



city council minutes

MINUTES
November 19, 2019
CC Regular Session 6:30 pm

The Belle Isle City Council met in a Regular Session on November 19, 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 Ed Gold
Commissioner Anthony Carugno
Commissioner Jim Partin
Commissioner Mike Sims
Commissioner Sue Nielsen

Absent was:

Commissioner Harv Readey
Commissioner Karl Shuck

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 Partin led the invocation and pledge to the flag.

Before the presentation of the Agenda, Mayor Fouraker publicly apologized this week for the "out of line" comments he previously made about hauler Waste Pro and its CEO John Jennings. For the record, Mayor Fouraker said, "During the June 4th council meeting, I made a statement about my personal feelings regarding my past dealings with Waste Pro and CEO John Jennings," Fouraker said. "Looking back now, I see that making those statements were out of line and inappropriate either in the forum of a public meeting or anywhere else. I apologize to Waste Pro, Mr. Jennings, and the city for making those statements and for their substance. I do not wish Waste Pro or Mr. Jennings ill."

Comm Sims made a motion to have the allotted time for the agenda from four hours to two hours.

Comm Nielsen seconded the motion which failed 2:3 with Comm Gold, Comm Carugno and Comm Partin, nay.

Comm Sims shared his concern with the time allotted for agenda items and motioned to have the meeting go through 8:30 pm and, if an extension is needed, it can be extended by motion.

Comm Gold seconded the motion for discussion.

Motion passed 4:1 with Comm Carugno, nay.

Request to Waive Non-Advalorem Fees – Gary Suggs

Gary Suggs resident and homeowner of 1603 Coleen Drive requested a waiver of the Non Ad Valorem fees of garbage and stormwater. Mr. Suggs stated that he is 100% disabled and currently has all taxes waived by Orange County for his service. He said he believes it is unfair not to waive these fees for the veterans who served the country and are 100% disabled. Mr. Suggs provided proof of disability for the record.

Mr. Francis said Non Ad Valorem fees are different than ad valorem taxes. Non-ad Valorem assessments are charges included on a property tax bill to cover the cost associated with providing City-specific services: solid waste and stormwater management. These fees are similar to services, much like water, cable, electric, and communication fees. Since these are charges for services staff is recommending to deny the request.

After discussion, Comm Nielsen motioned to deny the request because it is a service fee. Motion dies for lack of a second.

Comm Sims motioned to have staff reevaluate the recommendation and research on how common it is with similar cities to waive service fees before making a decision.

Comm Nielsen seconded the motion, which passed 3:2 with Comm Carugno and Comm Gold, nay.

Request to refund Non-Advalorem Fees – Richard Morgan

Richard Morgan resident and homeowner of 6633 The Landings Drive requested a refund of his 2017 non Ad Valorem fees for solid waste because, during that time, his home was hit by lightning and was not inhabitable for most of the year. He said he has been working with the City staff for some time on the request.

After discussion, Comm Gold motioned to reimburse Richard Morgan for his 2017 Solid Waste Non Ad Valorem fee. Comm Partin seconded the motion, which passed unanimously 5:0.

CONSENT ITEMS

Mayor Fouraker called for a motion to approve

- a) RESOLUTION NO. 19-17 - A RESOLUTION OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019, PROVIDING AN EFFECTIVE DATE.
- b) Monthly Reports: Finance, Code Enforcement, Fire, NAV Board, Marine Patrol, and PD

Comm Sims moved to approve the Consent Items.

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

CITIZEN COMMENTS

Mayor Fouraker opened for citizen comments.

- Gary Brazley residing on 5134 Darden Avenue shared his concern with the City's stand on not waiving non ad Valorem taxes for disabled veterans.
- Edward Chua residing at 3939 Isle Vista Avenue shared his concern with the new waste hauler JJ's and said the drivers appear to be doing selective pickups. He shared his frustration with the pick-up service and a recent issue with his yard waste pick up. City Manager Francis invited Mr. Chua to the Solid Waste Committee meeting to address his concerns on the 2nd Thursday of the month.

