



# city council minutes

MINUTES  
CC Regular Session  
July 21, 2020  
Virtual Conference 6:30 pm

The Belle Isle City Council met in a Regular Session on July 21<sup>st</sup>, 2020, at 6:30 p.m. on a Virtual Webinar (zoom.us/j/84932764113).

Present was:

Mayor Nicholas Fouraker  
Commissioner Ed Gold  
Commissioner Anthony Carugno  
Commissioner Karl Shuck  
Commissioner Mike Sims  
Commissioner Harv Readey  
Commissioner Jim Partin  
Commissioner Sue Nielsen

Absent was:

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

## CALL TO ORDER

Mayor Fouraker called the meeting to order at 6:30 pm and confirmed quorum.  
Comm Nielsen led the invocation and pledge to the flag.

## PUBLIC HEARING

### Revocation of Occupational License: Belle Isle Paddle Board LLC, dba Lake Life Paddle, Jennifer Brown

City Manager Francis gave a brief overview of the initial complaints the City received regarding Lake Life Paddles LLC. The reports included damage to boats and docks from inexperienced paddlers, launching from private property, and possibly having some of the paddlers being intoxicated. He contacted the business owner on the same day of the complaints, and on May 28<sup>th</sup> Jennifer Brown responded and said she had a solution. Ms. Brown suggested that she will go mostly mobile and do smaller tours. She also noted in her email of June 1<sup>st</sup> that she also spoke with her neighbor—Mr. Heringhaus.

The City continued to receive complaints from others on the canal. On June 5<sup>th</sup>, he contacted the business owner about additional complaints received regarding launching in the canal. He said in talking with those who submitted the complaints he suggested the possibility of launching from another place to launch and the complaints may go away. He further reported on unsubstantiated rumors that alcohol was given away for donations. On June 8<sup>th</sup>, he sent a letter outlining the complaints and advised her of an in-person City Council meeting. At that time, the pandemic was on the decline, and there was a question whether or not the Governor would extend the order pass the end of July; the Executive Order was extended.

On June 22<sup>nd</sup>, she said she had found a new place to launch and would move the rentals out of her home. She further stated that Comm Uribe was helping her with permits that may make it clear for her to work out of other lakes. She also planned to send a letter to her neighbors, letting them know of her new plans. He offered to help her and the possibility of launching from city public parks Peninsular, La Belle, or Delia. The business owner has not accepted the City's offer. Since this situation has not been resolved, on July 7th, he advised her that on July 21<sup>st</sup>, a public hearing will be held.

The crux of the matter is that residents along the canal do not want the business to launch a large group of inexperienced paddle boarders from the owner's residence on the canal. We have received many emails in support; however, it does not have anything to do with how good a community person she is, what she does for the community; but of the complaint received on her home-based business and disposition of the occupational permit. The City has provided adequate public notice, which is evident in the number of responses received.

Mayor Fouraker said the City Clerk has noted that she received a few request cards to speak.  
Mayor Fouraker opened for public comment.

Jennifer Brown's business owner of Lake Life Paddle spoke on her business practice and typical small tours. The large groups were due to the COVID first opening commencing on Memorial Day and not before. She would like to go back to small groups/events out of her home. The paddle boarders, support local businesses, and bring value to the community. The complaints that have been made regarding the alcohol are not true. They do have giveaways, but alcohol is not one of them.

Richard Gallagher residing at 6906 Daetwyler Drive spoke about the complaints and bumping into boats. He stated once they were informed of the claim, they took it very seriously, and, as a solution, they positioned themselves between the paddle boarders and any boat on the canal. It was also mentioned that they were sitting on private docks; there are no docks in the Willoughby canal. They understand the importance of protecting property and would like the opportunity to continue their business out of their home while taking care of their family.

Attorney Matthew Petra, speaking on behalf of the business owner, with offices at Zimmerman Kiser Sutcliffe, 315 East Robinson Street, Suite 600, Orlando, FL 32801. He has reviewed some of the complaints and asks that the City's decision be based on substantiated evidence and testimony provided to all parties along with personal property damaged reports. It is his understanding that they do not engage in the sale of alcohol. He stated that COVID had reduced many occupational positions, and many have to work from home. He said losing the license is a very significant penalty and may harm personal liquidity.

