



city council minutes

MINUTES CC Regular Session and Workshop March 3, 2020

The Belle Isle City Council met in a Regular Session and Workshop on March 3, 2020, 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 Karl Shuck
Commissioner Jim Partin
Commissioner Sue Nielsen

Absent was:

Commissioner Mike Sims
Commissioner Harv Readey

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

CALL TO ORDER

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

Mayor Fouraker recognized Orange County Commissioner Mayra Uribe and City of Edgewood Commissioner Allan Horn, who was in attendance.

Mayor Fouraker called for a motion to excuse Commissioner Sims and Comm Readey absence for tonight's meeting.

Comm Gold motioned to excuse Comm Sims and Comm Readey for tonight's meeting

Comm Nielsen seconded the motion, which passed unanimously.

POLICE DEPARTMENT RECOGNITIONS

Chief Houston recognized the following officers,

- Officer Hernandez promoted to the rank of Sergeant
- Officer Allen Wasmund promoted to the position of Corporal

Chief Houston presented an Award of Commendation to Crossing Guard Lizary Simons for performing beyond the call of duty and protecting the children of Cornerstone Charter Academy.

UNFINISHED BUSINESS

ORD 20-01 - SECOND READING AND ADOPTION: AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING THE BELLE ISLE LAND DEVELOPMENT CODE, CHAPTER 48, ARTICLE III, SECTION 48-63 – TREE PROTECTION; PROVIDING CLARIFICATION OF TREE PRESERVATION PROCESSES, PROVIDING FOR AN APPEAL PROCESS AND PROCEDURES; PROVIDING SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

City Manager Francis said the proposed ordinance puts the State law into the existing tree ordinance, including an appeal process.

Comm Shuck moved to adopt Ordinance 20-01

Comm Gold seconded the motion, which passed upon roll call 5:0.

NEW BUSINESS

Meeting Calendar

City Manager Francis provided a meeting calendar for review and submitted a formal format that will be offered monthly to the Council.

ADJOURNMENT

There being no further business, Mayor Fouraker called for a motion to adjourn the City Council meeting. The motion was passed unanimously at 6:45 p.m.

CALL TO ORDER

Mayor Fouraker called the workshop session to order at 6:50 pm.

Mayor Fouraker welcomes the NAV Board members present: Gary Meloon, Francis Guthrie, and Dr. Nelson.

Discussion of Lake Conway Issues

City Manager Francis gave a summary of the last few years on the traffic on the Conway Chain of Lakes and how it significantly increased. He shared a few excerpts from past NAV Board meetings and spoke briefly on prior discussions.

Mr. Francis referenced the Administrative Rule FAR 68D-23.101 which states,

- No restricted boating area be established, continued in effect, or enforced for noise abatement or the protection of the shoreline, shore-based structures, or upland property from vessel wake or shoreline wash.
- As provided in Section 327.33(2), FS, "vessel wake and shoreline wash resulting from the reasonable and prudent operation of a vessel shall, **absent negligence**, not constitute damage or endangerment to property."
- The wake resulting from the reasonable and prudent operation of a vessel is a force that should be anticipated by the owners of property adjacent to the navigable waters of this state.

In 2019 the City met with residents and drafted an ordinance for some regions of the Lakes to be "slow speed" minimum wake." Following the City Attorney provided a report on his research which concludes,

- In 1957 the Florida Legislature created by the special act the Lake Conway Water Navigation Control District
- The Special Act grants the Navigation Control District broad authority, including the following:
- "to make rules and regulations governing speed and operation of watercraft plying the waters within said District."
- "to build, erect and maintain, and repair navigable canals within said District";
- "to provide for the punishment of violations of such rules and regulations";
- "protection of public riparian property rights."
- The two primary statutes are limiting local government authority, Fla. Stats. 327.60 and 327.46, only reference municipalities and counties and do not mention special districts like the Navigation Control District.
- The statutes arguably do not supersede the authority granted to the Navigation Control District by the Special Act.

In sum, we believe that the District retains all authority granted to it by the Special Act and that in the event of a conflict between FWC and District authority, District authority would prevail.

The City discussed its position with the Orange County attorney's office. They informed us that one of their previous attorneys, who is no longer employed in their office, had advised the County that 1) the District retains its authority under the Special Act except for authority to establish no-wake and minimum speed zones; and 2) the District must obtain FWC approval before placing any signage upon lakes.

For the reasons discussed in this section, the City disagrees with the previous County Attorney's first point, as we believe the District retains all authority granted to it by the Special Act, including the power to regulate boating speed and operation. Mr. Francis said he received a memorandum from the Assistant District Attorney referencing restrictions under 327.60.

Mr. Francis further spoke to the Code on the Waterways found in both Orange County and Belle Isle Code of Ordinances.

