



city council minutes

MINUTES
June 5, 2018
City Council Regular Session:
Regular Session 6:30pm

The Belle Isle City Council met in a regular session on June 5, 2018, at 6:30 p.m. at the City Hall Chambers located at 1600 Nela Avenue, Belle Isle, FL 32809.

Present was:

Mayor Lydia Pisano
Vice Mayor/Commissioner Harvey Readey
Commissioner Anthony Carugno
Commissioner Mike Sims
Commissioner Jim Partin
Commissioner Sue Nielsen

Absent was:

Commissioner Gold
Commissioner Jeremy Weinsier

Also present was City Manager Bob Francis, Attorney Kurt Ardaman, Chief Houston, Admin Assistant Heidi Peacock and City Clerk Yolanda Quiceno.

CALL TO ORDER

Mayor Pisano called the regular session to order at 6:30 pm and the City Clerk confirmed quorum. Vice Mayor Readey gave the invocation and led the Pledge to the flag.

CONSENT ITEMS

- a. Approval of the City Council meeting minutes for May 1, 2018

Comm Readey motioned to approve the consent items as presented.
Comm Carugno seconded the motion which passed unanimously 5:0

Mayor Pisano read and presented the Cornerstone Charter Academy Lady Ducks Softball Team Proclamation

CITIZEN COMMENTS

Mayor Pisano opened for citizen comments. There being no comments, Mayor Pisano closed citizen comments.

UNFINISHED BUSINESS

- a) **ORDINANCE NO.18-03 SECOND READING AND ADOPTION - AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA APPROVING THE REZONING APPLICATION OF THE CITY OF BELLE ISLE, PROPERTY OWNER/APPLICANT OF "LOT 2 WALLACE STREET" AND REZONING THAT CERTAIN PROPERTY LOCATED ON WALLACE STREET, BELLE ISLE, FLORIDA, IDENTIFIED IN THE ORANGE COUNTY TAX ROLLS WITH PARCEL NUMBER 24-23-29-8977-00-021 MORE PARTICULARLY DESCRIBED IN ORANGE COUNTY RECORDS, ORANGE COUNTY, FLORIDA, FROM SINGLE-FAMILY DWELLING DISTRICT (R-1-AA) TO OPEN SPACE (OS); PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION AND AN EFFECTIVE DATE.**

City Clerk read by title.

City Manager Francis said the Ordinance will change the Wallace field classification from single family dwelling to open space.

Comm Nielsen motioned to adopt Ordinance 18-03.

Comm Carugno seconded the motion which passed unanimously upon roll call 5:0.

- b) ORDINANCE NO.18-04 SECOND READING AND ADOPTION - AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING THE BELLE ISLE LAND DEVELOPMENT CODE, CHAPTER 48 ARTICLE II CONCERNING DOCK REGULATIONS, INCLUDING BUT NOT LIMITED TO PERMITTING, CRITERIA, EXCEPTIONS, REQUIREMENTS, MAINTENANCE, REPAIR, VARIANCES, APPLICATION PROCEDURES, DEFINITIONS, NONCONFORMING DOCKS, NUMBER, LOCATION, AND RELATED MATTERS; PROVIDING FINDINGS BY THE CITY COUNCIL; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

City Clerk read by title.

Comm Nielsen motioned to adopt Ordinance 18-04.

Comm Partin seconded the motion which passed upon roll call 4:1 with Comm Carugno, nay.

NEW BUSINESS

The appeal of Parking Ticket Issued to Greg Furneaux

Greg Furneaux residing at 1713 Idaho Avenue spoke in response to a parking ticket he received. He asked if the ticket can be changed to a warning. He wants to be in compliance and has since submitted a permit for an extension to his driveway.

Comm Nielsen motioned to approve the appeal for the parking fine and reduce it to a warning.

Comm Sims seconded the motion. Comm Sims said he understood while attending the Code Enforcement seminar, that the policy is that tickets issued should initially be a warning.

