



# CITY OF BELLE ISLE, FL

1600 NELA AVENUE, BELLE ISLE, FL 32809 \* TEL 407-851-7730

## MEMORANDUM

From the Desk of Bob Francis, City Manager

**To:** Mayor and Council  
**Date:** December 1, 2020  
**Re:** Changes/Additional Information to December 1, 2020 Council Meeting Agenda

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The following information is provided to you for tonight's meeting:

Agenda Item 6.b. Hiring a Lobbyist: The engagement letter for considering a lobbyist is included. The lobbyist will work with the City Attorney and City Manager on issues that involve the issues that Belle Isle residents have with enforcement of safety on Laker Conway. This topic was brought up at the Budget Committee Meeting yesterday; however, although the Committee was in favor, they did not take action. The funding for this (\$30,000) would come from the City Attorney line.

Agenda Item 6.c. Resolution 20-18: I was contacted on November 30<sup>th</sup> that one of the residents in the area near Perkins Ramp had a problem with the proposed resolution and suggested the changes in the included resolution to allow for 22.5' for all other watercraft except for pontoon boats which will be 24'.

Agenda Item 6.d. Request for AG Opinion: Mr. Miller sent the enclosed email on November 30 regarding his request for the City Council to request an opinion from the AG on whether the Mayor is included as a member of Council under the Sunshine Laws, or can the Mayor have a discussion with a Commissioner. Included with his email is the AG Opinion 90-26 which he references. I sent this on to the City Attorney for further review and included the City Attorney's response.

Agenda Item 10.a. BING Application: Commissioner Nielsen sent an updated budget for the Windsor Place BING application for a playground. It increases the budget from \$11,294.93 to \$15,467.93. The HOA is requesting \$8,467.93. The grant meets the criteria and the funds are available; however, the policy calls for a 50% match, which this clearly exceeds. Section 2.i. of the 2017 BING Policy states: Provide a 50/50 match of the total cost of the project, including cash, volunteer effort, materials, or any combination (based upon availability) of cash and in-kind services. Therefore, the amount allowed is \$7,733.96. In the FY20-21 Budget, each Commissioner is allocated \$5,000. Unless another Commissioner provides additional BING funding, the City will fund \$5,000, or other amount as determined by Commissioner Nielsen.

Agenda Item 6.b. Hiring a Lobbyist



**ORLANDO OFFICE**

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11/18/2020

Bob Francis  
City Manager  
City of Belle Isle  
1600 Nela Ave  
Belle Isle, FL 32809

Dear Mr. Francis:

Thank you very much for your interest in The Southern Group of Florida, Inc. (The Southern Group). We appreciate the opportunity to provide lobbying services to the City of Belle Isle. The Southern Group is committed to providing the highest level of service in furtherance of your goals. This agreement will describe the terms under which that representation will occur.

You have asked that we represent City of Belle Isle in front of state and local government on issues relating to Lake Conway including boat safety. In addition, as part of our scope of service, The Southern Group will provide ancillary services such as electronically forwarding to you on a daily basis relevant newspaper articles, analyses, and important governmental announcements. You may wish to review in detail the qualifications of the team at [www.thesoutherngroup.com](http://www.thesoutherngroup.com). However, in order to ensure that your needs are efficiently and fully addressed, I will be the primary contact for this representation. If I should ever be unavailable, I would encourage you to contact Oscar Anderson.

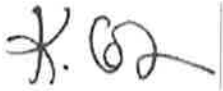
In exchange for these services, City of Belle Isle has agreed to pay The Southern Group \$5,000 a month starting November 1, 2020 through April 30, 2021. For your convenience, payment may be remitted via ACH or wire transfer. If you are interested in either of these payment options, please indicate so on the enclosed client information form and someone from our accounting team will follow up with you. Otherwise, all payments should be remitted to P.O. Box 10570, Tallahassee, FL 32302. No monthly costs will be incurred without your prior approval. Also, by signing below, you agree that you will complete any forms necessary to comply with lobbyist registration requirements under Florida law that may arise as a result of our representation of Finrock during the term of this contract or after its termination should reporting periods overlap.

Please be aware that Florida has a lobbying fee disclosure law that requires quarterly disclosure of fees. Please review the attached fee disclosure form to fully understand this regulatory requirement and ensure that you agree with the information we will be submitting to comply.

It should also be noted that The Southern Group has affiliated offices in other states and within the state of Florida. The Southern Group has a policy of declining representation of clients when that representation would immediately create a direct conflict with other clients that The Southern Group currently represents. You have retained The Southern Group for representation in Florida, and we know of no conflicts with our current clients. In order to ensure the candor and trust in our relationship that forms the basis of effective representation, it is the policy of The Southern Group to keep confidential within each office all information about your business interests and strategies.

