lot splits cannot expire. The variance may have expired but the applicant has relied on that variance to his detriment and has done things that make it unfair and unreasonable to have the variance expired.

In July 2018, the applicant submitted the coupled variance and the residents and neighbors did a 180 and vehemently opposed. The discussion at the hearing was not whether the lot split is appropriate but if Mr. Comins meets the criteria set forth in the variance Code. The public speakers that were present in opposition were virtually the same ones that were in support in 2017. The only thing that had changed, in the interim, was the ownership of that property; the use and proposal were the same and money had been spent in reliance on the variance and assumption that there is a lot split. In July 2018, the re-submittal of the coupled variance was denied unanimously by the P&Z Board.

Attorney Fitzgerald commented that the neighbors, who were in favor initially, were faced with a situation that they were living next to an old house on two lots facing the road. Suddenly, there is no ugly house there now; there are a clear lot and open space with a water view to look at for a while. If those in opposition can get the variance denied, after they have benefited from the money Mr. Comins has spent, it is a win-win for them.

Attorney Fitzgerald said one of the issues that have come up is the Lot Split moratorium. On June 5th the City Council passed a Lot Split Moratorium after denial of another lot split request. It was discussed that it may be possible that the P&Z Board may need some training and education on lot splits. Even though the moratorium was discussed that evening, the minutes of that meeting were not on the website, and unless you were present you will not be aware of the discussion. The applicant re-submitted his application on June 7th and was informed that there was a pending ordinance. City Council passed and approved the Moratorium on Lot Splits for first reading on June 19th a few days after the re-submittal by the applicant. The moratorium does not apply to this application and does not affect this project because it was not a pending ordinance at the time of submittal.

The circumstances in this case where you have a very clear intention that you are getting a variance for a specific purpose and the time frames and variance code cannot be met in light of the intention. It is simply unfair to apply strictly that code if an applicant cannot accomplish everything under a year which was a known impossibility. She asked if Council would reinstate the approvals that apply to this property, which would be; not only the variance that would allow two 70.6 foot lots and to acknowledge that the current lot split moratorium does not affect these lots because we were in the process of completing what was needed at the time the moratorium was put in place. She would also like to have the City reinstate what the P&Z Board approved previously where they granted the coupled variance application and lot split.

Mayor Pisano opened for public comment.

1. Robin Logie – not present.
2. Pam Carter – not present.
3. Emily Wakely residing at 3019 Indian Drive spoke in opposition of the lot split application. Ms. Wakley shared her concerns and said she is opposed to lot splits that do not meet the minimum lot requirements by City Code and do not meet the hardship requirement.
4. Beth Lowell residing at 2416 Homewood Drive spoke in opposition of the lot split application due to the increased density, road and lake traffic.
5. Richard Weinsier residing at 6824 Seminole Drive spoke in opposition of the lot split application. He stated that he has sent many emails and letters stating why he has changed his mind. For some reason, the Attorney would like to have you feel sorry for Mr. Comins because there is a hardship that he was not able to finish the project on time. He added that, in numerous city meetings, he has heard the discussion, at different times, that the City has reached its density thus causing a variety of problems that moves us away from the Belle Isle that you and I are trying to achieve.
6. Daniel Boytos residing at 2224 Homewood Drive spoke in opposition of the lot split application mainly due to the added density. He asked City Council to maintain the integrity of the City and not set a precedent.

There being no further comment Mayor Pisano closed public comment and opened for Council discussion.

Attorney Fitzgerald referenced the Larkin project and stated that existing PD is a separate project and should not be viewed simultaneously with this project.

Comm Gold asked if the lot split and variance application was granted together should they expire at the same time.

Attorney Ardaman said the question is whether the criteria of the variance are established pursuant to substantial competent evidence. The applicant is arguing based on the approval of the original variance submitted by Daryl Carter and the expenses of money the applicant has vested rights and there is no time limit to the lot split approval. Nonetheless, what is before us tonight is the variance request and the evidence presented tonight. Attorney Ardaman said because the lot split and the variance were approved at the same hearing it may be argued that they have vested rights and he will not be able to give a definite answer at this time. Discussion ensued.

City Manager Francis said if Council believes he has erred in sending out the notice he apologizes. After the Lance Hearing and reading the code for that meeting he realized that the Daryl Carter Variance approval may be nearing expiration. He read the two passages of the code and realized that Mr. Comins had the demo permit but not all the permits to complete the action to build the homes. If the original application for Daryl Carter included approval of a lot split before Council he has not been able to find any evidence of that.

