



## city council minutes

**MINUTES**  
**April 16, 2019**  
**Regular Session 6:30 pm**

The Belle Isle City Council met in a regular session on April 16, 2019, 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 Gold  
Commissioner Anthony Carugno  
Commissioner Jeremy Weinsier  
Commissioner Mike Sims  
Commissioner Jim Partin  
Commissioner Sue Nielsen

Absent was:

Commissioner Harv Readey

Also present were City Manager Bob Francis, Attorney Kurt Ardaman, Chief Houston and City Clerk Yolanda Quiceno.

### **CALL TO ORDER**

Mayor Fouraker called the City Council Regular Session to order at 6:30 pm and the City Clerk confirmed quorum.

Commissioner Gold gave the invocation and led the Pledge to the flag.

Mayor Fouraker announced that Vice Mayor Readey will not be in attendance and asked for an excused absence.

**Comm Gold motion to approve the excused absence for Vice Mayor Readey.**

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

### **COMPREHENSIVE ANNUAL FINANCIAL REPORT – McDIRMIT DAVIS**

Mathew Lee, Auditor Supervisor from McDirmit Davis with offices at 934 Magnolia Avenue presented the Comprehensive Annual Financial Report Year Ended September 30, 2018. Mr. Lee gave an overview of the CAFR highlights for the 2018 Audit as follows,

- Audit Opinion – unmodified
- General Fund balance decreased \$1.01m to \$1.47m due to,
  - \$775k spent on resurfacing and sidewalks.
  - Irma expenditures of \$543k (\$1.28m total).
  - Police wages & benefits cost increased to \$195k.
- Stormwater fund decreased \$358k, to \$307k.
- Charter schools no longer presented as component units due to change in the relationship with the school. In the past the School was considered a fund to the City, then they moved to a discrete component unit, and now the City is no longer considered part of the City's budget for reporting purposes.
- Recommendation regarding the use of purchase orders as a result of the forensic order. The use of purchase orders allows for pre-approval of large ticket items to stay within budget before incurring the expense. If the City chooses to apply a purchase order system, it should be used on how it was intended, if not it will just be additional paperwork for the staff.

Mr. Lee stated that overall the City is in good financial condition. The type of spending is healthy and needed. It is important that the City spends the money now on these necessary projects or they will be spending more in the long run. Mayor Fouraker shared his concern with the decrease in funds and asked for further clarification.

Mr. Francis clarified that under the 2018 Public Safety- General Fund Expenditures Composition the total consist of Law enforcement, as well as, Orange County Fire Fee and Orange County Dispatching Services.

Discussion ensued on introducing another component to review and reconcile bank statements. Comm Gold suggested creating a Resident Advisory Committee to review bank statements before reconciliation by the Finance Manager.

Mayor Fouraker asked if McDirmit Davis is responsible for auditing vendor contracts versus what is paid by invoice. As part of the internal control testing of the annual audit, Mr. Lee said they could examine some contracts for proper procurement and if there is a material increase. However, as far as overages, that tends to be outside the auditing scope.

Mayor Fouraker shared and presented a concern presented at the last Council meeting by a resident. He said the Solid Waste contract was approved over 20% than allowed by the provisions of the contract. He asked if the auditor would have reviewed that detail. Mr. Lee said they are not here to catch day-to-day errors or manage the internal controls. However, they will inquire about the reason for the increase and rely on staff response. The auditor's function is to ensure reasonable assurance that the statements are not misstated. Mr. Fouraker said he is new to this process and cannot find that there is no cumulative answer as to where a 20% increase came from.

Bob Francis asked Mr. Lee if the City received the 1.1 m obligated by FEMA how would the balance change. Mr. Lee said the FEMA money would increase the fund balance from \$6m to \$7m. Secondly, the waste contract calls for no more than 3% CPI; however, it can also include fuel adjustments, tipping fees at the landfill and four other parameters that allow rate adjustments from the current contract. Mr. Francis added this is why with the new contract the City will go for no more than a 3% CPI to avoid unforeseen increases.

Comm Sims stated that any contract can have an overrun or an increase and can be justifiable. In his opinion, this is a contract issue and not an audit issue.

