



city council minutes

AGENDA March 21, 2017 * 6:30 p.m. City Council Regular Session

The Belle Isle City Council met in a City Council Regular Session on March 21, 2017 at 6:30 p.m. at the City Hall Chambers located at 1600 Nela Avenue, Belle Isle, FL 32809.

Present:

Mayor Pisano
Vice Mayor Readey
Commissioner Gold
Commissioner Carugno
Commissioner Weinsier
Commissioner Lance
Commissioner Mosse
Commissioner Nielsen

Absent:

Attorney Kruppenbacher

Also present; Attorney Callan, Interim City Manager April Fisher, Lt. Grimm and City Clerk Yolanda Quiceno. Meeting audio is available on the City's website and at City Hall.

CALL TO ORDER

Mayor Pisano called the meeting to order at 6:30pm. Comm Mosse gave the invocation and led the pledge to the flag.

CONSENT ITEMS

- a) Approval of the City Council Regular Session minutes – February 21, 2017
- b) Approval of the City Council Regular Session minutes – March 7, 2017

Comm Carugno motioned to pull item a: February 21, 2017 minutes for discussion.

Comm Lance seconded the motion.

Comm Carugno motioned that the City Clerk revisits the meeting audio and verify that the change to the section on page 4 of the revised minutes is correct.

Comm Lance seconded the motion, which passed unanimously.

Comm Lance motioned to pull item b: March 7, 2017 minutes for discussion.

Comm Weinsier seconded the motion.

Mayor Pisano requested the following correction to the March 7, 2017 minutes as follows,

Page 7 reads, "Mayor Pisano stated that the City has budgeted \$70,000 for Bing Grants and it was never decided if the installation of city approved applicants allocation will be by district or on first-come, first-serve. She has been notified of two communities in need of some funds to improve their communities."

Page 7 should read, "Mayor Pisano stated that the City has budgeted \$70,000 for Bing Grants and it was never decided how it will be ~~installation of city approved applicants~~ allocated if by district or on first-come, first-serve. She has been notified of two communities in need of some funds to improve their communities."

Attorney Callan asked, for the record, if the motion as written on the Boat Dock ordinance is correct. Comm Lance stated that the minutes are correct. Discussion ensued.

Vice Mayor Readey motioned to accept the changes as discussed.

Comm Nielsen seconded the motion, which passed unanimously.

Mayor Pisano presented and read a proclamation declaring March 21, 2017 as World Down Syndrome Day.

CITIZEN COMMENTS

Mayor Pisano opened for public comment.

1. Charles Griffin residing at 2906 Trentwood shared his concerns on the safety hazards due to the increase in traffic, specifically due to the Mattamy Homes development. He supports any plan to implement a traffic control device on Trentwood Blvd.
2. Burke Hammond residing at 7410 Daetwyler Drive shared his concern on the cut through traffic on Trentwood and asked if a traffic study can also be completed for Daetwyler/Seminole Drive where it is no different. He is not a Belle Isle resident however as a citizen he would like to include that area as well because the sidewalk is not being maintained by the County.
3. Karen Davenport residing in Daetwyler Shores was in agreement to getting rid of the S curve in the neighborhood. She spoke of the safety issues that is caused with the cut through traffic and begs the City to look into a solution.

There being no further public comment, Mayor Pisano closed citizen comments.

ORDINANCE 17-02 SECOND READING AND ADOPTION

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING THE BELLE ISLE CODE OF ORDINANCES CONCERNING BOAT DOCK REGULATIONS; BY AMENDING PART II, CODE OF ORDINANCES; BY AMENDING SUBPART B, LAND DEVELOPMENT CODE; BY AMENDING CHAPTER 48, ENVIRONMENTAL REGULATIONS, ARTICLE II, BOAT DOCKS; BY AMENDING CHAPTER 54, ZONING DISTRICTS AND REGULATIONS; BY AMENDING SECTION 54-1, RESTRICTIONS UPON LAND, BUILDING AND STRUCTURES; BY AMENDING SECTION 54-79, RETAIL COMMERCIAL DISTRICT C-1; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Comm Carugno motioned to table Ordinance 17-02. According to a meeting with Comm Lance and Board member Woods, Chairman Nicholas Fouraker addresses a letter to the Interim City Manager regarding his disagreement with the process.

