



city council minutes

MINUTES
June 18, 2019
Regular Session 6:30 pm

The Belle Isle City Council met in a regular session on June 18, 2019, at 6:40 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 Mike Sims
Commissioner Sue Nielsen

Absent was:

Commissioner Jim Partin
Commissioner Harv Readey

Also present were City Manager Bob Francis, Attorney Kurt Ardaman, Chief Houston and City Clerk Yolanda Quiceno. Before the invocation, Mayor Fouraker gave a brief overview of the order and procedure of tonight's meeting.

CALL TO ORDER

Mayor Fouraker called the City Council Regular Session to order at 6:40 pm and the City Clerk confirmed quorum. Commissioner Nielsen gave the invocation and led the Pledge to the flag.

Mayor Fouraker reported that Comm Readey and Comm Partin would not be in attendance and requested a motion for an excused absence.

**Comm Sims motioned to excuse Comm Readey from tonight's meeting.
Comm Nielsen seconded the motion which passed unanimously 5:0.**

**Comm Gold motioned to excuse Comm Partin for tonight's meeting.
Comm Sims seconded the motion which passed unanimously 5:0.**

CONSENT ITEMS

- a. Resolution 19-07 – A Resolution of the City of Belle Isle, Florida is adopting suggested trees to develop a diverse canopy.
- b. Staff Reports

Comm Shuck motioned to approve the Consent Agenda as presented.

Comm Nielsen seconded the motion and requested that Resolution 19-07 (item a) be pulled for discussion.

Comm Nielsen requested removal of the invasive Golden Rain Tree from the approved tree list.

Comm Shuck amended his motion to approve the Consent Agenda with the removal of the Golden Rain Tree from the approved tree list as an acceptable tree.

Comm Nielsen seconded the motion which passed unanimously 5:0.

CITIZEN COMMENT

Mayor Fouraker opened for citizen comment.

- Cory Kneipp residing in the City of Edgewood said she had recently visited the park on Wallace Road and asked why there is limited parking to residents and if the City is planning on developing the property in the future. City Manager Francis said he could contact her and her husband and provide them an update on the progress of the on-going discussions on the development of the park.

There being no further citizen comments Mayor Fouraker closed citizen comment.

Mayor Fouraker requested a motion to reorder the agenda due to time constraints and bring forward Ordinance 19-04 for discussion. The request failed for lack of motion.

UNFINISHED BUSINESS

Approval of Cross Lake Beach Proposal.

Mayor Fouraker opened the discussion for the approval of Cross Lake Beach Proposal.

Mayor Fouraker welcomed District 3 Commissioner Myra Uribe.

City Manager Francis gave a summary of the on-going negotiations with the State and adjacent property owners of the Cross Lake property since October 2018. Due to the improper notice, the Board of County Commissioners (BOCC) was not able to move forward with the City's application hearing at that time. Mr. Francis referenced Resolution 79-06 and the City's Comprehensive Plan 1990, 2003, 2008-2009 showing Cross Lake as a park. Mr. Francis proposed zoning Cross Lake as a road, extend the right-of-way, the concrete bollards will be moved 30 feet from the lake, and one of the adjacent property owners will have a driveway, and the other will continue to have use of their entry gate. He noted, at the current date there is encroachment by both adjacent property owners to the north and the City is proposing deed access of 15ft to the residents on the north of the property once purchased from the State.

Mayor Fouraker opened for Board discussion.

Comm Carugno shared his concerns and said he would be in favor of purchasing the property; however, he would not like to attach the proposed land split at this time. Mr. Francis stated that the BOCC might not put forward a recommendation for approval to the State without mutual consent between the City and the adjacent property owners on the proposed plan.

Comm Shuck said he believed the City Council authorized the City Manager last year to have the City move forward with the purchase. Mr. Francis said the Council did authorize him to move forward; however, as required, this proposal was not submitted to the BOCC for a recommendation.

Comm Nielsen asked Comm Uribe if the City does not approve the agreement what other options are available to move forward. Comm Uribe said there are two property owners adjacent to the area who are required to agree with the proposal before presenting to the BOCC for recommendation to the State.

Comm Sims said he had received a lot of feedback from the residents. He asked if the proposed lot split request is concrete for this idea or is their room for re-negotiations. Mr. Francis said at this time if the Council allows any sought of land to the adjacent property owners, it will bring some of the issues in compliance with the Code.

