



**CITY OF BELLE ISLE, FL**  
**CITY COUNCIL SPECIAL CALLED SESSION**  
Held in City Hall Chambers, 1600 Nela Avenue

Monday, August 23, 2021, \* 6:00 PM  
**MINUTES**

Present was:

Nicholas Fouraker, Mayor  
District 1 Commissioner – Ed Gold  
District 2 Commissioner – Anthony Carugno  
District 3 Commissioner – Karl Shuck  
District 4 Commissioner – Randy Holihan  
District 5 Commissioner – Rick Miller  
District 6 Commissioner – Jim Partin  
District 7 Commissioner – Sue Nielsen

Absent was:

**1. Call to Order and Confirmation of Quorum**

Mayor Fouraker called the meeting to order at 6:00 pm, and the City Clerk confirmed quorum. Also present were Attorney Ardaman, City Manager Francis, Chief Houston, and Admin Asst Heidi Peacock.

Mayor Fouraker opened the meeting and said the purpose of the hearing is to determine as to whether Commissioner Rick Miller violated the Charter and is subject to forfeiture and removal from office pursuant to Charter Section 3.07 or other action as the Council may deem appropriate. The hearing was prompted at the last City Council meeting by a lengthy discussion.

**2. Public Comment**

Mayor Fouraker opened for public comment.

Bobby Lance residing at 6615 Matchett Road is in favor of reinstating Comm Miller and said he is quite surprised at the term of events. He shared his concerns and said he felt that Comm Miller was merely communicating to his constituents. He might not have stated all the facts, but that is how Facebook is. I don't think Comm Miller violated any Council rules or Sunshine Laws and respect his decision as a Commissioner. He spoke on some of the histories he experienced as a resident and Council member. He believes he doesn't have to step down from the Committee until Mr. Miller is finished with his work. Then, it is his job to appoint someone to fill his seat on the budget committee. He asked that Council reinstate Mr. Miller as Commissioner. Mr. Lance said he believes the Council should be fair and that all Commissioners should be treated the same, and he does not see that happening.

Mayor Fouraker said, for the record, Comm Miller was never told that he had to step down. It was his testimony that he would be willing to step down, which prompted the discussion. Following Rosenberg's Rules of Order, he was warned and removed. This hearing is an opportunity to have Comm Miller defend his case. Discussion ensued.

Cindy Lance residing at 6615 Matchett Road, thanked Comm Miller for speaking for the residents. The same respect should be given to all Commissioner Seats and given their due diligence. Many should take note of Comm Miller because he listens to his constituents and says what he needs to say, regardless of the outcome.

There being no further public comment, Mayor Fouraker closed public comment.

**2. Conduct a hearing and make a determination as to whether Commissioner Rick Miller violated the Charter and is subject to forfeiture and removal from office pursuant to Charter Section 3.07 or other action as the Council may deem appropriate.**

Mayor Fouraker read the five items that the Council believes have been violated and why we are meeting for forfeiture. The five items are as follows:

1. Violation of Sunshine Law – Comm Miller and Clay Van Kamp, Vice-Chairman of the Budget Committee, discussed City business action on Facebook on appointing a Committee meeting. F.L. Statute S.S.286.01 – Mayor Fouraker read the S.S. for the record.
2. Code of Conduct and Ethics - Comm Miller, attempted to intentionally deceive residents by a Facebook post regarding the City Manager, causing at least one resident to email each Commissioner calling for his dismissal by John Evertsen. These posts are a violation of conduct that has far-reaching consequences for the staff. Mayor Fouraker read the post for the record.
3. Directives to the City Manager under Section 3.10(c). Mayor Fouraker provided a copy of the email thread for the record. The email shows a vital threat that you are not doing what I want you to do, in conjunction with I am not getting my way. Mayor Fouraker read Charter Section 3.10 for the record.
4. Failure to Produce Public Records. Mayor Fouraker said he had received multiple calls of people wanting to look into these emails and are no longer found on Comm Miller's page. They were not forwarded to the City Clerk and may be considered destruction of public records.
5. Interference with the Administration.