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

UNFINISHED BUSINESS

Bank of America Offer

Mr. Francis reported that the City had received a response on the proposed offer. The BOA Broker said if the City requires redevelopment rights, then the City will need to confirm agreement on the following conditions,

1. The City would provide reasonable notice for re-development and reimburse Bank for any TM relocation rights costs as a result of future development
2. Parties would mutually agree on redevelopment plans (exact language to be addressed in the contract)
3. No redevelopment to occur during the first five years of the lease term.
4. Bank will not approve to proceed without a guarantee that the City will grant rent-free ATM leaseback and can remain operational with no additional costs to Bank of America.

Mr. Francis explained that a drive-up ATM remaining or relocating at the City's expense is problematic. The walk-up ATM can fit in the City's plan, but the drive-up ATM cannot remain, nor is it acceptable to the City to have it moved at the City's expense. Mr. Francis reported that an inspection has been completed and favorable; however, the City has not received a final written report.

Orange County Interlocal Agreement

For the past year, the City staff and County staff have been working on an Interlocal agreement to transfer certain County roads to the City jurisdiction. At the November 5th meeting, he asked the Council to review the agreement and to communicate any concerns. He did have a few concerns with paragraphs 2a and 2e, which states without Board of County Commissioners' approval, the City cannot adjust traffic control, speed or weight limits. He spoke with George Shupp who said they are amending the agreement to allow for speed control such as speed humps on Seminole Drive and the possibility of lowering the speed limits on Conway to Daetwyler and Judge to 35 instead of 40 to match with the speed limit on Daetwyler. He asked for Council approval of the agreement with the conditions mentioned to move forward. Orange County Commissioners are scheduled to meet on November 22nd to discuss the agreement and the proposed changes.

Comm Carugno motioned to approve the Interlocal Agreement with the conditions stated by the City Manager and to have the City Attorney provide the last review before approval.
Comm Gold seconded the motion, which passed unanimously 5:0.

Approve Proposal of PFM, Inc. for Financial Advisory Services

Mr. Francis asked for consideration approval of the proposal submitted by PFM, Inc. Both companies had similar presentations; however, PFM, Inc. spoke of training for the staff, which is very valuable.

Comm Carugno motioned to approve the proposal submitted by PFM, Inc,

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

NEW BUSINESS

Approval of donation request from Oakridge High School

The CCA Theater Troupe is requesting the City sponsor their group for the upcoming year National Video Competition.

Comm Sims motioned to approve the sponsorship for \$500.

Comm Gold seconded the motion for discussion.

Comm Nielsen asked that the motion be modified to approve \$750 to cover the remaining cost needed for their application.

Comm Sims modified the motion to approve the sponsorship for \$750.

Comm Gold seconded the motion, which passed unanimously 5:0.

Discussion on Council Workshops

City Manager Francis said Council had shared their interest in returning to having monthly workshops following a regular meeting. He asked Council if that was a format the Council wanted to follow.

Comm Carugno motioned to table the discussion to allow for Comm Shuck to be present for the vote.

Comm Gold seconded the motion, which passed unanimously 5:0.

Lake Conway Regulations

Due to many of the issues that involve unsafe practices that have been occurring on the Conway Chain of Lakes, the Attorney Ardaman rendered a report of his findings for review and discussion. He summarized and gave a brief overview of the report that included, (1) Regulation of Boating Activities-State Preemption, (2) Regulatory vs. Information Markers, and (3) Enforcement on State Lands.

Attorney Ardaman said the Orange County Attorney's office informed him that the City.

1. Establishing seed restrictions in areas, not close to structures is subject to scrutiny by FWC, and the City will have to demonstrate through competent substantial evidence the existence of safety hazards;
2. The City may not adopt speed restrictions or vessel-exclusion zones for the purpose of protecting vegetation
3. The City may regulate matters not preempted by the boating statutes or other statutes including alcohol, litter, use of fees on-ramps;
4. The City may install information markers on lakes without FWC approval.