Comm Gold said the only way to purchase the property is to make concessions. What would happen if the City lets the State continue with their ownership? Mr. Francis said the City runs into a risk of losing the opportunity if the application is pulled by the City to purchase the property.

Mayor Fouraker opened for public comment.

- Janet Erne and Ted Spruill residing at 3812 Lake Shore Drive spoke in opposition to the Cross Lake proposal. Mr. Spruill shared his concern with the initial process, including having the purchase predicated on making a deal and leaving it up to the adjacent owners. Ms. Erne asked if the City is buying the land for all citizens, why is the purchase now conditional. The beach has been enjoyed historically by many residents and encourages the Council to move forward with the purchase and give further consideration to exactly what the best use of the property would be.
- Chris Whitaker residing at 5220 Oak Island, spoke in favor of a Cross Lake proposal. For the record, he asked for Council consideration to change the Comp Plan to not include the future use of a boat ramp at Cross Lake Beach. He further agreed to allow for entry to the homes on the north and an opportunity to correct the mistakes made by the previous administration.
- Cheryl Leonard residing at 5124 Oak Island Road spoke in opposition to the Cross Lake proposal. The City already decided to purchase the property and taking anything away from the beach from all the residents of the City is not right. The adjacent homeowners knew what they were buying when they purchased the home.

- Paul Heidbrink residing at 5107 Oak Island Road, spoke in opposition of the Cross Lake Beach proposal. He shared his concern and stated that the property should remain as a park. The defects of the property have been there for many years, and the homeowners knew what they were purchasing at the time. The City should move forward with the purchase and discuss the subsequent use of the property with all the citizens of the Belle Isle, not just the adjacent property owners.
- Mark Smothers residing at 2520 Hoffner Avenue shared his concern with the life safety entry (EMS and Fire Department) to the Cross Lake properties if the proposal is approved. Additionally, the security of Cross Lake Beach is extremely important to allow access for secondary access to the water supply.
- Emily Wakley, residing at 3019 Indian Drive, spoke in opposition to the Cross Lake Beach proposal. She shared her concerns and stated that the sale of public land to private homeowners is not in the public interests. She is not opposed to allowing access the adjacent homeowners through an access easement.
- Gayle Bouck residing at 2205 Oak Island spoke in opposition to the proposed resolution. She agrees with the City's purchase of the property and allowing ingress and egress only to the adjacent homeowners.
- Anita Sacco residing at 4913 Jinou Avenue said she is in favor of the purchase of the property from the State of Florida; furthermore, following the purchase of the property, she is opposed to the separation of any property for sale to any private property owners. She shared her concerns and spoke of the prior actions made by the Council to purchase the property and the 12-page reports submitted by the adjacent property owner's attorney.
- Dave Snavelly residing at 2800 Alsace Court spoke in opposition of the Cross Lake Beach proposal. To lose any of the 50 feet of the park will be at the expense of all the residents of the City.

Mayor Fouraker stated that the City has received numerous emails on the subject and are available to the public. There being no further comments, Mayor Fouraker closed public comment and opened for Board discussion and motion.

Comm Carugno addressed the 12-page documents submitted by the adjacent property owner's attorney on June 17th. He stated because it was received the day prior and did not have time to review the document and verify the information presented.

Council asked Attorney Ardaman if there are any additional options or a recommendation from the City Attorney before moving forward to the BOCC. Attorney Ardaman said Council proposes an alternative option for consideration.

After discussion, Comm Carugno motion to recommend to the Lake Advisory Board and the Board of County Commissions to schedule a hearing to recommend the City of Belle Isle to purchase the property at Cross Lake Beach from the State without the concessions to split any of the lands to the adjacent property owners. Comm Shuck seconded the motion which passed unanimously 5:0.