Comm Gold seconded for discussion.

Comm Carugno read the letter for the file and provided a copy for the record. He said In the Interim City Manager's defense, she did respond to Chairman Fouraker. He stated that he does not like what he sees and would like to have the ordinance reviewed by the entire Board and written in clear words to be understood by everyone.

April Fisher said the information provided in the Chairman's email is incorrect and she provided an outlined response on how it is incorrect. The item was discussed at the City Council meeting prior to the most recent action taken. At the Feb 7th meeting that is where the item was continued and, she said on record, that she was requesting that the item be pulled at the Feb 7th meeting so the technical issues could be discussed between her, Comm Lance and former Chairman Woods. It was announced at the City Council meeting and no one on Council objected to that approach. She even stated in the meeting with Comm Lance and Mr. Woods that if there were any substantive changes proposed it would have to go back to the Planning and Zoning Board; no substantive changes came out of that meeting, they were purely technical. In addition to that, she let Mr. Fouraker know that there was no reason for it not to be on tonight's agenda. She assured him that she would provide a copy, to Council, of his email and her response to preserve the record. She believes the process was done correctly. It seems like, in this City, a lot of times misinformation gets out and it really hinders a professional process in this City. It is incumbent upon her to let someone know what the correct record is, what the truth is and to stand up for it. The meeting was noticed even though law does not require it. She would be glad to answer any question on the process that was followed and on what is before you tonight.

Comm Lance said in the meeting the majority of the changes were technical in nature in clarifying where there were some redundant words and figures. According to Chairman Woods, the Planning and Zoning Board was not able to finish the job and most of the corrections were made by Mr. Woods.

Mayor Pisano called for a second to Comm Carugno’s motion to table Ordinance 17-02. Mayor Pisano called for a roll call,

Comm Nielsen	nay
Comm Mosse	aye
Comm Lance	nay
Comm Weinsier	aye
Vice Mayor Readey	nay
Comm Carugno	aye
Comm Gold	nay

Motioned failed 4:3.

April Fisher said the Ordinance that is before Council tonight takes into account the changes that were read into the record and discussed at the March 7th City Council meeting in strikethrough/underline format.

Mayor Pisano opened for public comment.

1. Rich Holiday residing at 5270 Oak Island Road shared his comments on the proposed Boat Dock ordinance. He believes some of the changes being proposed were proposed some time ago and they were not approved at that time. He is hoping that the Board totally understands the changes. The maximum boathouse platform that is allowed at the moment is 1000 sq ft. In addition, Council is now proposing a second level deck and flat roofs, which will affect views of the lake and will create a danger to kids. It is going to change the atmosphere and not be a visually pleasing addition to the shoreline of our lake.
2. Phil Price residing at 7440 Daetwyler Drive asked if the proposed changes affect all old and new dock owners to update their docks to conform to the new ordinance. He asked Council to reconsider the proposed ordinance because it will change the look of the lake.
3. Burke Hammond residing at 7410 Daetwyler Drive shared his concern with the safety of the children.
4. Holly Bobrowski residing at 2400 Hoffner Avenue agreed with Mr. Hammond and is opposed to the flat roof update. She shared her concerns with the additional furniture on the flat roof decks and asked who will be responsible for the cleanup of these items during hurricane season, should an event occur. Discussion ensued on previous Council action.

There being no further comment, Mayor Pisano closed the public comment section and called for a motion.

Comm Lance motioned to approve the second reading and adoption of Ordinance 17-02 as discussed and approved by City Council on the March 17th regular session.

Comm Nielsen seconded the motion for discussion.

Comm Nielsen said this is the first time she has heard anyone express their concerns of the flat roofs that do seem as legitimate concerns. She believes this should be returned to Planning & Zoning for further discussion. She also believes a railing should be placed if the flat roofs are approved.

Comm Weinsier said the issues tonight seem to make sense and should be revisited. He further believes that the Planning & Zoning Board should have the opportunity to discuss the revisions, in lieu of the concerns that were presented today.

Comm Lance said the comments are valid and asked if Council would be able to make the changes proposed by the Planning & Zoning Board. April Fisher said it does not have to go back to the Board. Council has the ability to change what is being brought forward as a recommendation.