Chief Houston clarified that the Code Enforcement policy does provide an option for the first violation to be a warning. However, the Police Department does not have a policy that dictates such process. Chief Houston reported since the update of the Parking Ordinance the Police Department is working closely with Code Enforcement to ensure that violations and citations are monitored.

After discussion the motioned was passed unanimously 5:0.

The appeal of Parking Ticket Issued to Lou Ann Lovett

For the record, Lou Ann Lovett was not present at the meeting.

Mayor Pisano read the email request received on May 18, 2018, requesting a waiver of ticket #00842.

Comm Sims motioned to approve the appeal for the parking fine and reduce it to a warning.

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

The appeal of Planning & Zoning Case 2018-04-010:

Pursuant to Belle Isle Code Sec. 42-64, the Board shall consider and take action on a requested variance from Sec. 54-2 (a). -

Substandard Lots of Record, to allow for the lots that comprise the currently developed parcel to be redeveloped as two individual lots instead of being required to be aggregated as one tract, and allow for a reduction from the Sec. 50-73.- Site and building requirements, for the R-1-AA required minimum lot width of 85 feet, in anticipation of a lot split request on the subject parcel, that would result in each of the two lots retaining a substandard lot width of 75 feet, submitted by applicant Brent Walters, located at 7020 Seminole Drive, Belle Isle, FL 32812 also known as Parcel # 29-23-30-4389-02-150.

Mayor Pisano gave an overview of the quasi-judicial proceedings process regarding the appeal by Greg Gent.

Mayor Pisano called for City Council disclosure in any ex parte communication.

- Comm Nielsen said she was contacted by Bobby Lance about the Planning & Zoning Case #2018-04-010.
- Comm Partin said he was contacted by Bobby Lance about the Planning & Zoning Case #2018-04-010.
- Comm Sims said he was contacted by Bobby Lance about the Planning & Zoning Case #2018-04-010.
- Vice Mayor Readey said he was contacted by Bobby Lance about the Planning & Zoning Case #2018-04-010.
- Vice Mayor Pisano said she had a 2-minute conversation with Greg Gent regarding the procedural process for this evening.
- Comm Carugno said he was contacted by Bobby Lance about the Planning & Zoning Case #2018-04-010 and several residents in the area. He asked the City Attorney, for the record, if he will need to be excused due to the fact that he also has a lot he would like to split in the future. Attorney Ardaman said with respect to this matter it is a non-issue per Statute unless of course his future lot split was tied financially with the property owner in the case tonight.

City Manager said this case was approved by the Planning & Zoning Board. Based on the staff report, it was recommended to not approve the request based on not making the criteria for special conditions/circumstances and of being self-created.

Attorney Ardaman spoke briefly on the de novo hearing process. He stated that the code is not clear on who goes first.

Attorney Ardaman recommended having the appellant the opportunity to speak first, and then have the homeowner follow for a response.

Greg Gent residing at 2924 Nela Avenue said for the record he is for Bobby Lance County Commissioner, however, is against Mr. Lance on this lot split. Mr. Gent proceeded as a member of the community expressing his appeal opposing the lot split for 7020 Seminole Drive.

Mr. Gent presented his case by providing a power point presentation. He stated despite numerous arguments in favor, the Planning & Zoning board failed to prove a hardship and according to the code, the "Application submitted must meet all of the above criteria before the board can grant a variance". Only one Planning & Zoning member even considered variance approval criteria and the board did not state in writing on the application the reasons for the decision. He cited Section 10-67(b) and 10-67(f) of the code and said rules exist to ensure that procedures are being followed. He believes that the variance should never have been approved and approval of the lot split will create overdevelopment of land/lakeshore and set precedent.

Mayor Pisano called the applicant Brent Walters.