Ordinance 19-03 (lot Splits) and 7020 Seminole Drive

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, RELATED TO LOT SPLITS AND LOT AGGREGATION; AMENDING SECTIONS 50-32, 50-33, 50-37, 54-2, AND 54-171 OF THE CITY LAND DEVELOPMENT CODE; PROHIBITING VARIANCES FOR LOT SPLITS RESULTING IN NON-CONFORMING LOTS; PROVIDING DEFINITIONS; PROVIDING FOR APPLICATION FEES; PROVIDING FOR TREATMENT OF APPLICATIONS RECEIVED PRIOR TO ENACTMENT OF ORDINANCE; PROVIDING FOR ADOPTION OF DIAGRAMS ILLUSTRATING HOW TO MEASURE LOT DIMENSIONS; AMENDING AND CLARIFYING THE AGGREGATION REQUIREMENTS FOR SUBSTANDARD LOTS OF RECORD; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Mayor Fouraker opened for Board discussion.

City Manager Francis provided a diagram for consideration based on the prior discussion of Ordinance 19-03 on the measurement of lot depth. The diagram, if approved, will be part of the policy and procedures of the City. Discussion ensued.

Before discussion of 7020 Seminole Drive, Attorney Ardaman advised Council that the discussion will be for settlement consideration/compromise on the pending lawsuit.

City Manager Francis spoke of the current lawsuit submitted by Bobby and Cindy Lance. He announced that the City Attorney had submitted the City's motion to dismiss the complaint about declaratory relief. The staff believes that this lawsuit will incur additional costs to the City in money, resources and time and is requesting a motion to allow this last lot split before adopting Ordinance 19-03 that would not allow for substandard lots anymore. Mr. Francis requested approval of the lot split with the

following conditions, (1) the property is allowed to split as a regular lot split 85/65; (2) the Lance's reimburse the City for expenses totaling \$18,000 and (3) Lance's drop the current lawsuit.
Mayor Fouraker opened for Council discussion.

Council discussed the possibility of allowing the 75/75 configuration.

Attorney Ardaman said given the code has not been changed concerning the width measurements there is the ability to have an interpretation of the 85/65 flag lot to meet code. With the 75/75, there is a greater risk of a challenge that they do not meet the minimum 85ft width requirement.

Council discussed prior discussions on prohibiting flag lots in the City. Mr. Francis clarified that the passing of Ordinance 19-03 would correct the prohibition of future flag lots. Discussion ensued.

Mayor Fouraker opened for public comment.

- Debbie Donham residing at 6904 Seminole Drive shared her concerns on current flag lots adjacent to her property and the encouraged Council to think on how these decisions affect all property owners.
- Daniel Batyos residing at 2224 Homewood Drive spoke in opposition of the lot split mainly due to the increase of the density in our City.
- Beth Lowell residing at 2416 Homewood Drive spoke in opposition of the lot split due to higher density and the traffic overflow.
- Emily Wakley residing at 3019 Indian Drive spoke in opposition of the lot split because it does not meet the current code requirements, and the Council should reaffirm and uphold their decision to deny the request.

There being no further comments, Mayor Fouraker closed public comment and opened for Board discussion and motion.

Council discussed moving forward with the lawsuit and potential cost to the City.

Comm Sims shared his concerns and spoke of Council's decision to a date to deny the request. He stated that he is in favor of approving the request.

Comm Gold and Comm Shuck shared their concerns with the proposal and stated that they are in favor of approving the request.

Comm Carugno shared his concerns with the proposal and is not in favor of approving the lot split approval and would like to move forward with the lawsuit.

After discussion, Comm Carugno motioned to table the decision to a future City Council meeting to allow the aggrieved parties to be present allow for a full Council present and until the Court has provided the City a response for dismissal.

Motion failed for lack of 2nd.

Comm Carugno motioned to extend the meeting to 9:30 pm.

Comm Shuck seconded the motion which passed unanimously 5:0.

Comm Sims moved to approve the lot split for 7020 Seminole Drive with the three conditions stated.

Comm Shuck seconded the motion.

Attorney Ardaman recommended that the conditions include dismissing the lawsuit with prejudice with a settlement agreement to be reviewed and approved by the City Manager and City Attorney.

Comm Sims amended his motion as follows,

Comm Sims moved to approve the lot split for 7020 Seminole Drive with the following conditions

(1) the property is allowed to split as a regular lot split 85/65;

(2) the Lance's reimburse the City for expenses totaling \$18,000 and

(3) Lance's drop the current lawsuit without prejudice.

Comm Shuck seconded the motion which passed 4:1 with Comm Carugno nay.

Mayor Fouraker called for a motion to allow for a 15-minute break and excuse Comm Sims for the remainder of the meeting.