Comm Miller stated that was not provided due process. He did not receive a notice of actual charges, just an agenda item. He watched the video of the meeting, and fair notice would have been appropriate. Mayor Fouraker said this is a court legislative, in part, quasi-judicial hearing, and this statute does not provide a formal format. The City has the right to hire outside counsel, but Council did not ask for that and is willing to work it through the City Council process. The public deserves to hear why this meeting was scheduled and will proceed. At that time, he will allow for responses accordingly.

Comm Miller spoke on the following,

Destruction of Public Records – He pulled up the Facebook page, and his posts are still there. He does not control the forum and assumes it may be a mistake – Belle Isle Community Group and Belle Isle City Forum. He has not deleted any posts and is there for the public view and stands behind his word.

He wasn't served with any charges on which to defend and should have received some notification.

Budget Committee Position – He spoke on the events that led to his comments. He received the Agenda from the Clerk and was surprised by the agenda item. The Code clearly states a Comm can remain in the seat, appoint themselves or someone else.

His position in April was to vacate the seat because of personal scheduling conflicts. He wanted to finish out the Budget process before bringing in someone new. Regarding Ms. Stinton, she does not have the depth of experience in public finance and thought it best to not bring in someone new so late in the process and continue until the budget was adopted. Further, he does not believe any Commissioner would appreciate the Mayor appointing someone to a seat in their district.

Mayor Fouraker said no one appointed Katherine Stinton; she was on the Agenda for discussion. An appointment will only be made until after the Council discussion. It is the position of a Commissioner to hear a person out before making a decision. Discussion ensued.

Mr. Lance interjected. Mayor Fouraker said the public comment section was closed.

Sunshine discussion – One relevant point to remember is that just because you serve on a committee in the City does not mean you can't speak about anything. The subject matter discussed was related to committee appointments that do not fall under the jurisdiction of the Budget Committee. Therefore, no sunshine violation can occur because it should not have been on the Agenda.

Deception to the Residents – Comm Miller spoke on the posts made regarding the August 4, 2021, City Council meeting. He believes it to be factual. The only questionable item was taking the liberty to assume what Comm Nielsen said. The intent was to provide information and say that three Council members do not have the power to make changes under the rules of Council until after six months before the losing side can reintroduce the motion. This particular item was brought to the

attention of the City Manager by him regarding ARPA Funds. Comm Miller provided a summary of the events that led to his comments. It was not meant to be deceptive but factual to the public.

Mayor Fouraker said you just admitted to lumping Comm Nielsen on your votes and constructively blocks her from responding because she can never reply to your Facebook posts. She won't ever be able to answer because she will be in violation. The post was deceiving and disruptive to the function of government. Then, you said another Commissioner pushed the vote. You are taking the risk by going to Facebook, and we are holding you accountable by not stating the facts. The better way to accomplish the same thing is to bring it up during Council Reports and discuss it at a Council meeting.

Items on the Agenda – At the time of the Facebook post, he didn't realize that the Mayor placed the item on the Agenda. Not to disparage the Mayor, he understood that the City Manager is the person creating the Agenda. Being rebuffed by the City Manager, Mr. Francis had the opportunity to ask the City Attorney for clarification, and Mr. Francis took the brunt of the post. He does not believe he deceived the public but did not have all facts.

Destruction of Records – His posts continue to be on the Facebook pages and available to the public.

Budget Committee – He felt that there were inappropriate comments and harsh criticism on the body of volunteers. They worked tirelessly and did not intend to meet as often as they did, but the City Manager and Council added additional items. In response to one of the comments, he further noted that the Committee performed their requested duties regarding other revenue sources, impact fees, and business licensing. Comm Miller shared the process taken by the Committee on a couple of items discussed by the budget committee.

He said he is happy to give up the seat once the budget is adopted and thought it appropriate not to make the change at the current time.

Interference with Administration- He does not believe asking a question is interference with Administration and never gave a directive to staff. He may have been a little strong in his responses. He spoke of an example where he requested clarification where the City Manager erred that occurred on May 4, 2021, for the record. He intended to ensure that he was advocating for the residents who wanted that item to proceed.

He addressed an item for ICMA investigation relating to the City Manager's involvement in elections for the record.

Mayor Fouraker said that if that statement is true, it should be addressed at another meeting and requested that Comm Miller continue his testimony on his conduct.