Attorney Joe Castrofort with offices at 1906 East Robinson Street, Orlando, FL spoke on behalf of the applicant. The purpose of his presentation is to provide clarification of the lot split project. He referenced Section 42-71(a) of the Code and stated that the appellant has not established that he is aggrieved by the actions taken by the Planning & Zoning Board giving him the proper standing to make City Council consider reversing the approval. In addition, the appellant did not present any testimony, evidence or witnesses to take this to the next level.

Comm Nielsen asked Attorney Ardaman if he believes Mr. Gent is an aggrieved party.

Attorney Ardaman stated that the Code states that there must be an aggrieved party and the City Council must make that determination based on this hearing before moving forward with the proceeding.

Comm Nielsen stated that she has received many letters from many citizens who feel strongly and believes the increased density on the lakefront will hurt them. She is inclined to think that every citizen in Belle Isle is an aggrieved party.

Comm Sims asked if Mr. Gent is aggrieved by this project only or is he aggrieved with any remaining double wide properties requesting a lot split on the lake. Attorney Ardaman said under the law each application is an independent separate matter without regard to precedent.

After discussion, Comm Nielsen motioned to agree that Greg Gent is an aggrieved party. Vice Mayor Readey seconded the motion

Comm Sims amended the motion to say Greg Gent is an aggrieved party to the Public Hearing Case No. 2018-04-010. Comm Nielsen and vice Mayor Readey agreed to the amendment which passed 4:1 with Comm Sims, nay to find Greg Gent as an aggrieved party.

Attorney Joe Castrofort gave a brief summary of the project. He said the purpose of the lot split is to ease the hardship that is on the property. The hardship to Mr. Lance is not self-created in that it is the shape of the land that is causing it to be underutilized to a financial detriment to the property owner. Attorney Castrofort said for the purpose of outlining the building, construction of the land and maintaining the spirit of the neighborhood he has introduced expert testimony to speak of the project.

Brent Walters with offices at 5227 Philips Oaks Lane, Orlando, FL 32812 said the process and the procedure were correctly followed, the application was submitted accurately and presented to the Planning & Zoning Board. Mr. Walters provided a map showing the surrounding neighbors who do not meet the current zoning code and frontage lot width. The request currently meets the character of the neighborhood and, if approved, the newly approved parcels will still be larger than 85% of the lots in the immediate zone.

Mr. Walters further presented a map showing approval of surrounding property owners most affected by the request along with a signed petition. The project will allow the property owner to build two 3,500-4,000 sq ft homes.

Comm Carugno stated most of the problem was that the Planning & Zoning Board did not follow the rules. He noted that the map that was presented does not show most of the residents in the surrounding area who have contacted him and who are opposed to the project.

Attorney Castrofort spoke to the definition of an aggrieved party. He further requested Council to disclose the names, content of phone calls and other communication from those in opposition for the record.

Philip Alexander from Total Environmental Services with offices at 3003 W. Corinne Street, Orlando, FL addressed the health and safety of the lake and the number of existing septic tanks. If the lot split is allowed the three septic tanks in the rear will require to be pushed to the front of the property away from the lake, per State code. Currently, if the property owner had an issue with the old systems he will have to go through many processes to correct.

Mayor Pisano called for a five-minute recess.

Ms. Beth Ann Baer, Realtor with offices in Orlando spoke on the current market and utilization of the land causing an economic impact to the property owner. She noted the last home on the market in Belle Isle has been on the market for 744 days due primarily to its size and price. She added that two smaller homes will be the best use of the property; cost prohibitive and the new septic tanks in the front of the lot will be more advantageous.

Attorney Castrofort said one of the most important reasons the applicant meets the requirement is because the hardship is based on the best economic use of the property and still protect the integrity and character of the neighborhood. Attorney Castrofort said the applicant does not have to subdivide the land but should be allowed to make a smart business decision.

Chris Jackson, Licensed Florida Home Inspector from Protech Home Inspections with offices at 4319 North Town Road, Orlando, FL said he inspected the exterior of the home for structural integrity and found that the home is in good repair.

