



city council minutes

MINUTES CC Regular Session and Workshop February 18, 2020 CC Regular Session 6:30 pm

The Belle Isle City Council met in a Regular Session on February 18, 2020, at 6:30 p.m. at the City Hall Chambers located at 1600 Nela Avenue, Belle Isle, FL 32809.

Present was:

Mayor Nicholas Fouraker
Commissioner Ed Gold
Commissioner Anthony Carugno
Commissioner Karl Shuck
Commissioner Harv Readey
Commissioner Jim Partin
Commissioner Sue Nielsen

Absent was:

Commissioner Mike Sims

Also present were Attorney Langley, City Manager Francis, Chief Houston, and City Clerk Yolanda Quiceno.

CALL TO ORDER

Mayor Fouraker called the meeting to order at 6:30 pm.
Comm Partin led the invocation and pledge to the flag.

Mayor Fouraker reported that a long time resident has been hospitalized and suffering from a grave condition. He gave a few words and prayer on behalf of the City.

Mayor Fouraker opened the meeting with a presentation of the Citizen of Year Proclamation presented to Holly Bobrowski for her outstanding community service and volunteerism in the City of Belle Isle.

Mayor Fouraker called for a motion to excuse Commissioner Sims absence for tonight's meeting.

Comm Readey motioned to excuse Comm Sims for tonight's meeting

Comm Partin seconded the motion, which passed unanimously.

APPEAL OF NOTICE OF PUBLIC NUISANCE – 2820 Nela Avenue

City Manager Francis provided copies of the expired permit and pictures. He said the City issued a Notice of Violation to the homeowner for a boathouse that has an expired permit to rebuild the collapsed structure. The City staff made several attempts to contact the homeowner with no success and issued the violation in accordance with the Municipal Code Section 10-31(b). Under this section, she is allowed the opportunity to appeal to the Council. City Manager Francis clarified that the violation does not have to do with the dock itself, but the boathouse, which should come down or bring to conformance of the Code.

Ms. Rosselot said she has been trying to confirm with City staff what types of plans she is required to submit and provided pictures of the boat dock and house for the record. She said the response she received was nebulous and discouraged her from moving forward. The applicant is willing to work with the City and obtain new plans to be in conformance with the Code and obtain a permit to start the renovation. Ms. Rosselot provided current pictures of her boat dock and said she believes her boat dock is usable and safer than when this process started. The boat dock currently does not cause any obstruction and has not produced the surrounding property values to decrease in value. She would like to be able to replace the walls of the boathouse to enclose the structure.

To facilitate the process, Mayor Fouraker submitted a public request and asked the City Clerk to provide the applicant the last three contractors who pulled boat dock permits in the City. He stated that the information is not an endorsement but will be for informational purposes only.

Comm Readey spoke of his experience with correcting this type of repair and the concerns why the City does not allow enclosed boathouses. He asked Ms. Rosselot why does she want an enclosed boat house when it is not permitted by Code. Ms. Rosselot said it is because that was what was there before, and she enjoyed the screen in room to relax by the water.

Comm Partin asked if the Council would like to go with the staff recommendation to deny the appeal or provide the applicant additional time. City Manager Francis said at this time she is appealing a code violation, and the structure has to come down. The applicant has an expired permit, and the boat dock has not been inspected by an Engineer to confirm the stability.

Council discussed allowing the applicant time to hire an Engineer to establish the stability of the structure. The staff has completed their due diligence, and a decision has to be made to move forward with the violation or allow additional time to correct the problem. Ms. Rosselot asked that the time to obtain an approved permit be included in the extra time allotted.

Attorney Langley said the applicant is contesting the designation of the current structure as a public nuisance based on the Code which was the authority why the City Manager has ordered the removal of the non-permitted structure. Based on the discussion, Council consensus is to,

1. Uphold the City Manager decision and declare the uncompleted boat dock a public nuisance; or
2. Remove the boathouse structure within 30-days; or
3. Within a shorter period of time allow the applicant to apply and obtain a building permit with a supporting engineers inspection report, at the owners expense, stating what part of the structure can be salvaged and converted to meet today's building and land development code regulations; and, timely complete the permit within a defined period of time.
4. If the issue is not remedied within the allotted time by the applicant, the City staff can proceed with the remedy to remove the structure and bring it into compliance.