After Council discussion, Attorney Callan spoke to Sub Part 8-Paragraph B and the new paragraph C. He stated that there are two parts that speak to flat roofs. If amended, the changes are not substantial enough to have the Ordinance go back to first reading; or it can be sent back to the Planning & Zoning Board for further analysis.

Comm Carugno, for the record, shared his concerns with the tone of the City Manager during his presentation of the letter from Chairman Fouraker. He shared his concerns with the inconsistencies to the flat roof provision and multi slip boat docks. Comm Carugno asked resident Mr. Rich Holiday to clarify his statement on the upper level deck.

For the record Attorney Callan restated Comm Lance’s amended motion as follows, Comm Lance motioned to approve the second reading and adoption of Ordinance 17-02 as discussed and approved by City Council on the March 7th regular session, expect for, deletion in section 48-32 Design Criteria sub part 8 to restore part b which states no structure having flat roofs will be permitted; keeping the amendment change to the maximum pitch of a roof slope shall be 5-12; and delete the proposed amendment part C and return to the old numbering a-e. In addition, the words “building permits” should be included in part 6(a) on page 5.

Comm Weinsier asked for clarification on the multi-slip docks. April Fisher clarified that the Planning and Zoning Board did not want to limit the amount of slips but look at the totality of the area. The slip is defined as part of the dock. The current code does not have a definition section so this is handled in the definition of docks. The overall area is allowed one dock. The idea is if someone can build a dock that can potentially have two slips; they should not be restricted from doing that as long as they don’t exceed the total amount of area for the property.

Comm Nielsen stated since the changes and discussion did not include any substantive changes she is in favor of moving forward and seconds the motion.

Comm Lance, stated for the record and after hiring a new City Manager, that he will lobby to have these types of changes be handled by the professionals at Orange County EPD and give them the authority to enforce and control the permitting process of all boat docks, boat slips and seawalls in our City.

After discussion, Mayor Pisano called for a roll call to adopt Ordinance 17-02 as discussed and amended.

Comm Nielsen	aye
Comm Mosse	aye
Comm Lance	aye
Comm Weinsier	nay
Vice Mayor Readey	aye
Comm Carugno	nay
Comm Gold	aye

Motioned passed 5:2.

PROPOSED WARREN PARK CANOE LAUNCH SITE PLAN

Proposed Warren Park Canoe Launch Site Plan. Case No. 2016-10-008 - Pursuant to Belle Isle Code Sec. 54-83 (f)(3), the Council shall review and take action on an appeal for a proposed site plan, submitted by Orange County, for a canoe launch at 3406 Warren Park Road, Orlando, FL 32812 also known as Parcel #29-23-30-4389-05-010. The proposed canoe launch includes plans for a lakeside launch for low impact, non-motorized watercraft such as canoes, kayaks and paddleboards.

Mike Stratham, Program Development Supervisor for Orange County Parks and Recreation, gave a brief presentation, which included the following:

- Project narrative with a site location map
- Existing Conditions at Launch Site
- Illustrative Site Plan
- Sketch Elevations and Section Drawings
- Parking and Safety Element Plan
- Launch Overview
- County’s Application Consistent with City Code
- City Staff Recommendations & County’s Responses

Mr. Stratham stated that the County agrees with most of the Staff recommendations as outlined in the proposed presentation. On behalf of the County, Mr. Stratham asked for reconsideration on two staff conditions;

Staff condition #3 - Prohibit any private business or commercial enterprise from operating at the property, such as paddleboard lessons or kayak/canoe tours

Orange County Response:

The County would like to continue to have County-approved vendors at Warren Park.

Limited commercial enterprises (e.g., tennis lessons) are currently and have historically been in place at Warren Park, prior to the City’s annexation. These existing enterprises do not inhibit or interfere with surrounding residential uses, but rather, enhance the opportunities available to the citizens of Belle Isle and Orange County within this Park.

Staff condition #4 - An executed Memorandum of Understanding (MOU) between City of Belle Isle and Orange County and all law enforcement parties (inclusive of the City of Belle Isle, Orange County Sheriff’s Office, and the Florida Fish & Wildlife Conservation Commission) as to patrol and enforcement responsibilities within the park and surrounding the canoe launch, as well as in the lake waters.