Comm Sims said he believes that even if the Larkinsville and the Seminole property are not connected on tonight's agenda he heard of a proposed compromise to solve the present issues for consideration because good government includes compromising for the good of the City. City Manager Francis said there is a proposed solution that includes removing 30 condos off the table if he will be allowed to build the Seminole property.

Comm Carugno stated that consideration of combining these two projects is not advisable. Attorney Ardaman said the proposed compromise is not appropriate in approving or denying this variance. However, in speaking with the Applicant's Attorney, if there is an independent compromise outside of this hearing it may be considered. With the applicant's consent Council can postpone this hearing and vet an overall solution for two different considerations.

Comm Nielsen said the best argument for postponing this request is the vested issue.

Comm Carugno stated that the City is looking for consistency and fairness. Comm Carugno said for the record that he is in favor of lot splits but will deny this request based on public opinion. He shared his concerns with the current lot configurations and said he would like to table this Appeal to allow the City time to research a solution.

Comm Weinsier said, he has heard loud and clear, that the residents want Council to enforce the Code as it is written. In regards to reliance, the applicant should have asked for an extension. More importantly, the argument on reliance should be addressed in Court and not presented for City Council to address.

After discussion, Comm Carugno motioned for a continuance of this Appeal to allow the City and the applicant enough time to further research an advantageous resolution to October 30th at 6:30 pm.

Mayor Pisano asked Attorney Fitzgerald if the applicant will be acceptable to a continuance.

Attorney Fitzgerald said she understands the confusion about this request. In her opinion, the Code is not written very well and the approval was joined at the time in front of the P&Z Board meeting. She would not like to have a denial and believes there is a solution. Attorney Fitzgerald agreed to a continuance.

Comm Weinsier said he thinks it is a bad idea to tie both properties and would like to see the Appeal stand on its own merits.

Comm Gold shared his concerns with combining both projects and doesn't understand the real complaint of a 70.6 lot width that is in character with the neighborhood.

Attorney Fitzgerald stated it is surprising to her that when Daryl Carter made the request everyone was in favor and loved the proposal. All of a sudden, now it is owned by Chris Comins and it is a problem and the circumstances change. Zoning needs to be done on standards and guidelines and not on personality.

Comm Nielsen believes the Council should honor the first lot split as presented and approved for Daryl Carter. Moving forward the City must be more careful in approving future lot splits.

After further discussion, Comm Sims seconded the motion for a continuance to October 30th at 6:30 pm which passed 5:1 with Comm Weinsier- nay. Comm Readey was not present for the vote.

Comm Sims motioned to adjourn the meeting and move all the remaining items to the following City Council meeting.

Comm Partin seconded the motion.

After discussion, Comm Weinsier amended the motion to include and allow Citizen Comments.

Comm Gold seconded the motion which was unanimously approved 6:0.

Comm Readey left the meeting before the vote was motioned.

CITIZEN COMMENT

1. Susan Barker gave her time to Karl Shuck.
2. Debbie Shuck gave her time to Karl Shuck.
3. Karl Shuck shared his concern with how meetings are run. He further called for a point of order and said when the agenda items were moved there was no vote for approval.

Mr. Shuck asked City Council for help in obtaining information he requested on a Public Records Request on June 7th for all telephone and text messages from Jan 2015 through the present to and from the Mayor's personal phone number. The City phone and number are being paid by the taxpayers. Mr. Shuck gave an overview of the events of the request to date and said he has received very minimal phone records and no text messages. If the Mayor was using her City phone there would not be any delay He asked that City Council hold the Mayor accountable for not adhering to City policy.

Mayor Pisano said all public records requests go through the City Clerk. Payment for the request was received on July 16th and that is when she started printing records. Mayor Pisano said during the time of printing, researching, working and speaking with the City Attorney it has taken time to fulfill the request.

**After discussion, Comm Nielsen motioned to table this concern to the next Council meeting for discussion
Comm Sims seconded the motion which passed unanimously.**

ADJOURNMENT

There being no further business and already having a motion to adjourn following public comment, Mayor Pisano called adjourned the meeting at 11:10 p.m.

Yolanda Quiceno, CMC, City Clerk