**Comm Gold shared his concern and motioned to table the Public Hearing until such time that the City Council can meet in person.**

**Comm Readey seconded the motion.**

**Comm Shuck said he has not heard from the business owner about the paddle boarders resting at the HOA Lake Lot, and do they have liability insurance for any boat/dock damage. He said out of the 48 public comments received, approximately 15 of them on the list are not Belle Isle residents and should be discounted.**

**Comm Carugno shared his concern and stated that the code is way too vague and should be revisited. He asked to amend the motion to revise the home occupational license for Jennifer Brown doing business as Lake Life Paddle, to include the following,**

- **Allow having an office space in her residence for taking reservations and payments**
- **Immediately cease launching in the canal, but can launch at a public place on the main lakes**
- **If she does not cease launching from the canal, her permit will be immediately revoked**
- **Have the City Manager take a look at the Home Occupational Ordinance and make it more definitive involving businesses on the lake.**

**Mayor Fouraker shared his concerns and said there are supports on both sides. He believes a business model with protocols should be in place to accommodate this type of business. The residents affected and not in support of this business should also be taken into consideration before a vote is made. He suggested a workshop if Council decides to allow the business the use of other City ramps for launching.**

**Comm Gold said he would like to move forward with his original motion.**

**After discussion, the motion failed 5:2 with Comm Shuck, Comm Carugno, Comm Partin, Comm Nielsen, and Comm Sims, nay.**

Comm Carugno motioned to revise the home occupational license for Jennifer Brown doing business as Lake Life Paddle, to include the following,

- Allow having an office space in her residence for taking reservations and payments
- Immediately cease launching in the canal, but can launch at a public place on the main lakes
- If she does not cease launching from the canal, her permit will be revoked immediately
- Have the City Manager take a look at the Home Occupational Ordinance and make it more definitive involving businesses on the lake.

Comm Sims seconded the motion.

Comm Partin asked if the Council can move on the conditions of a business license without changing the overall Ordinance.

Attorney Ardaman suggested requesting from the business owner if the conditions are acceptable. If it is not, the Council should withdraw the motion, consider other actions, or revoke the license.

Jennifer Brown, the business owner of Lake Life Paddle, agreed to the motion. She shared her concerns with being under a microscope with unfounded allegations.

After discussion, the motion passed 4:3 with Comm Shuck, Comm Readey, and Comm Gold, nay.

#### CONSENT ITEMS

- a. Approval of the City Council meeting minutes – June 16, 2020
- b. June Monthly Reports: Finance Report, Code Enforcement, and OC Fire

**Comm Sims moved to approve the consent items as presented.**

**Comm Gold seconded the motion, which passed unanimously upon roll call, 7:0.**

#### CITIZEN COMMENTS

Mayor Fouraker opened for citizen comments.

City Clerk reported that she received numerous emails for the Public Hearing which was added to the agenda packet. No other Citizen Comment requests were received.

#### UNFINISHED BUSINESS

- a. Ordinance 20-08 Second Reading and Adoption: Electric Franchise Fee - AN ORDINANCE GRANTING TO DUKE ENERGY FLORIDA, LLC. d/b/a DUKE ENERGY, A NON-EXCLUSIVE ELECTRIC UTILITY RIGHTS OF WAY UTILIZATION FRANCHISE; PRESCRIBING THE TERMS AND CONDITIONS RELATED TO THE USE AND OCCUPANCY OF MUNICIPAL STREETS AND RIGHTS OF WAY IN THE CITY OF BELLE ISLE, FLORIDA, FOR THE PURPOSE OF PROVIDING ELECTRIC SERVICE; PROVIDING FOR FINDINGS, SHORT TITLE, DEFINITIONS, GRANT OF AUTHORITY, PAYMENTS, FAVORED NATION CLAUSE, INDEMNIFICATION, RECORDS AND REPORTS, PROVISIONS IN THE EVENT OF RETAIL WHEELING, SEVERABILITY OF PROVISIONS, GOVERNING LAW, DISPUTE RESOLUTION, ASSIGNMENT/DELEGATION, DEFAULT AND TERMINATION, SOVEREIGN IMMUNITY, STATUS OF GRANTEE, LIENS, INDEMNIFICATION, INSURANCE, AND OTHER TERMS; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND PROVIDING AN EFFECTIVE DATE