Comm Carugno shared his concern with the approach and comments made during the discussion.

After discussion, Mayor Fouraker opened for approval of the Consent Items.

#### **CONSENT ITEMS**

- a. Approval of the City Council meeting minutes – April 2, 2019  
**Comm Nielsen motioned to approve the minutes of April 2, 2019.**  
**Comm Sims seconded the motion which passed unanimously 6:0.**

#### **CITIZEN COMMENT**

Mayor Fouraker opened for citizen comment.

- Ralph Yarbrough said he was going to ask about the Solid Waste increase. Also, he said he would like to see the Purchase Order process implemented properly.
- Dave Snavelly residing at 2800 Alsace Court shared his concern with the contract negotiations with City contracts. He would like the City to balance the costs and benefits when making contract decisions.

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

#### **UNFINISHED BUSINESS**

##### Draft Ordinance for Parking Changes

Mr. Francis presented the draft changes to the parking ordinance directed by the Council at a previous work session. The following changes were presented for discussion,

Sec 30-1(8) – Definitions: ADD:

- Front Yard means the area extending across the front of a lot between the side lot lines and being a minimum horizontal distance between the street line and the principal building.
- Garage: An accessory building or an accessory portion of the main building, designed and/or used for the shelter or storage of vehicles owned or operated by the occupants of the main building.
- Parking Strip means the City Right-of-Way (ROW) between the curb (or edge of pavement) and sidewalk (if no sidewalk then the property line).

Sec 30-73 Parking of motor vehicles – ADD:

- (g) For residences with a valid building permit, this section shall not apply to contractors working at the residence.
- (h) No motor vehicles, recreational vehicles, watercraft or utility trailers will be parked or stored on any vacant property in the City.

Sec 30-74 Issuance of citation – ADD

- (b) The amount of such civil penalty shall be set by a resolution of the City Council
- (c) This schedule of fines may be periodically amended by ordinance resolution of the city council.

Sec 30-76 Fines and hearings - EDIT

- (b) Hearing request by person cited. Any person summoned by a parking violation citation, upon the payment of a fee of ~~\$150.00~~ \$50.00 in cash, money order or cashier's check, may within five working days after issuance of the citation file with the city manager a written request for a hearing before the city council with the City Manager. Such hearing shall be set at a regular or special meeting to be held not later than 60 days after the filing of such request. The person summoned by the parking violation citation shall be given at least five working days' written notice of the time and place of such hearing. At the completion of the hearing, the city council City Manager shall decide whether or not the citation was justified and whether or not the fine should be imposed/upheld. In the event, the city council City Manager overturns the parking violation, the fee of ~~\$150.00~~ \$50.00 shall be refunded to the person that paid such fee within five working days of the city council's decision unless the decision of the City Manager is appealed to the City Council.

Sec. 30-83. - Parking of motor vehicles on Parking Strip - ADD

- (a) The vehicle must have only its passenger-side wheels on the parking strip.
- (b) There will be no parking in the parking strip on major collector roads.
- (c) Official government vehicles and public utility vehicles on service calls are exempt from this section. Official government vehicles include any contractor hired by the City or other governing agency.

Section 30-84 Residential Parking District

- (a) The City Council has the authority, on its own motion or upon approval of a petition from a majority of the residents of the district or proposed district, to designate, repeal, or revise residential parking districts, and to establish the parking restrictions (i.e. days, hours, exemptions) for each separate residential district. Residential parking districts may be designated only in the R-1-A, R-1-AA, or R-2 zones.
- (b) Residency Required for a Permit. Residential parking district permits shall only be issued to residents of the parking district. A resident is a licensed driver who resides in a dwelling unit approved for residential occupancy and who is the owner of or a tenant in the dwelling unit or who can demonstrate by some other means of the exclusive right of occupancy.
- (c) In addition to the residential parking permit, each dwelling unit in a residential parking district with an approved application shall receive two (2) short-term visitor passes.
- (d) Temporary parking district permits are available for specific functions (i.e., party, graduation, wedding, etc.) An application for temporary permits shall be made by the resident of the district on the City application form. Temporary parking permits may be issued for 24 hours and up to seven (7) days, as determined by the City Manager.