Attorney Ardaman said after further research, he believes the NAV Board arguably retains most of the authority to regulate the speed and wake zone on the Lake. The City has the authority to do several things on the lake beyond the Statute through the NAV Board. If the NAV Board does not agree with the City, the City can follow through with the State or FWC for a final decision.

Attorney Ardaman said he is not aware of how far the Lake Conway task committee has reviewed the findings; however, he recommends having the committee give Council recommendations on the findings before moving forward with any decisions.

Comm Gold said this would be an excellent workshop discussion. In the interim, Council consensus was to move forward to preserve the ski courses based on the grandfather clause and to have the City Manager move forward in creating a task force committee to review the findings further and report to City Council with recommendations moving forward.

Proposed Ordinance – Franchise Fees for Electric Utility

City Manager said during the previous Council workshop and public hearings franchise fees were a topic of discussion. He presented information on franchise fees and what the use of those fees would be used for. Although included in the budget, the City Council has yet to adopt the ordinance allowing for the collection of franchise fees. He said the City had received the reimbursement from FEMA, and the General Fund is now \$1.4 on the budget brought forward.

If the Council would like to move forward with a non ad Valorem fee, Mr. Francis said before the first of January, a Resolution must be in place and advertised 4-weeks prior if the Council would like to move forward with a non ad Valorem next year. Franchise Fees are different than utility tax, and the main difference is that government, schools and churches are exempt from paying utility taxes on electricity, oil, and gas but they would not be exempt from paying franchise fees. The City currently has a 3% utility tax on the books and is allowed to go up to 10%.

If the Council decides they would not like to move forward with a franchise fee increase, he requests a motion to move money from the Reserve to the Right-of-Way Fund to start on the open sidewalk projects.

Comm Nielsen said the purpose of the franchise fee is to take away some of the stress from the General Fund to create the Right-A-Way fund to repair roadways, sidewalks and keep our infrastructure in good shape; not everything can come out of the General Fund. Once the fund has been created, the staff needs to schedule an assessment of the City and place the repairs on a schedule.

Comm Nielsen motioned to direct the City Manager to prepare the franchise ordinance for electric and read it for the first time at the December 3, 2019, Council meeting.

Comm Sims seconded the motion for discussion.

Comm Carugno asked if Duke Energy can create a franchise fee for Commercial and Industrial parcels only.

Mr. Chris Tete and Mrs. Cory Connelly, Duke Energy representatives, said excluding residential properties is not a normal practice, or do they have the flexibility. Mr. Tete said he would have to consult with legal counsel on the request; however, he believes the answer will be no. The franchise fee is a flat rate across the board. Mr. Tete said franchise fees are fairly common and further added that an overwhelming majority of cities in Orange County have a franchise fee of at least 6%. Discussion ensued on underground lines for electricity.

Comm Gold shared his concern that a franchise fee will be less appealing to annexing new properties into the City.

The motion failed 2:3 with Comm Shuck, Comm Carugno, and Comm Gold, nay.

Comm Carugno said he would like to hold on to the ordinance to allow for further public involvement.

Attorney Ardaman recommended scheduling a workshop to allow the public to comment.

Mayor Fouraker said, since the previous discussion on the franchise fees, he has not received any emails opposing the franchise fees.

After discussion, Comm Carugno said he would like to hold off on the ordinance until the next Council meeting to allow for public comment and further discussion. If there are no further public comments presented at the next Council meeting, they should move forward with the ordinance.

Mr. Francis stated even though the money from FEMA was received; he recommends that the Council does not fall back on that money to repair the existing repairs needed; the funds are needed to replenish the General Fund. If the Council consensus is to have a workshop, he would like to open that discussion on additional revenue sources.

ATTORNEY'S REPORT – No report.