**Mayor Fouraker read Ordinance 20-08 by title.**

**City Manager Francis requested Council consideration to table Ordinance 20-08 to August 4, 2020, to allow necessary changes by Duke Energy to the Ordinance.**

**Comm Sims moved to table the Ordinance to the next City Council meeting on August 4, 2020.**

**Comm Readey seconded the motion, which passed unanimously upon roll call, 7:0.**

- b. Ordinance 20-09 Second Reading and Adoption: Repeal Electric Utility Tax - AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING SECTION 28-31 OF THE BELLE ISLE CITY CODE; PROVIDING FOR FRANCHISE FEE FOR ELECTRIC UTILITY SERVICES AS ALTERNATIVE TO PUBLIC SERVICE TAX; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE

**Mayor Fouraker read Ordinance 20-09 by title.**

**Comm Sims moved to table to the adoption of Ordinance 20-09 to the next City Council meeting on August 4, 2020.**

**Comm Nielsen seconded the motion, which passed unanimously upon roll call, 7:0.**

#### **NEW BUSINESS**

- a. Discuss responsibility for maintenance of city drainage swales

City Manager Francis reported that most of the grass swales are failing in that they are not channeling water. Most of the reason for this is that property owners have allowed their swales to become overgrown to the point that the grass now acts as a dam leaving the water to accumulate and not percolate. Either the homeowners must maintain the swales or the City needs to recondition the swales. Homeowners must stop watering their swales and mow the area a lot closer than their lawns. If a swale is to work correctly, it should have an under drain that collects the water. Many of the swales constructed are without this under drain, further causing the flooding problems, such as in Lake Conway Shores. If the City is going to maintain the swales, then the staff will contact the property owners and have them disconnect their sprinkler systems to allow us to cut back the swale below the driveway.

City Manager said the City should maintain the swales following Best Management Practices.

Mayor Fouraker reported that the Budget committee discussed a cost assessment, and how we prioritize the sections of the City. Mr. Francis said the Budget Committee did not address this because it will be completed by staff and funding in the operational budget. Discussion ensued on Section 10-32 and minimal residential requirements.

**After discussion, Council consensus was to have the City move forward as proposed by City Manager Francis.**

- b. Agreement with Regal Marine for the use of Venetian Ramp

City Manager Francis reported on the Agreement with Regal Marine. He said Regal Marine usually has a customer appreciation event every year and bring in larger boats than the City allows on the ramps. This causes them a few problems because they cannot launch out of the Randolph ramp. In the past, we have received complaints because most of the boats are over 25 feet. This agreement will allow for the use of the ramp by Regal Marine, and the agreement will memorialize the agreement. The agreement presented was reviewed by the City Attorney and shared with the homeowners in the Venetian gardens area.

**Comm Carugno shared his concern with having another business operate on the lake. He said he would like to revisit the Ordinance in displaying company logos and flags on vessels. Comm Carugno moved to approve the Agreement with Regal Marine to allow Regal to launch their boats upon City Attorney review.**

**Comm Sims seconded the motion, which passed unanimously 7:0.**

- c. Consider approval of Purchase and Sale Agreement with Bank of America (BOA)

City Manager Francis reported that there is not going to be an ATM on-site and will require a \$60,000- non-refundable escrow unless BOA defaults. He said he had a meeting with Chairman Brooks, who said since there is no ATM on the property, it may change the options for CCA. They spoke of CCA using the land and demolishing the building and give them a clean slate to rebuild. The Budget Committee recommended obtaining the BOA through eminent domain. Mr. Francis said he spoke with the City Attorney and found that it can be a lengthy process and is costly.

Comm Readey said he would like to see the ATM stay on the property and asked where the City is going to obtain the money to purchase the property.

Comm Sims shared his opinion and said the Council has deliberated and voted on this issue and does not think it appropriate for the Budget Committee to cause the Council to reopen a topic of eminent domain. He believes they are out of their lane. He would like to move forward on the Council deliberation and proceed with the negotiations.