Attorney Langley stated that Universal Engineering is the City's consultant and request that the applicant finds an alternative inspection company to review the structure and provide a report to the City for compliance standards. Ms. Rosselot said she understands.

After discussion, Comm Partin motioned the following,

1. **the City Council deny the appeal of the applicant Angela Rosselot; and**
2. **Accept the City Managers recommendation for corrective action as set forth in the packet to be achieved within 30-days; and**
3. **With one additional corrective measure, within 30 days from today, the property owner apply for and obtain a building permit with submittal of an Engineer's report, at her expense, that will provide completion of the structure upon the boat dock in conformance with today's building and land development code attempting to salvage what she can from the current structure; and**
4. **Upon obtaining the permit, the construction be completed in no more than 90-days from the time of the building permit being used;**
5. **Failing wither one of the corrective measures the City Manager is permitted to continue forth with the remedies specified in the Code to correct the action and to charge the property owner with the cost of the said remedy and Council is finding the structure a public nuisance.**

Comm Gold seconded the motion which passed 5:1 with Comm Shuck, nay.

CONSENT ITEMS

Mayor Fouraker called for a motion to approve Consent items,

- a) Approval of City Council minutes – February 4, 2020
- b) Approval of Resolution 20-01 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, RELATING TO OPTIONAL INSURANCE BENEFITS FOR THE CURRENT MAYOR AND CITY COUNCIL MEMBERS OF THE CITY; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.
- c) January 2020 Monthly Reports: Finance, Code Enforcement, Fire and PD

Comm Partin motioned to approve consent items as presented.

Comm Carugno seconded the motion, which passed unanimously 6:0.

CITIZEN COMMENTS

Mayor Fouraker opened for citizen comments.

- Don Anacker residing at 5224 Chiswick Circle shared his concerns with the removal of existing pavers on driveways, aprons, and sidewalks. He spoke in favor of keeping his pavers and for a code change
- Ken Dukes residing at 5212 Chiswick Circle spoke in favor of allowing pavers on driveways, aprons, and sidewalks. They provided pictures for the record showing the positive differences between pavers and concrete. Mr. Dukes provided pictures of different types of sidewalk/paver designs for the file.
- Steve Brennon residing at 5230 Chiswick Circle shared his concerns with the removal of his existing pavers because he was provided a permit by the City. He spoke in favor of allowing pavers on driveways, aprons, and sidewalks and grandfather-in of those existing homes.

There being no further comment, he closed citizen comments.

UNFINISHED BUSINESS

The proposed date for a follow-up workshop for CCA meeting

City Manager Francis said on February 4th the Council held a workshop on the refinancing of the CCA Debt Refinancing bond issue. At that meeting, Council shared some concerns and asked for a follow-up workshop to discuss each topic and provide further direction. Also, Mr. Francis said he has not received the list of items for discussion from every Commissioner and asked that it be forwarded before the scheduled meeting date.

Comm Nielsen motioned to schedule February 26th at 6L:30 pm to discuss further the issues involved in the CCA Bond Refinancing.

Comm Readey seconded the motion, which passed unanimously 6:0.

NEW BUSINESS

ORD 20-01 - FIRST READING AND CONSIDERATION: AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING THE BELLE ISLE LAND DEVELOPMENT CODE, CHAPTER 48, ARTICLE III, SECTION 48-63 – TREE PROTECTION; PROVIDING CLARIFICATION OF TREE PRESERVATION PROCESSES, PROVIDING FOR AN APPEAL PROCESS AND PROCEDURES; PROVIDING SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Comm Readey motioned to read Ordinance 20-01 for the second time and adopt Ordinance 20-01 at the March 4, 2020, City Council meeting.

Comm Gold seconded the motion for discussion, which passed unanimously 6:0.

Discussion regarding the use of pavers in sidewalks

City Manager Francis said, according to Section 5-36 of the Municipal Code, it reads, "All subdivisions shall have four-foot concrete sidewalks on both sides of all streets except streets projected to carry more than an ADT equal to 3,500 vehicles per day (vpd) which shall have five-foot concrete sidewalks. All sidewalks shall be located within the street right-of-way. Sidewalks shall be a minimum of four inches in thickness, except at driveways where the required thickness is six inches. Sidewalks shall be designed to include handicapped ramps at all intersections. On a case-by-case basis, upon approval from the city engineer and city manager or the city manager's designee, a developer may make a voluntary contribution to a sidewalk fund to pay for the construction of sidewalks instead of the actual construction of sidewalks. The amount of the contribution shall be on a per-foot basis, as may be approved from time to time by the city engineer and the city manager or the city manager's designee."