I believe the above reflects our understanding. If it does, please sign this agreement and return with the completed client information, which is enclosed. I appreciate your attention to this matter and look forward to working with you. Please never hesitate to contact me if we can assist the City of Belle Isle in any way.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Cohen", followed by a vertical line.

Kelly Cohen

Enclosures

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Mr. Bob Francis

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11/18/2020

Agenda Item 6.c. Resolution 20-18

**RESOLUTION 20-18**

**A RESOLUTION OF THE CITY OF BELLE ISLE,  
FLORIDA, CHANGING CERTAIN RULES AND  
POLICIES REGARDING USE OF THE PERKINS BOAT  
RAMP AS A WATERCRAFT LAUNCHING FACILITY.**

**WHEREAS**, the City of Belle Isle has complete jurisdiction and control of the Perkins Boat Ramp; and

**WHEREAS**, it is incumbent upon the City to preserve and protect the residential nature, economic and esthetic value of its neighborhoods through the promulgation and enforcement of rules and regulations which provide for the health, safety, and welfare of the residents; and

**WHEREAS**, the City desires to continue to allow the use of the facility by the Belle Isle citizens for the limited purpose of launching watercraft in a safe and responsible manner; and

**NOW, THEREFORE BE IT RESOLVED** that the following changes to the rules and regulations of adopted by the City Council by Resolution 03-07 shall be implemented and enforced by the City of Belle Isle:

1. Watercraft greater than ~~25'~~ 22.5' in length shall be prohibited from launching at the Perkins Boat Ramp, with the exception of pontoon boats which may not exceed 24'.
2. Vehicles with watercraft trailers shall be prohibited from parking at the diagonal spaces at Perkins Boat Ramp if they will impede access to the ramp. The City will mark the spaces to show the maximum length. Vehicles that impede access to the ramp will be fined and towed at the owner's expense.
3. If increasing the length of the watercraft to ~~25'~~ 22.5' for watercraft other than pontoon boats and 24' for pontoon boats, in any way, disrupts the quiet enjoyment of the property owners in the community near the ramp, the City will, upon the request of the property owners, revert back to the 20' maximum boat length.
4. All other rules listed in Resolution 03-07 remain in effect.

This Resolution shall take immediate effect upon enactment. Passed and adopted this 1<sup>st</sup> day of December, 2020.

CITY OF BELLE ISLE

ATTEST

\_\_\_\_\_  
Nicholas Fouraker, Mayor

\_\_\_\_\_  
Yolanda Quiceno, City Clerk

Agenda Item 6.d. Request for AG Opinion

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## City Attorney Opinion - Sunshine Law for Mayor and Unopposed Candidates

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Rick Miller <rmiller1970@gmail.com>  
To: Bob Francis <bfrancis@belleislefl.gov>  
Cc: Yolanda Quiceno <yquiceno@belleislefl.gov>

Mon, Nov 30, 2020 at 7:53 PM

Good question.

I did see you put it on the agenda (thanks). I can either use this as talking points or you can share it with the commission. Let me know your thoughts.

Sample of what I'm seeking and why...may not be the best language.

Whereas, the City of Belle Isle Charter section 4.01 states that the mayor shall be the "head of state" of the City of Belle Isle and shall have limited duties and powers as are specifically enumerated under this charter;

Whereas, the City of Belle Isle Charter section 4.05 innumerate the powers and duties of the mayor including

(A) Preside over all council meetings and shall have the right to take part in discussion but may not vote.

(B) Represent the city at meetings designated by city council in advance concerning matters of the city interested within intergovernmental relationships;

(C) Be recognized as head of the city government for all ceremonial purposes only, by the governor after the proper declaration of martial law by the governor, and for service of process;

(D) Present an annual "state of the city" message to the city council on the first meeting in the month of November of each year from the floor of the city hall outlining issues of concern for the upcoming year and legislative and grant sessions;

(E) Sign contracts as directed by city council on behalf of the city that have been previously approved by the council.

(F) Serve as presiding officer at any scheduled or specially held city council meeting.

(G) Assist the city manager and to insert items in the city agenda under the mayors report and perform such other duties as are specified in this charter or may be required by the council.

Whereas, the City of Belle Isle Charter section 4.06 innumerate the power of the mayor to have Veto power, as described below

(A) Except as otherwise provided herein, any ordinance or resolution adopted by the council shall be presented to the mayor for approval or disapproval.