Attorney Castrofort stated looking at the facts this property will improve the neighborhood in every way including curing the hardship that is currently in place. In addition, he said the project is in spirit and style of the neighborhood and it may,

- decrease the impact of the traffic;
- reduce the septic tanks from three to two and have the septic tanks away from the lake will be beneficial
- improve the neighborhood and increase property value for the City and surrounding homes.

Bobby Lance 6615 Matchett Rd, Belle Isle, FL said he has not received any negative feedback about his project. He spoke on the original construction of the home, existing septic tanks and the code to date. He said the project will be aesthetically pleasing and add substantial value to the neighborhood. He contended that the appeal does not have to do with his project but with the approval of another application and their re-submittal request for a lot split. Bobby Lance further provided a brief history of the property and its intended use. He concluded by asking Council to disclose all exparte communication for the record.

Mayor Pisano opened for public comments.

1. Michael Jungen, not in attendance, is in support of the lot split.
2. Beth Lowell residing at 2416 Homewood Drive spoke in opposition of the lot split. She asked that the record reflect that this is the fourth time speaking in opposition.
3. Emily Wiley residing at 3019 Indian Drive spoke in opposition of the lot split
4. Cindy Lance declined to speak.
5. Daniel Boytos residing at 2224 Homewood spoke in opposition of the lot split.
6. James Turner is in opposition of the lot split and deferred his time to Greg Gent.
7. Bob Harrell residing at 2800 Trentwood Blvd said he believes the P&Z Board has the latitude and discretion to approve or disapprove based on what is presented.
8. Jerry Rosencrantz not in attendance and deferred his time to Greg Gent
9. Dan Barnes residing at 6683 Seminole Drive spoke in favor of the lot split.
10. Chris Jackson is in support of the lot split and deferred his time to Bobby Lance.
11. Philip Alexander is in support of the lot split and deferred his time to Bobby Lance.
12. Charlene Kennedy residing at 2624 Homewood Drive said she is opposed to the lot split and deferred her time to Greg Gent.
13. Randi Holihan, not in attendance, is in support of the lot split.

Greg Gent gave a rebuttal to the applicant's presentation. He said there are many in approval, however; the map that was provided by the applicant did not accurately show those who are opposed to the lot split. The septic tank, best use of the property, smarter business decision, and condition of the home, improving the area and building a smart home is not relevant to the approval of the applicant's variance request. The code is crystal clear that all conditions must be met and asks that the City follow the rules.

Bobby Lance addressed the Council and stated that there are currently no code violations on this home. He further added if the Council decides to place a moratorium on lot splits they must consider the fact that "not all codes are one size fit all."

In closing, Attorney Castrofort references Elwin vs. The city of Miami was a self-created hardship and the variance was denied because it was foreseeable. There was no way Mr. Lance can foresee the development of these lots. It is not precedent and binding but irrefutable proof on what is good for the neighborhood.

Mayor Pisano closed public comment and opened for Council discussion.

- Comm Carugno asked if this home has a triplex. Bobby Lance stated for the record, that this home is not a triplex. Comm Carugno said he received many phone calls and a few emails and opined that while it will be good for the neighborhood the hardship is not verifiable and is not in support of the lot split.
- Comm Readey spoke in favor of the project and said he doesn't see anything wrong with it.
- Comm Sims said he is opposed to lot splits in general and will base his vote on merit. He doesn't believe this harms density or character and agrees that it is a good project and is in support of the project.
- Comm Partin said he has received emails and calls. He did research a quick check on the petition signatures and some of the signatories are not the deed holders and do not have a stake in the game. He said decisions today will affect the density and ecosystem tomorrow and based on the current code he is opposed to the lot split.
- Comm Nielsen said this project would be beautiful and fit the neighborhood. However, the Land Development code there are 4-criteria for granting a variance and all four were not met as required. She believes the code needs to be revisited and updated and a moratorium should be put in place to address some of the concerns before approving any future lot splits.