**Comm Nielsen motioned for a recess and excused Comm Sims for the remainder of the meeting.
Comm Carugno seconded the motion which passed unanimously 5:0**

Ordinance 19-04 – First Reading and Consideration

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA AMENDING CHAPTER 30 OF THE CITY CODE PERTAINING TO PARKING REGULATIONS; PROVIDING FOR DEFINITIONS, PARKING OF MOTOR VEHICLES, ISSUANCE OF CITATIONS, FINES, HEARINGS, APPEALS, PARKING ON THE PARKING STRIP, OCCUPANCY AND RENTAL OF VEHICLES, STANDARDS FOR DESIGNATED PARKING AREAS, FRONT YARD PARKING, PARKING SURFACE REQUIREMENTS AND OTHER MATTERS RELATED TO VEHICLE PARKING WITHIN THE CITY; PROVIDING FOR CREATION OF RESIDENTIAL PARKING DISTRICTS, PROCESS FOR APPLICATION FOR AND CREATION OF SUCH, PERMITTING IN RESIDENTIAL PARKING DISTRICTS, PENALTIES, AND OTHER MATTERS RELATED THERETO; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

City Clerk read Ordinance 19-04 by title.

City Manager Francis provided a revised ordinance per Council discussion at the June 4th meeting. Mr. Francis reported that he received two citizen comment emails as follows:

Email from Michael Jungen:

- Requesting a change for consideration to Section 30-132(d) Regulation of Parking and Storage. This Section includes boats in the definition, and if a boat is parked at a dock, it may need to be recharged. Mr. Francis said if they remove the word “electric” from the utility section of the code, it will satisfy the concern.
- Section 31-33(c)(3)(b) and 133(d)(2) – How to park a boat. Mr. Jungen believes parking perpendicular should be eliminated and may cause a hardship due to the irregular size of some of the lots in the City. Mr. Francis does not believe it should be removed from the code; however, if a resident is having difficulty in parking their vehicle according to this section, they can contact the City for further review.

Email from Rick Miller:

- Requested his email received on June 18, 2019, about what defines a "residential parking district"? And Section 30-84 (e) be read into the record. In response, Mr. Francis said the concerns on the residential parking district are not addressed in the code but defined in the procedure. Mr. Francis stated the need for a residential parking district for public safety.

Mayor Fouraker opened for Board discussion and motion.

**Comm Shuck moved to advance Ordinance 19-04 for second reading and adoption with the change to remove the word “electric” from the code section 30-132.
Comm Nielsen seconded the motion which passed unanimously 4:0.**

Approval of Resolution 19-06

**Comm Gold motioned to table Resolution 19-06.
Comm Nielsen seconded the motion which passed unanimously 4:0**

**Comm Nielsen motioned to extend the meeting to 9:45 pm and excuse Comm Gold from the meeting.
Comm Shuck seconded the motion which passed unanimously 4:0.**

NEW BUSINESS

Approval of Donation Policy – No report.

ATTORNEY REPORT

Legislative Changes

Attorney Ardaman gave a brief overview of the upcoming Legislative updates that will impact municipal operations. He gave an update on the following,

1. Attorney Fees and Costs – CS/CS/CS/HB 829
2. Local Government Financial reporting and Website Posting – HB 861
3. Impact Fees – CS/HB 207
4. Private Property Rights/Tree Trimming Ordinance – CS/HB 1159
5. Posting Building Permit Fees to Website – CS/HB 127
6. Building Permits/Expired Permits – CS/CS/HB 447

CHIEF'S REPORT

Alsace Court Update

Chief Houston gave a brief update on several concerns about the beach and rope swing area at Alsace Court. The State informed her that the Belle Isle Police Department does not have jurisdiction to enforce the law in the rope swing and beach area. The surrounding area belongs to the State and considered submerged land. The State regulates both of these areas. She recommends all residents with concerns should contact the Florida Wildlife Commission to report the issue/violation.

MAYOR'S REPORT– No report.

CITY MANAGER'S REPORT

Issues Log update – No report.

COUNCIL REPORT – No report.

ADJOURNMENT

There being no further business Mayor Fouraker called for a motion to adjourn. The motion was passed unanimously at 10:00 p.m.

Yolanda Quiceno, CMC, City Clerk