The mayor shall approve or disapprove the item no later than 3 business days after the meeting in which the item was approved. If approved, the mayor shall sign the ordinance or resolution forthwith and deliver same to the city clerk with immediate action and it shall become effective according to the terms thereof. If disapproved, the mayor shall, no later than the next regular meeting of the council or 30 days after the date the ordinance or resolution



was first adopted by the council, whichever occurs first, return the ordinance or resolution to the council without his or her signature, accompanied by a message indicating the reasons for the disapproval and recommendation. The council may override the disapproval of the mayor by a majority vote of all the commissioners present at the meeting in which the disapproval is received, in which event, the ordinance or resolution shall become effective 10 days after such meeting. In the event the mayor does not approve the ordinance or resolution and does not return the disapproved ordinance to the council by the next regular meeting of the council or 30 days after the date the ordinance or resolution was first adopted by the council, whichever occurs first, the ordinance or resolution shall become effective immediately. City clerk shall keep track of such time periods and provide to council the outcome of any action or inaction by the mayor as to any use of the veto power.

(B) Ordinances or resolutions regarding the following matters shall not be subject to veto power of the mayor:

- (1) Quasi-judicial decisions of the council, including by way of example but not by way of limitation, interpretations of the City of Belle Isle Code and appeals of city board decisions;
- (2) Reductions in code enforcement penalties;
- (3) Determinations of the council to enter into a contract;
- (4) Personnel actions, including but not limited to, hiring, termination, disciplinary and promotional decisions; and
- (5) Decisions regarding issues to be placed on or removed from council agenda.

Whereas, the Belle Isle City Commission, via ordinance (2-54) allows the council to create advisory committees and the same ordinance states the mayor **may** be a voting member of the advisory committee for the district in which he or she resides, but also states that the mayor **shall** serve as a nonvoting ex-officio member of any advisory committee on which the mayor is not a voting member.

Whereas, the Mayor, has not elected to be a voting member of any advisory committee and therefore per the ordinance holds an ex-officio seat on all the advisory boards in Belle Isle.

Whereas, the Mayor, via an agreement with the City of Belle Isle Charter Schools Inc. also holds an ex-officio seat on the board of directors.

Now THEREFORE, we the City Commission would like to refer this matter to the Attorney General for the State of Florida to render an advisory opinion as to whether or not the mayor, who is a non-voting member of the City Council, who has no authority to break tie votes, and only limited veto authority and also holds Ex-Officio seats on the City of Belle Isle Charter Schools Inc board of directors, as well as an Ex-Officio seat on each of the City of Belle Isle advisory boards is subject to Florida's Government in the Sunshine law by answering these three questions:

May the mayor, who is by charter a non-voting member of the city council, who does **NOT** have the authority to vote or break tie votes but who does possess the veto power over legislation passed by the city council, privately meet with an individual member of the city council without violating the Government-in-the-Sunshine Law?

May the mayor, who is an ex-officio member of the City of Belle Isle Charter Schools Inc. board of directors meet privately with members of the board of directors without violating

the Government-in-the-Sunshine Law?

Similarly, may the mayor, who is an ex-officio member of the City of Belle Isle Advisory Committees (Solid Waste, Tree, Budget, Special Events, and Police) meet privately with members of the advisory boards without violating the Government-in-the-Sunshine Law?

Using AGO 90-26 as a guide, the key differentiator was "the power to vote was a primary factor in determining whether the mayor was considered to be a part of the city council for purposes of the Sunshine Law."

Please advise.

[Quoted text hidden]

# Florida Attorney General Advisory Legal Opinion

Number: AGO 90-26

Date: April 11, 1990

Subject: Sunshine Law, mayor possessing veto power only

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Mr. Joseph H. Weil  
City Attorney  
City of Sweetwater  
500 Southwest 109th Avenue  
Sweetwater, Florida 33174-1398

RE: MUNICIPALITIES--GOVERNMENT IN THE SUNSHINE LAW--applicability of Sunshine Law to discussions between mayor possessing only veto power and individual member of city council

Dear Mr. Weil:

You ask substantially the following question:

May the mayor, who is not a member of the city council and does not have the authority to break tie votes but who possesses the veto power over legislation passed by the city council, privately meet with an individual member of the city council without violating the Government-in-the-Sunshine Law?

In sum, I am of the opinion that:

The mayor, possessing only the veto power, may meet privately with an individual member of the city council without violating the Government-in-the-Sunshine Law provided he is not acting as a liaison between council members and neither he nor the council member have been delegated the authority to act on behalf of the council.