Orange County Response:

The County, the Sheriff’s Office and the FWCC are separate legal entities. The County has no authority to assent to this condition because the County cannot bind the Sheriff’s Office or the FWCC.

In addition, the MOU is not necessary because the park is within the limits of the City of Belle Isle and the City’s police force does have the legal authority to enforce any of the City’s laws within Warren Park. Currently the Sheriff’s Office and the Belle Isle Police Department have a shared marine patrol presence on the Conway Lake Chain. OC Fire & Rescue provides emergency service to Warren Park as well as to the rest of the City of Belle

Isle. FWCC is a state agency overseeing the Conway Lake Chain as it state own waters which generates and enforces it own rules and regulations for all subordinate agencies to adhere to within its jurisdiction. The MOU is not a land development or site plan condition.

He further stated that the County's site plan application was denied by the P&Z Board in Nov 2016, however, the alleged inconsistencies within the City's Code and Comprehensive Plan with no specific subtext of the code, goal or objective and policy of that Comprehensive Plan has been cited in support of this reason for denial. No staff report, explaining the reason for denial, has ever been issued to the County. There are no standards for review of a site plan under Section 54-83 (f)3) of the City Code and nothing states under what circumstances a site plan can be denied.

Orange County's request to City Council is to overturn the Planning & Zoning denial of the Warren Park Canoe Launch application and approve the site plan application with all recommendations set forth by City Staff except for #3 and #4.

He then introduced Commissioner Pete Clarke, Division Park Manager Matt Suedmeyer, Deputy County Attorney Joel Parcel and Assistant County Attorney Aaron Harding.

Mayor Pisano opened for Council discussion.

Comm Nielsen said our Police Department understands from the Sheriff's Office that the Sheriff's Office was the only law enforcement agency that may enforce law in Warren Park because it is a County Park. Our Police Department is very concerned about this and would like to have jurisdiction of the park because they can respond to any issues in a timely manner. The Sheriff's Office, generally speaking, cannot respond in a timely manner at times because they are not in the City all of the time. She asked, who is going to tell the Orange County Sheriffs Office that the Belle Isle Police Department will have jurisdiction in the Park.

Matt Suedmeyer, said the City of Belle Isle is responsible to respond to incidents in Warren Park because it is in the City limits. He has checked with Orange County staff and reviewed some incident reports and both agencies have responded in the past to calls. Orange County can work with the 911 operators to ensure that the calls are routed correctly. Discussion ensued on the importance of a MOU with the Orange County Sheriff's Office and the limitations on the Belle Isle Police Department's law enforcement action in Warren Park.

Deputy County Attorney Joel Parcel stated that he would be happy to coordinate discussions with the City Attorney, Orange County Sheriff's Office and Orange County for consensus on the law enforcement responsibilities at Warren Park.

Attorney Callan said as a condition of approval of the request Council can request a joint agreement with the City, County and the Sheriff's Office. In addition, another concern shared by the P&Z Board was reluctance by the County to allow commercial activity on a new boat dock might further intensify use of the lake.

Comm Lance, for the record, asked if he should recuse himself from the vote because he has a rental property that has a paddleboard license in the City limits. Attorney Callan stated if he is a landlord of a rental property who may use or not use this ramp in the future is not a conflict of interest and he is required to participate and vote on this issue.

Discussion ensued on commercial use on the lake and safety issues.

Attorney Callan spoke to the Council's role on the de novo proceeding and recommended the following conditions for approval; (1) accept the P&Z Board's recommendation; (2) approve the request placing commercial use parameters during certain hours of the day; (3) approve the request approving staff conditions or add additional conditions; or (4) deny the request.

Comm Mosse stated that the City should not allow businesses on the lake and the request should not be approved until a MOU is in place stating who has jurisdiction in the park. Discussion ensued on the liability to the City in allowing this request.

After further discussion, Deputy County Attorney Joel Parcel stated that they would be willing to forego vendors on Lot 1. He further clarified, that he would be willing to coordinate discussion on the issue in more detail with all agencies involved.