Mayor Fouraker said the directive was not for Wallace field; it was the direction to add and remove items from the Agenda. Comm Miller spoke on the thought process behind the request and said the comment was related to the City Manager's evaluation and meeting the deadline dates. Mr. Miller said he was traveling on business, his City phone was not working correctly, and he lumped the two items together in an email. He agrees that they should have been two separate streams.

Comm Nielsen made a call-to-order of the day and requested that we end the discussion and continue with Council discussion because debate continues on items not germane to the agenda topic.

City Manager Francis stated that the Mayor requested the agenda item because of Mr. Miller's saying that we can put them on when we get someone in. The agenda item read, "Appointment"; however, a Council discussion must occur before the Council can make a motion. Once the Mayor added it, he did not have the authority to remove it. The resume was sent to Comm Miller. Comm Miller did not ask to place it on the Agenda.

City Manager Francis said he felt his job was in jeopardy because more was to the email thread. He felt, through the email discussion, that Comm Miller was getting upset. Mr. Francis said he did not ask the City Attorney for clarification to see if he could remove an item because he was aware of the Code and would not want to add additional attorney expenses. He then received an email from Mr. Evertsen stating that he should be terminated.

Council discussion ensued. Each Commissioner shared their comments and expressed their concerns.

Attorney Ardaman stated that if the Budget Committee takes up an item, whether it is their duty or not, and it is to come before them, it is a matter to be considered. The City Commissioner has the right to make a recommendation, but he chooses to act on something it does become their obligation, is City business and subject to Sunshine Law.

If there is a response from another member concerning City business, it automatically creates a violation. Attorney Ardaman is the opinion and advises all members to avoid posting because it is easy for a response to occur.

The discussion topics consisted of,

- Comm Miller has failed abundantly in the most important role in public service. An essential role as a Commissioner is keeping the public trust and not to stir up trouble.
- Facebook's post was not factual and represented something false. The posts created a direct violation of the Charter and Sunshine Law between two committee members.
- Giving a directive and threatening Administration with their employment, creating a Charter violation.
- Violating Code of Ethics and Standard of Conduct on more than one occasion.
- Sunshine violations are not violations unless declared by a Judge. Not in favor of removal. There is a subjective standard, and it needs to be objective. There needs to be a threshold before we proceed to remove a Commissioner.

Attorney Ardaman clarified Section 3.07 and said a violation consist of "any" Standard of Conduct established by law. The Council today is evaluating "ANY" Standard of Conduct. Comm Miller has not been formally noticed by the Commission on Ethics; however, the Council has several Standards in the Code that must be adhered to. Was there a violation of the Code and State Law? Was there a violation of other parts of the Charter? The law allows Council to hear the testimony and determine if there was a violation in any Standard of Conduct.

Comm Carugno asked if Comm Miller attended Ethics Training, FLC Training, or Strategic Planning Session. Comm Miller said he had attended the FLC Ethics Training and other Strategic Planning Sessions.

**Comm Nielsen moved that the Council find that Comm Miller has forfeited his Commissioner's position by violating Sections 3.07 and 3.10 of the Charter by actively undermining the public trust.**

**Comm Carugno seconded the motion.**

Comm Gold asked how the Council process will move forward per Section 3.07 and tell the voters that their opinions don't matter. He said he would prefer to see Council start with an incremental probation period.

Comm Nielsen stated that Constituents did not elect Comm Miller. This Council elected him.

Attorney Ardaman said the Charter provides that the Council vote shall be valid and adopted by the majority vote of the quorum present – Section 3.08(c) Voting.

**Mayor Fouraker read Section 3.07, 3.07(b)(2), 3.07(b)(5), 3.10(b), and 3.10(c) for the record.**

**The motion passed 5:2 upon roll call with Comm Gold and Comm Miller, nay.**

**Comm Carugno moved to direct the City Manager post the vacated District 5 Commissioner seat.**  
**There being no discussion, Comm Nielsen seconded the motion, which passed unanimously 6:0.**

**Comm Carugno moved to remove Rick Miller and Clay Van Camp from the Budget Committee.**  
**There being no discussion, Comm Nielsen seconded the motion, which passed unanimously 5:1 with Comm Gold, nay.**

**Comm Nielsen stated, for clarification, the Sunshine violation investigation that she was accused of lasted 18-months and was unfounded.**

### **3. Adjournment**

There being no further business, Mayor Fouraker called for a motion to adjourn. The meeting adjourned at 8:45 pm.