He said he could not speak to what happened before he became City Manager; however, for the record, City Manager Francis said a representative at Windsor Place HOA told to him that when a paver permit is submitted the resident is told that they cannot pave over the sidewalk by the HOA. At some point, the HOA must have been given the right information if not everyone would have a paved driveway.

He has received applications and requests from residents asking for pavers on their sidewalk and was not allowed to proceed. There are approximately 15 properties that have this condition. Based on other complaints, the City sent letters requesting that the pavers be removed and concrete installed according to the Code. There are two cases approved that allowed pavers across the sidewalks, which were an error on the part of the City and the zoning officer at that time.

Mr. Francis said there are no other materials allowed for sidewalks in the Code. If the Council wants to allow for another material other than concrete, then an Ordinance should be passed to allow other material and grandfather-in the existing paved sidewalks. The City Manager asked that if the Council approves the grandfather-in of those permits that it is agreed with the condition that they will sign an agreement to be responsible for the replacement of the pavers if they have to be removed for whatever reason. Council consensus was to

- allow the existing pavers;
- ask for a signed agreement for owner replacement of pavers;
- allow for other materials for driveways other than concrete.

Mayor Fouraker asked if a mistake is made by staff in approving a permit, does the Code prevail even if an error was made. Attorney Langley said it is based on the totality of the circumstances; there is no one size fits all. If a permit is issued by mistake or the outcome of some mitigation, the arguments may go to the type of errors, statements, and appearance of the authority of staff, or the property owner was aware that it was not consistent with the Code. A property owner may argue estoppels principle. However, there are cases in point that speak to mistakes made during the permitting process, and the City can say that the applicant may not rely on a permit that was issued in violation of the Code. With that being said, whenever a sidewalk is in the right-of-way, the City has the right to remove/replace/alter the area of the right-of-way or sidewalk easement with concrete and improves its property whether or not a resident has a permit.

Mayor Fouraker asked if the City would be harmed in any way and if there can be a liability created if there is no delineation where a sidewalk begins and ends. Attorney Langley said the City has a right-of-way, apron, and a sidewalk. If the City wants to allow pavers, he agrees with the City Manager and the City can enter into an agreement with the property owner stating that they must safely maintain the pavers and flush with the pavement but that they also consent that the public may traverse on parts of their property because they did not define the boundaries of the right-of-way or sidewalk path and release the City from any argument on private property rights.

The Council shared their consensus and agreed with the City Manager with the use of a User Agreement. Comm Carugno further shared his concern with the liability to the City by allowing homeowners to pave over the City sidewalk, causing a safety issue. The City Attorney said typically, if a sidewalk or right-of-way, whether it is paved or concrete, the City has an obligation to maintain. If the City is aware of a safety issue, then the City could have liability. The City may have sovereign immunity if they were not aware, and an agreement is signed by the resident. The City will then have a claim for indemnification to the homeowner on failure to meet their obligation. The Use Agreement is not complete protection for the City, but it does mitigate the liability because the homeowner is accepting all responsibility. The Council discussed HOA involvement and how it applies to a City Ordinance. If the HOA is a gated community with private sidewalks, then the HOA governance does control in that circumstance.

Mayor Fouraker asked if the City can have a consistent sidewalk surface ordinance across the City. Mr. Francis said it is difficult to answer because it all depends on how well the pavers/sidewalks are maintained.

After discussion, Council consensus was to have the staff develop a plan to include,

- update the Ordinance with the newly discussed requirements and allow pavers;
- ask for a signed agreement that indemnifies the City from any responsibility and tied to the Deed;
- allow for other material for driveways other than concrete;
- grandfather paved driveways/sidewalks for the existing 15 homeowners;
- require a delineation of the sidewalk and the property owners driveway

Comm Partin moved to direct the City Manager to develop a paver program and include

- grandfather paved driveways/sidewalks for the existing 15 homeowners;
- ask for a signed agreement that indemnifies the City from any responsibility and tied to the Deed;

Comm Gold seconded the motion which passed unanimously 5:1 with Comm Shuck, nay.