Comm Nielsen motioned to deny the variance request based upon the failure of Mr. Lance not establishing special conditions and circumstances and the not self-created a financial hardship.

Comm Partin seconded the motion.

Comm Sims said he does not believe the landowner did not create the hardship that the neighborhood will not support a 2.2 million dollar home.

The motion to grant the appeal and deny the variance passed 3:2 with Comm Readey and Comm Sims, nay.

In the interest of time, City Manager Francis asked that the remaining agenda items d and e to a future meeting.

Council consensus was to move items d and e to a future meeting.

Renewal of Republic Services contract

City Manager Francis said we are within the 120-day window if the City wants to go out for a Request For Proposal to go out for new services or renew the current contract for another year. The City did a quick poll on Republic Services and 95 of the 100 respondents liked the services provided. There were some comments and complaints which have been addressed. Mr. Francis said we have a good working relationship and recommends approval of a one-year renewal with Republic Services to provide solid waste and recycling services.

Comm Readey motioned to renew the Republic Services contract for another year.

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

Appointment of Cindi Matzik to the Tree Board

The appointment of Cindi Matzik is to replace Trish Reid who is out due to an accident and will have limited participation.

Comm Carugno motioned to ratify Cindi Matzik.

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

ATTORNEY REPORT

- Attorney Ardaman reported that he and the City Manager had a discussion with Florida Wildlife Commission (FWC) today and would like to present to Council in an Executive Session then for a vote on a proposed settlement on the case. He believes most of the concerns will be addressed in this proposal.

Council consensus was to schedule an Executive Session on June 19th at 5:30 pm before the regular scheduled City Council meeting.

- Attorney Ardaman reported that a draft Ordinance will be provided at the following meeting.

CITY MANAGER'S REPORT

- City Manager Francis reported that he will be out of the office starting June 7-11.
- The consultant for the Transportation Master Plan would like to hold a community meeting on June 21, 2018, from 6-9pm to discuss issues of transportation and solutions in the community.
- At the last Planning & Zoning meeting, there was an issue discussed regarding 2635 McCoy Rd. An arrangement has been made with the applicant that part of the condition of approval was that the landowner will donate a 150ft buffer piece of land to the City as open space. This is a tremendous offer on the part of the applicant. They are currently surveying the land to provide metes and bounds that will be presented to City Council for approval. They are also required to build an 8ft pre-fabricated wall along the entire line which separates the McCoy property and the residential properties on Trentwood.
- Mr. Francis provided a copy of the letter presented to the School Board for approval of certain items, requested by Council, at the following Cornerstone Charter School Board meeting.
- On the issues log, he noted that the fountain is being shipped and should be here in approximately two-weeks.
- Perkins Boat ramp should be finished shortly. Upon completion of this final task, all open issues at Perkins Boat ramp will be officially closed.
- He is working with FDEP on the purchase of Cross Lake Beach and waiting for a copy of the appraisal. He would like to commission a Phase 1 Environmental study to see if there are any concerns before obtaining the property.
- Mr. Francis reported on the Lake Conway Shores drainage project and shared his concern on the ½ inch of payment.

CHIEF'S REPORT – no report.

MAYOR'S REPORT – no report.

COUNCIL REPORTS – no reports

- Comm Sims reported that his districts Planning & Zoning Board member has resigned and will be presenting his nomination to Council at the June 19th meeting.
- **Comm Nielsen motioned to direct the City Attorney and staff to prepare for adoption a moratorium on lot splits for 90 days and to have the City Attorney bring a Resolution for approval on the June 19th City Council meeting. Comm Carugno seconded the motion which passed 4:1 with Comm Readey nay.**

ADJOURNMENT

There being no further business Mayor Pisano called for a motion to adjourn, unanimously approved at 10:00 p.m.

Yolanda Quiceno, CMC, City Clerk