Attorney Ardaman said if there is a Council member on the prevailing side that would like to reconsider; they can bring the motion forward. Discussion ensued on the eminent domain process.

Comm Nielsen said she would like to move forward with the purchase. She is not in agreement with condemning the building, as proposed by the Chairman of the Budget Committee.

Comm Partin shared his concern with the purchase price and the assessed value of the BOA building. However, not knowing what the future use will be and how it is going to be paid for is not being a good steward of the City.

Mayor Fouraker spoke on his professional opinion on the evaluation and purchase of the real estate.

Comm Shuck spoke on uses of the BOA building and said the Police Department has outgrown its current home and would be an excellent option for the City.

Comm Readey shared his concerns and said approval of this purchase would be a travesty.

**Comm Carugno moved to extend the meeting for 15 minutes.**

**Comm Nielsen seconded the motion, which passed 5:2 with Comm Readey and Comm Sims, nay.**

**Comm Shuck moved to accept the offer of the Bank of America located at 6300 Hansel Avenue and authorizes the Mayor to execute the contract.**

**Comm Sims seconded the motion.**

**Attorney Ardaman said he does not believe the City has received the Phase 1 report, the survey, and title commitment, which are anticipated before the execution of the contract.**

**Comm Shuck amended the motion to include receipt and review of the Phase 1 report, survey, and title commitment before executing the contract to the satisfaction of the City Manager and City Attorney.**

**Comm Sims seconded the motion.**

**After further discussion, the motion passed 4:3 with Comm Gold, Comm Partin, and Comm Readey, nay.**

#### **ATTORNEY REPORT – No report.**

#### **CITY MANAGER REPORT**

City Manager Francis said, according to the agreement with Cornerstone, the Council needs to review their conceptual plan for Wallace Park. In discussions with the Chairman, he also asked for the possibility of putting in artificial turf. Mr. Francis said the artificial grass is beneficial for the environment, and cost-saving on fertilizer, irrigation, and maintenance. Renderings were provided for comment. Council was in favor of the proposed artificial turf.

Comm Nielsen said the plans look good and would prefer not like to have the duck insignia on the City side of the building. She also asked if the underground drainage will be part of the plan. Mr. Francis said no; however, the City, County, and St. Johns River Management will work in partnership on a grant for irrigation before the start of construction.

Mayor Fouraker asked if Council would rather see artwork that will emulate the partnership with the City and the School on the side of the building facing the road. Discussion ensued.

#### **Issues Log**

Mr. Francis reported that the Wawa is working with Orange County to create the right-in, right-out only. Also, Orange County is going to allow the City to add a flashing beacon at the Monet crosswalk.

### Chief's Report

Chief Houston said the health of Belle Isle officers seems to be improving. We expect officers to start returning in the next week. They had a great Police Advisory Board meeting last week with considerable discussion, including about some of the challenges facing police officers around the nation. She is looking forward to additional productive discussions.

### **MAYOR'S REPORT**

Mayor Fouraker spoke on the proposed FAA MetroPlex Plan. He stated that comments are due on July 24<sup>th</sup>. He said they met with GOAA staff and pulled in some other stakeholders in the discussion. Mayor Fouraker asked all Commissioners to write a comment that they agree/disagree with the plan. After discussion, he suggested Council, independently, to send the following feedback to include, "I am the Comm of (City)(District), on behalf of my district we oppose/agree with this MetroPlex Plan. Comm Carugno gave an update and a summary of the proposed plan.

**Comm Shuck moved to extend the meeting for 15 minutes.**

**Comm Nielsen seconded the motion, which passed 6:1 with Comm Readey, nay.**

**After discussion, Comm Nielsen moved to give the Vice Mayor authority to work with the City Manager to draft a letter that addresses the FAA MetroPlex Plan and have the Mayor sign on behalf of the City.**

**Comm Simms seconded the motion, which passed unanimously 7:0.**

**COUNCIL REPORT** – No report.

### **ADJOURNMENT**

There being no further business, Mayor Fouraker called for a motion to adjourn. The motion was passed unanimously at 9:22 p.m.

Yolanda Quiceno, CMC, City Clerk