Comm Gold moved to re-appoint Holly Bobrowski, Richard Weinsier, and Chris Stalder to 3-year terms on the Tree Board.

Comm Nielsen seconded the motion, which passed unanimously 6:0.

ATTORNEY REPORT - na

CITY MANAGER REPORT

City Manager Francis reported on the following Issues Log update,

- Gene Polk Park – The contractor, has mobilized and work has started. Removing trees on the left side of the park and placing a wire underground
- Derine project is almost completed, and drainage problem has been corrected on Chiswich
- Transportation Plan – MetroPlan is assisting the City in evaluating our transportation system. They collected the Hoffner data – awaiting the report
- Wallace Field – CCA approved the Use Agreement and waiting on other issues to discuss on the field
- Purchase of Property
 - o BOA Contract – Waiting for a contract
 - o Cross Lake Purchase – Waiting for Board of County Commissioners recommendation next Tuesday
- Strategic Plan – First Meeting in March
- Lake Conway – Scheduling a workshop for March 4th to discuss Lake Issues
- Lancaster House – Prepared a memo for review and placed on the March 17th agenda for discussion

Chief's Report

Chief Houston reported on the following,

- PD working on the False Alarm Program, and grants for the Agency
- She reported on several car burglaries and asked that everyone should lock their car doors to prevent theft.
- Residents should contact the Belle Isle Police Department for Administrative calls only; Orange County Dispatch for non-emergency 407-836-4357 and 911 for an Emergency.

Special Events Committee Report

- Holly Bobrowski gave a brief overview of the 2019 Holiday Budget. She reported that the total cost for the Holiday events was under budget with a savings of \$4,500.
- Ms. Bobrowski announced preparations for the Easter Egg Hunt on April 11th and Spring Fling/Arbor Day event on April 25th at the Wallace field.

MAYOR'S REPORT

Mayor Fouraker reported on the following,

- Mayor Fouraker thanked the City Manager for some endeavors that go above and beyond his scope of duties such as St Johns Water Management district lobbying for Gene Polk Park Grants, Matchett, and Storm Water improvements.
- Mayor Fouraker presented Holly Bobrowski with a Proclamation for the Citizen of the Month.
- Mayor Fouraker announced the Pioneers Day event. He is not able to attend the event on Saturday and confirmed that Comm Nielsen has volunteered to present to Proclamation.

COUNCIL REPORT

Comm Partin

- Comm Partin said he has seen a sign of the Lancaster House stating "Save the House" and would like to add on the next agenda for discussion. He clarified that the City had given the Historical Society a year to prepare.
- He has received calls from the upcoming Debate. He said that the Debate has been scheduled to be at the Woman's Club and awaiting confirmation from both candidates
- Orange County District 3 Debate planned for Feb 19th at 6 pm at 1650 Sand Lake Road – Suite 390, Orlando, FL.

Comm Nielsen

- Comm Nielsen spoke on a few resident concerns on traveling Hoffner Avenue. The residents asked if the PD can create a plan/idea to have the travelers on Hoffner flash twice or some other approach to promote safety.
- She spoke on oversized trucks on Nela and asked if the City can place truck sign limits before they get to the Nela Bridge. Comm Readey agreed.
- She would like to address, at a future meeting, changing the word “Beach” or “Park” on some of the open areas and enforcing non-alcoholic beverages in City parks.

Comm Shuck

- Comm Shuck spoke on safety concerns for bike riders around the City- He encourages all citizens to drive especially careful.

Comm Carugno

- Comm Carugno asked if the City can monitor the pedestrian walks around the City because the vehicles are not stopping. Chief Houston said the crosswalks have been observed by the PD, specifically the one on Hoffner, and have reported that there so few pedestrians. Chief Houston said, understands the concern, and has asked the officers to be aware of the area.
- Comm Carugno reported on the ANAC meeting and strongly advised residents to call the hotline if they have a complaint on the airport noise.

ADJOURNMENT

There being no further business, Mayor Fouraker called for a motion to adjourn. The motion was passed unanimously at 9:00 p.m.

Yolanda Quiceno, CMC, City Clerk