Section 30-102 Regulation of parking and storing - ADD

- (e) Subsections (a) and (b) shall not apply to employees of a company that needs to respond to emergencies (electrician, plumber, tow truck) provided that the commercial vehicle is parked fully in the driveway and does not block the sidewalk or creates other obstructions parked at the residence; however prior authorization must be obtained from the City Manager or City Manager's designee.

Section 30-132 Regulation of parking and storing - ADD

- (d) No vehicle shall be occupied for permanent living purposes, nor connected to public utilities (sewer, water, or electric) while stored at a residence.
- (e) No vehicle shall be used as a short-term rental.

#### Section 30-133 Parking of watercraft - ADD

- C(4) No recreational vehicle or utility trailer shall be parked, stored or kept in the front yard of the property, or on any vacant or undeveloped property.
- D(4) Any vehicle parked in a front yard must be parked:
  - a. Completely on an approved prepared surface as described in (d) (4) below.
  - b. At least three feet from any existing sidewalk
  - c. At least three feet from any side lot line
  - d. At least three feet from a non-sidewalk curb or roadway if no curb.
- D(5) General standards for designated parking areas:
  - a. All areas designated as parking or driveway shall be constructed of the following materials: asphalt, concrete, pavers, 4" grave or crushed rock, mulch, or other material approved by the City Manager or City Manager designee.
  - b. All areas designated as parking or driveway shall be completely contained within a permanent border.
  - c. The borders of any prepared parking surface constructed of gravel, crushed rock, mulch, or any other loose material approved by the City Manager or City Manager designee, shall be delineated with anchored man-made or natural landscape edging materials such that the parking area is clearly defined and the loose material contained so to prevent spreading and deterioration of the parking area.
  - d. The parking area must be accessible from the driveway and curb cut if there is a curb. The parking space shall not be accessed by driving over the curb and/or sidewalk.
  - e. If in an area with an HOA (whether voluntary or mandatory), the HOA needs to approve the application.
- D(6) All improved parking surfaces shall be maintained in a good and safe condition and be free of holes, cracks or other failures that may affect the use, safety, appearance or drainage of the surface or adjoining property. Final determination of a parking surface's condition shall be at the discretion of the City Manager or the City Manager's designee.
- D(7) Permit Needed:
  - a. A permit is required for all front lawn parking
  - b. Permit must be signed by the property owner. Tenants are not allowed to sign a permit on behalf of the property owner.
  - c. The City Manager or City Manager designee will administer the permit process.
  - d. If part of an HOA, if the HOA does not allow front yard parking, then the application will be denied.
  - e. No vehicle shall be occupied for permanent living purposes, nor connected to public utilities (sewer, water, or electric) while parked on a public road right-of-way.

Mayor Fouraker spoke on the confusion by many residents and clarified that the edits are not an attempt to rob any person to fairly park but protection to areas where it is an ongoing challenge. In addition, the residents will be responsible for requesting a parking district if desired.

Council recommended the following,

1. Review of Section 30-133 – 4(d)(4)(c) At least three feet from any side lot line  
This section should be revisited because there are many homes in the city where do not have much of an option to park their recreational vehicles.
2. ~~DELETE:~~ Section 30-76(b) "...In the event, the ~~city council~~ City Manager overturns the parking violation, the fee of ~~\$150.00~~ \$50.00 shall be refunded to the person that paid such fee within five working days of the city council's decision unless the decision of the City Manager is appealed to the City Council."
3. Section 30-133 Parking of watercraft - ADD
  - D(5) a. All areas designated as parking or driveway shall be constructed of the following materials: asphalt, concrete, pavers, 4" ~~grave~~ gravel or crushed rock, mulch, or other material approved by the City Manager or City Manager designee.

**After discussion, Comm Nielsen motioned to have staff make the corrections as presented and have the City Attorney create an ordinance for first reading at the next Council meeting.**

**Comm Partin seconded the motion which passed 6:0.**

## NEW BUSINESS

### Revisions to the City Manager Employment Agreement

At this time, Mr. Francis stated that he would sit out of the discussion and will have the City Attorney introduce the discussion. Attorney Ardaman presented the revised Employment Agreement consistent with State Law and the City Charter. There are no substantive changes to the business deal between the City Council and Mr. Francis.