Attorney Callan proposed that the County acknowledges that the City has police jurisdictional authority over the park. In addition, the County and City agree to meet with the Sheriffs Office, within the 60 days of approval, to have 911 calls directed first to the City of Belle Isle then subsequently to the Sheriff's Office. Attorney Parcel agreed to the condition.

Discussion ensued on conditions of approval.

Mayor Pisano opened for public comment.

- Jennifer Brown residing at 7020 Seminole Drive spoke in favor of the request and shared her passion for paddle boarding, water activities and accessibility. She further added that she does not have any affiliation with Orange County.
- Richard Gallagher residing at 7020 Seminole Drive spoke in favor of the boat launch and believes everyone should have access to the Lake.
- Bonnie Kennedy residing at 2780 Curry Ford Road, Orlando, FL 32806 spoke in favor of the boat launch.
- Phil Price residing at 7440 Daetwyler Drive spoke in opposition of the launch in Warren Park, the unsafe conditions for paddle boarders and potential parking issues.
- Rich Holiday – no comment.
- Burke Hammond residing at 7410 Daetwyler Drive spoke in opposition of another boat dock on the lake.
- Randy Holihan residing at 2513 Trentwood Blvd spoke in opposition of the boat launch and shared his concerns with the safety issue. He provided for the record a petition signed by 83 people in opposition of the request.
- Bruce Lincoln residing at 3013 Trentwood Blvd spoke in opposition of the potential commercial businesses on the lake and the lack of authority given to our law enforcement.
- Debra Donham 6904 Seminole Drive spoke in opposition to the request and shared her concerns with the potential crime with the increased traffic, parking issue and safety liability.
- Vinton Squires residing at 2483 Trentwood Blvd spoke in opposition of the request and shared his concerns with the pick up and drop off of friends on the launch due to the increase use of the lake.
- Holly Bobrowski residing at 2400 Hoffner Avenue said she is not opposed to paddle boarding however, spoke in opposition of the launch ramp that may cause a safety issue and an attractive nuisance. She proposed building a promenade instead of a boat launch.
- Matt Giglio residing 3101 Trentwood Blvd spoke in opposition of the boat launch and the additional lake activity.
- Anita Saaco residing at 4913 Jinou Avenue said there might be unintended consequences that may arise on the approval of the County's plan and if the request does get approved what recourses would the City have.
- Linda Suggs residing 6922 Seminole Drive shared her concern on the negative impact of trash on the lake.
- Cindy Lance 3401 Trentwood Blvd shared her opinion on the comments made and stated that the Council is not here to vote on speculation but on the boat dock launch that meets the City criteria.
- Karl Shuck residing at 1658 Wind Willow Road did not speak in favor or in opposition of the request. He spoke out of disappointment with the County. The County has had five months to present today and it appears that the County has not addressed the issues that were discussed in the November 2016 meeting by the P&Z Board.

Comm Carugno said, for the record, he also feels scared for his life being on a pontoon boat with all the jet skis on the lake. Comm Carugno read a letter sent to him from a resident of Belle Isle Pam Carter sharing her concerns with the safety on the lake and with the paddleboat business out of a home rented from a Belle Isle Commissioner.

Attorney Callan has indicated that the Commissioner does not have a conflict of interest, is not allowed to recuse himself and is required by Florida law to participate in this debate and vote on the ordinance presented.

There being no further comment Mayor Pisano closed the public comment section.

Mayor Pisano opened for Council discussion.

Mayor Pisano asked if there is anything the City must do regarding the liability of the City right of way of Warren Park Road. Attorney Callan informed Council that the right of way is only three feet on the property and the proposal intends to use that part of the right of way. Mayor Pisano further shared her concerns with the additional parking, after hour use of the launch and the no swimming enforcement.

After further discussion on the commercial use and potential safety issues, Comm Nielsen stated that the application is within the specifications of the code and the City does not have any grounds for denial. She does agree that the law enforcement concern needs to be addressed and possibly regulating the hours of operation for activities.