In speaking with some members of the boating and boating recreational community, it appears that they agree with the Orange County and City regulations on distances. Still, they see the 36 mph speed limit as problematic for wakeboarding and skiing. It might be acceptable to change the rules to state that the speed limit will remain at 36 mph unless a vessel is towing a wakeboarder or skier. The speed limit will be 50 mph or whatever is acceptable to those in the recreational industry. Mr. Francis said FWC has a process for getting ordinances approved, which allows City and/or County to apply for review and approval. The application must provide evidence deemed substantial for the Board to adopt an ordinance to protect public safety.

The City has adopted an updated ordinance which,

- It does not ban any watercraft from the lakes.
- Establishes a definition of "slow speed" and "minimum wake."
- Describes waterways or portions of waterways as Slow Speed Minimum Wake zones
 - A boating safety zone from the shoreline to shoreline, at the "Narrows" on Little Lake Conway

- A boating safety zone, along the shoreline on the Conway Chain of Lakes, incorporating one, continuous zone with no gaps, on the center lake for Canoe/Kayak Trail (1990 Comp Plan)
- Sea Plane Bases

Mr. Francis said at a minimum a coalition of elected officials before the FWC in support of the FWC approving Orange County's regulations or the City's ordinances

Mayor Fouraker opened for public comment.

- Woody Johnson residing at 2523 Kissam Court, spoke on jurisdictional control to enforce local Ordinances. He believes local authority can cause devastating problems for water-skiers and gave four examples of local ordinances (City Code 34.46, 34-35(d), restricting hours on the lake and requirement use of coast guard life vests). There is a practical solution in SS 327, which essentially provides if a person is preparing for a tournament water ski, none of the discussion points should apply. Mr. Johnson said if local government gains jurisdiction, it is essential that knowledgeable water ski experts participate with local lawmakers when passing new ordinances.

Comm Carugno shared his concerns with creating special rules for a specific group of people. The ordinance is drafted to make the lake safer for all residents and create a unified solution with the City and the County. Also, he would like to see SS 327.65 enforced immediately on the lake.

- Larry Meddock from Watersport Associates residing at 4860 Waterwitch Point Drive spoke in agreement with the comments made by Mr. Johnson. He said he does not believe the State will support the recommendations, and the changes are not necessary because of a small group of residents who want to restrict activity in the narrow. Discussion ensued on the speed of water skiers on the lake.
- Dwayne Kuck residing at 2110 Hoffner Avenue spoke in support for the continued safety on Lake Conway and speed limit change of 45mph for everyone w/exceptions to towing.
- Bill Lafferty residing at 5331 Pasadena Drive is a professional wakeboarder and promotes safety practices on the lake and is active in educating the water sports community.
- Councilmember Horn said he has his concerns on the safety issues. He said in his official capacity, and he has heard zero complaints on lake safety.

Comm Carugno asked how much it will affect water skiers to place a minimum wake zone in the narrows. Mr. Meddock said yes, it would be because it will be solely arbitrary, and the water sports community will fight against the change.

Mayor Fouraker asked the public if they had an alternative solution to hone in for the continued safety on the lake and in the narrows. Discussion ensued on a speed limit regulation of 45mph.

Chief Houston stated 95% of the complaints received are regarding personal watercrafts. The focus has to be placed on those operators causing danger to those on the lake.

Council discussed the creation of an Advisory Committee. After discussion, Mayor Fouraker asked Comm Uribe if the NAV Board will be open to creating a subcommittee to incorporate both the City of Edgewood and Belle Isle. Comm Uribe suggested and invited the Mayor and public speakers to meet with her to have an open meeting where she can report back to the NAV Board at their next meeting.

Attorney Ardaman said it would seem wise to have a broad group of interested parties (water sports industries, homeowners on the lake, residents, interested users of the lake) to provide input and participate with the NAV Board with the decision making process.

Mayor Fouraker said, at this time, the Council will hold on moving forward to allow Comm Uribe the time to meet with the water sports community. Mr. Francis asked Council if they want to continue with a draft ordinance to adopt Orange County's ordinance for consistency. Council consensus was to move forward with a draft ordinance for review.

ATTORNEY REPORT - na

CITY MANAGER REPORT

City Manager Francis reported that the work at Gene Polk Park is going terrific and on time. He will be sending a draft letter to CCA as a result of the last discussion.

MAYOR'S REPORT

Mayor Fouraker reported on the following,

- Duck Dash – March 7th
- OC League of Mayors – Mayor Fouraker gave a summary of the transportation tax plan.

COUNCIL REPORT

Comm Gold – na

Comm Carugno

Comm Carugno announced Hot Rod for Heroes at the Oviedo Mall on March 21st.

Comm Shuck

Comm Shuck spoke on the AirBnB legislation and recommended the City be proactive on rental and vacation rentals.

Comm Partin

Comm Partin announced the Candidate Forum at the Pine Castle Woman's Club. They are looking for a moderator – date to be determined.

Comm Nielsen

Comm Nielsen said she was asked by a resident if the Council can reconsider excusing veterans from all or some city taxes. After discussion, Council consensus was not to revisit.

ADJOURNMENT

There being no further business, Mayor Fouraker called for a motion to adjourn. The motion was passed unanimously at 8:30 p.m.

Yolanda Quiceno, CMC, City Clerk