Comm Sims asked since the existing contract ratified since it passed by Council and signed by the employee; or is it not enforceable and can Council reopen for consideration. Attorney Ardaman said the contract approved by City Council and executed by both parties is a binding contract. The only issue concerning the law is that some of the provisions are inconsistent and should be severed and readopted for consistency.

Comm Nielsen agrees with the City Attorney and believes the changes made will clear many of the issues raised. She said the contract is very generous compensation for a city our size and noted that it is very hard to get a qualified City Manager in Florida. During the City Manager search the City received approximately 80 applications, and only two applicants were qualified. Comm Nielsen asked for clarification on the amount of PTO proposed vs. Executive Leave and where the money comes from? After discussion, Attorney Ardaman said a provision could be inserted to clarify that there will be no compensation to be paid for Executive Leave if not used. Also, Mr. Francis said the funding would come out of the General Fund.

Mayor Fouraker strongly shared his concern with procedural issues, errors, and the lack of checks and balances. Furthermore, he noted that the City Attorney did not review the contract before the City Council approval. Mayor Fouraker asked for a matrix of 5-6 cities showing comparable salaries. Comm Nielsen stated that the City did review a matrix during the initial City Manager search. She also researched the same information from the Florida League of Cities with a range of salary from \$118 to \$145.

Comm Sims stated that it is appropriate to approve the redlined changes to bring the contract consistent with State Law and the Charter. He feels that it is inappropriate to re-negotiate one iota of compensation without reopening the motion of approval. Comm Sims asked that Council motion to reopen the discussion or cease further discussion on compensation. Attorney Ardaman said when there is a binding contract it cannot be unilaterally changed; both parties must agree to renegotiation or terminate the contract.

**Comm Carugno motioned to adopt the revised City Manager Employment Agreement.**

**Comm Sims seconded the motion.**

Comm Shuck asked if this edited contract is approved does it replace the original contract. Attorney Ardaman said yes. He further stated that there is no place in writing, that he can find, that states that the City Attorney must review the contract. Also, the contract that was approved when Mr. Francis initially was hired is nearly identical to the contract written by a different attorney.

For the record, Comm Partin clarified that the Commission did review the contract and did not want to give the wrong perception to the Community. Mayor Fouraker clarified that his reference was Counsel, not the Council/Commission.

Mayor Fouraker shared his concern with the flawed process, conflicting contractual issues, and rules and procedures on governing meetings.

After further discussion, Mayor Fouraker called for the motion.

**Attorney Ardaman said the proposed changes are consistent with law and the City Manager has agreed to the changes.**

**Comm Carugno motioned to adopt the revised City Manager Employment Agreement per the corrections made by the City Attorney.**

**Comm Sims seconded the motion which passed unanimously 6:0.**

#### Appointment to Orlando Metro Plan Municipal Advisory Committee

Mr. Francis said Metro Plan Orlando is required by their by Laws to reaffirm City participation as a member of the Municipal Advisory Committee. Mayor Pisano was the City's representative, and the City should continue to participate. He suggests that Mayor Fouraker continue as the primary and would like to request a nomination for an alternate. The meetings held on the 1<sup>st</sup> Thursday of the month held in the Sun Trust park Building.

**Comm Gold moved to appoint Mayor Fouraker as the primary representative to the Municipal Advisory Committee and Sue Nielsen as the alternate.**

**Comm Partin seconded the motion which passed unanimously 6:0.**

**Attorney Ardaman stated that the City Clerk must post the meeting as Public Meetings if the Primary and Alternate representative is present at the same time.**

#### Appointment of Douglas DeYoung to the Tree Board

Mayor Fouraker announced the nomination of Doug DeYoung for the Tree Board Committee. Mayor Fouraker called for a motion to approve the nomination.