Attorney Callan said what underlines every boat dock regulation is whether or not the City sits as a policeman of riparian rights. The Council with the permitting processes tries to ensure that one neighbor is a good neighbor for all. Within the context of the application, there are concerns listed in the packet that were outlined and on record. Attorney Callan stated for the purposes of the record, the County owns approximately 63-77 feet of frontage on this lake and currently can allow people to use that frontage for kayaks, paddle boats and canoes into the lake. The question today is whether or not the proposed dock will increase, cause conflicts with the riparian rights or intensify the use and if there are conditions that the City believes will balance those rights with the competing interests.

After Council discussion on the process, Comm Lance motioned to approve the proposed Warren Park Canoe Launch site with the caveat that nothing can be done until there is an approved agreement with the Belle Isle Police Department, Orange County and the Orange County Sheriff's Office. The motion will also include the 10 recommended staff conditions except on modified conditions,

#3 to include that no profit can be made by any company but are allowed to have non motorized activities including safety and yoga lessons, paddle boards, canoes and kayaks in the water.

#4 to require a memorandum of understanding, to be in place, by all agencies stating that 911 calls will be directed to the Belle Isle Police Department first and all agencies agreeing that the Belle Isle Police Department has jurisdictional authority over Lot 1 and parking lot. Discussion ensued.

Vice Mayor Readey seconded the motion.

Matt Suedmeyer requested 90 days to obtain approval of a MOU the Sheriffs Office.

Comm Lance and Vice Mayor Readey agreed to the modified 90-day request.

Mayor Pisano called for roll call. Attorney Callan restated the motion to approve the site plan to allow the building permit to be issued conditioned upon the ten staff conditions submitted to the planning commission. In particular to condition #3, Orange County has stipulated that there will be no commercial use however, there can be some public safety lesson and yoga lessons on the lake front; and #4 the County agrees that Belle Isle has jurisdictional control and authority over Warren Park and Lot 1 and agreed within 90 days to reach an agreement between Belle Isle, Orange County and the Orange County Sheriff's Office on the issue of 911 dispatch to ensure that the Belle Isle Police Department can properly and quickly administer to any calls that arise.

Comm Nielsen	aye
Comm Mosse	aye
Comm Lance	aye
Comm Weinsier	nay
Vice Mayor Readey	aye
Comm Carugno	nay
Comm Gold	aye

Motioned passed 5:2 with Comm Weinsier and Comm Carugno in opposition.

Mayor Pisano called for a five-minute recess.

Mayor Pisano called the meeting to order at 10:10pm.

ATTORNEY'S REPORT

Attorney Callan reported that Attorney Kruppenbacher has been appointed, by the Governor, to the Constitutional Review Committee and proposed that Attorney Callan cover the City meetings moving forward. He would like to continue to be the City Attorney with regards to other items.

Comm Carugno asked who would be the City Attorney should there be a liability issue. Attorney Callan stated instead of being a substitute at the meetings then a contract will need to be drafted with Attorney Callan.

Comm Nielsen stated that she would not like to make the decision at this time. She has found that the City cannot locate a signed contract with Attorney Kruppenbacher and we need to resolve that issue before we can move forward. Attorney Callan said he would speak with Attorney Kruppenbacher and report at the next meeting.

CITY MANAGER'S REPORT

Interim City Manager Fisher focused on item c only of her report due to time. She said it was discussed at the last meeting to move forward with the option of vacating and handling traffic concerns on Trentwood Blvd. She has spoken with Kittleson Engineering Transportation Firm on the traffic situation, public purpose and gave them an overview of the implications of placing a control arm in that section. They have a piggyback contract with the City of Orlando that the City can piggyback off of. Their scenario will cost approximately \$17,000 to perform a full study. She is asking for authorization to move forward and approve an agreement up to \$20,000. She believes the funding can be taken from the Transportation Impact fee fund because the study is looking into addressing a possible traffic issue caused by new growth. Discussion ensued on the recently passed procurement process.

Comm Lance motioned to approve the Trentwood Blvd Engineering Traffic Study not to exceed \$20,000 with the caveat that it is correct that Council can pass the motion under the terms of the law.

Vice Mayor Readey seconded the motion

Motioned passed 6:1 with Comm Carugno in opposition.

ADJOURNMENT

There being no further business, Mayor Pisano called for a motion to adjourn, unanimously approved at 10:45p.m.

Yolanda Quiceno
CMC-City Clerk