CITY MANAGER'S REPORT

Issues Log

City Manager Francis reported the following,

- The Auditors would like to meet and interview with a Commissioner on Thursday for the Annual Audit. Comm Partin volunteered to schedule the interview with the Auditors.
- Mr. Francis reported on the City of Orlando 348 Unit Housing Complex out on Hoffner Avenue. He explained why this is a difficult project and asked them why a traffic study was not necessary. They responded and said FDOT just made that a four-lane road, and the report was not necessary. During his testimony, he shared his concerns and the project was approved with certain conditions that did not include the traffic study. When the time comes, he would like to ask the City of Orlando, FDOT and Orange County to meet on the current and future development on Hoffner Avenue.
- Gene Polk Park – Bids are due on November 21st and will be presented to Council on December 3rd.
- Drainage – The engineers continue to review St Partin, which has been a difficult project to complete, awaiting an estimate. Also, there is a continued problem on Derine (possible collapsed pipe) and on Chiswich which is on schedule for review.
- Trentwood - The contractor will start the project on chicane with completion by Thanksgiving.
- Traffic Changes – Working with the contractor from Orange County on traffic changes on Hoffner Avenue; awaiting a call back before moving forward
- Wallace Field – The City has not heard from CCA on the Use Agreement or Certificate.
- Acquisition –The City has completed all that was requested, and there still has been no movement on Cross Lake. He will send a formal request to the Board of County Commissioners to place on their agenda for discussion. He is also looking into the “Rope Swing” property as a possible City acquisition.
- Charter School – Meeting with the CCA Financial Team.
- Strategic Plan – Plan will be presented at the end of January.
- Code Updates – Proposed changes to the Code to P&Z Board.
- Annexation – Will put together a plan for annexation for discussion.
- Solar – Continue to research solar for the school and police department.
- Forensic Audit – Researching a 5-year forensic audit for the school financing. Estimates were received in the area of \$92,000-100,000.

CHIEF’S REPORT

Chief Houston reported on the following,

- Det. Millis has probable cause to arrest a suspect for the vehicle Crunch burglaries.
- Appreciation to the Orange County Sheriff’s Office for their donation to the City of 17 individual First Aid kits.
- The Agency has asked the NAV Board for additional hours to defer additional costs to the Maine Patrol.

MAYOR’S REPORT

Mayor Fouraker reported the following,

- He, City Manager and Commissioners participated on the City’s behalf about annexing issues on Hoffner Avenue. He is not opposed to the project; however, he has shared the concerns of the additional traffic issues.
- Working on the closure of the Cross Lake issue.

COUNCIL REPORT

Comm Carugno – District 3

- He continues to monitor the Noise Abatement meetings. He appreciates the support of the Council and the residents who have attended the meetings. Based on the calls from Belle Isle residents, they have placed a virtual wall on the east side on Conway Road which will alert the office on plans flying lower than required. The next meeting for the Noise Abatement is Dec 13th.
- Comm Carugno gave an update on upcoming holiday events:
Tree Lighting – Dec 11th
Boat Parade Dec 13th, 14th, and 15th
Santa Ride Dec 18th and 19th
- Comm Carugno motioned to cancel the December 17th meeting.
Comm Sims seconded the motion which passed unanimously 5:0

Comm Gold – District 1

- Comm Gold asked for an update on the disposition of the laptops. City Manager Francis said they agreed on \$50 for each laptop to Belle Isle Police department staff.
- Comm Gold asked for consideration to open discussion on changing the qualifying period from one week to two-three weeks and to change the write-in candidate option. City Manager Francis said he research the request and report at a future date.

Comm Sims – District 4

- He has received a resignation on the Police Advisory Board and has nominated Randi Holihan as a replacement.
- **Comm Sims motioned to nominate Randy Holihan to the Police Advisory Board.**
Comm Gold seconded the motion, which passed unanimously 5:0.

Comm Nielsen 0 District 7

- The City is having their 1st Annual Bake-off and look forward to receiving applications. There will be prizes awarded.

ADJOURNMENT

There being no further business, Mayor Fouraker called for a motion to adjourn. The motion was passed unanimously at 8:50 p.m.

Yolanda Quiceno, CMC, City Clerk