**Comm Gold moved to approve the appointment of Douglas DeYoung to the City Tree Board.**

**Comm Sims seconded the motion which passed unanimously 6:0.**

**ATTORNEY REPORT** - No report.

#### **CITY MANAGER'S REPORT**

City Manager Francis announced the following updates,

- District 7 P&Z Board member seat is open for reappointment replacing Nicholas Fouraker
- District 6 P&Z Board member seat is open for reappointment replacing Russell Cheezum
- May 9<sup>th</sup> in Casselberry – Required FLC Ethics Training. Please contact the City Clerk if you will be attending.
- May 2<sup>nd</sup> - Public Hearing Notice at the Board of Zoning Adjustments: Special Exception for an open-air market to held at 7133 South Orange Avenue
- May 21<sup>st</sup> – Board of County Commissioners - Pine Castle Urban Center Plan
- May 24<sup>th</sup> – CCA Board meeting

#### Issues Log update

- Gene Polk Park – FEMA approved total mitigation submitted by the City – awaiting State of Florida approval
- Street Paving – Miling started on Overlook. Alerts and notices delivered to surrounding neighbors
- Storm Drain – Wind Drift bids received within 2-weeks. Contract awarded at the May 7<sup>th</sup> Council Meeting
- Traffic Studies – The Trentwood neighborhood no longer want the chicane. They would like to replace it with an hourglass figure allowing one vehicle at a time
- Fountain of Nela – Duke replacing a transformer in the next two weeks
- Wallace Matchett Area – Met with residents on April 10<sup>th</sup>. Minor changes to be presented at the May 21<sup>st</sup> CC meeting
- Acquisition of Property – Awaiting appraisal for Cross Lake property
- Charter School – Have not heard from a consultant regarding our denial to sell the property. He will consider this project closed until the consultant responds.
- Strategic Plan – Extended to June 2019
- Municipal Code Update – Continued review and update.
- Comp Plan Updated - Comp Plan is coming to its 10-year update period.
- Annexation – Will start looking into annexation in the next few weeks.
- Sustainability – Awaiting quotes for Solar for the PD and CCA Building
- Forensic Audit – Finance Manager and City Manager looking as implementing policy recommendations

#### Chief's Report -

- A Citywide uptick on vehicle burglaries – Alerts have been sent out; Let's Harden The Target.
- Marine Patrol – Increase activity on the lake. Heavy citations issued to Jet Skiers over the weekend.
- Three residents have volunteered to donate 5-shotguns to the Police Department totaling 1,020.
- Police Advisory Committee selections to be presented at the May 7<sup>th</sup> City Council meeting.

## **MAYOR'S REPORT**

- Mayor Fouraker presented an Easter Egg Hunt budget for approval totaling \$450. To be held at Cornerstone at the Football Field.
  - Comm Shuck shared his concerns with the lack of process followed for special events submittals. He discussed the highlighted items in the Events Policy. He would like to have the policy followed moving forward.
  - Discussion ensued on filling the open seats on the Special Events Committee.
  - Mayor Fouraker said he or a member of the Events Committee submit an After Action Report.

**Comm Sims moved to approve the budget and plan as presented. He further added that all future events follow the special events policy as written.**

**Comm Gold seconded the motion which passed unanimously 6:0.**

**Comm Nielsen requested that the City send out an email calling for interested candidates for the Special Events Committee.**

- Mayor Fouraker announced and gave a brief update on his attendance at the Metro Plan Orientation meeting. Mayor Fouraker also thanked Mr. Francis, Comm Carugno and Chief Houston's representation at Forum with Sheriff Mina and Myra Uribe.
- Mayor Fouraker requested a motion to allow the City Attorney or Staff to review the Solid Waste contract with Republic Services to ensure proper invoicing per contract.

**Comm Nielsen moved to approve review by the City Attorney of the Solid Waste Contract with Republic Services.**

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

## **COUNCIL REPORT**

- Council welcomed the incoming Mayor and Commissioner.
- Comm Carugno gave an update of the upcoming Air Traffic Flow meetings and asked that all residents attend. The next meeting dates are April 17<sup>th</sup> (Florida Hotel), and 18<sup>th</sup> (Winter Park)

## **ADJOURNMENT**

There being no further business Mayor Fouraker called for a motion to adjourn. The motion was passed unanimously at 8:55 p.m.

Yolanda Quiceno, CMC, City Clerk