According to your letter, the Mayor of the City of Sweetwater is not a member of the city council which has its own president and vice-president. He does not participate in the council proceedings except to be allowed to speak. He has no voting power and in the case of a tie vote, is not permitted to break the tie with a vote.

The mayor, however, does have the power to veto legislation passed by the council. The council may override the mayor's veto by a five-sevenths vote of the entire council. You ask whether this veto power places the mayor within the legislative process to the extent that he is prohibited from meeting privately with individual members of the city council.

Section 286.011, F.S., the Government-in-the-Sunshine Law, provides in pertinent part:

"(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting."

The statute has been held to be applicable to meetings of two or more members of a public board or commission.[1] In addition, the term "meeting" has been interpreted to encompass informal discussions and deliberations as well as formal action taken by a public body.[2]

Clearly, when two or more members of the city council meet to discuss some matter which will come before the council for action, such a meeting is subject to the Sunshine Law. However, whether the provisions of s. 286.011, F.S., are applicable between a mayor and individual members of the council turns on the nature of the relationship between the mayor and the city council.

In those municipalities where the mayor is a member of the city council, discussions between the mayor and another member of the council clearly would be subject to the Sunshine Law. This office has also stated that where the mayor is not a member of the council but has a voice in the decision-making process through the authority to break a tie vote, the mayor is subject to the requirements of the Sunshine Law when discussing matters which could come before the entire council and possibly involve him through his power to break ties.[3]

In each of those opinions, the power to vote was a primary factor in determining whether the mayor was considered to be a part of the city council for purposes of the Sunshine Law. Under the charter for the City of Sweetwater, the mayor is a separate executive officer possessing no power to vote under any circumstances.[4] The power to veto with no accompanying power to vote would not appear to make the mayor a member of the council for purposes of the Sunshine Law.[5]

Accordingly, I am of the opinion that the mayor, possessing only the power to veto, is not a member of the city council to whom the Sunshine Law applies. Meetings between the mayor and an individual member of the council, therefore, would not generally be subject to the terms of s. 286.011, F.S.

This is not to say that instances may not arise in which the Sunshine Law would be applicable. For example, if the mayor is acting as a liaison between members of the council on matters which will come before the council, the Sunshine Law would be applicable to such meetings between the mayor and an individual member of the council.[6] Moreover, if the mayor of the individual council member, or both, have been delegated the authority to act on behalf of the city council, the Sunshine Law would be applicable to any discussion between these individuals regarding such matters.[7]

Sincerely,

Robert A. Butterworth  
Attorney General

RAB/tjw

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[1] See *Hough v. Stembridge*, 278 So.2d 288 (3 D.C.A. Fla., 1973); *City of Miami Beach v. Berns*, 245 So.2d 38 (Fla. 1971).

[2] See, e.g., *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693 (Fla. 1969).

[3] See AGO's 75-210 and 85-36. Compare AGO 83-70 stating that if some matter falls within the administrative functions of the mayor and would not come before the city council for consideration and further actions, discussions between the mayor and an individual council member are not subject to the Sunshine Law.

[4] See ss. 4.01 and 4.09, Charter, City of Sweetwater.

[5] See AGO 85-36 in which this office concluded that the mayor of the Town of Branford who had no power to vote but possessed the power to veto was not subject to the Sunshine Law. Cf. Advisory Opinion to the Governor, 12 So.2d 583 (Fla.1943), in which the Court stated that the Governor's duty to review legislation is an executive rather than legislative function.

[6] See, e.g., *Blackford v. School Board of Orange County*, 375 So.2d 578 (5 D.C.A. Fla., 1979), in which the court held that scheduled successive meetings between the school superintendent and individual members of the school board held in order to avoid a public airing of a controversial redistricting plan violated the Sunshine Law. And see AGO's 74-47 and 89-39, respectively, stating that a city manager and county commission aides are not subject to the Sunshine Law unless they are acting as liaisons between board members.

[7] See AGO 90-17 in which the office discussed the applicability of the Sunshine Law to a commissioner negotiating a garbage collection contract. And see AGO 74-294 concluding the Sunshine Law was applicable to a single member of a public board to whom the authority to act on behalf of the board had been delegated.

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## City Attorney Opinion - Sunshine Law for Mayor and Unopposed Candidates

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Dan Langlely <dlanglely@fishbacklaw.com>

Tue, Dec 1, 2020 at 8:18 AM

To: Bob Francis <bfrancis@belleislefl.gov>, Kurt Ardaman <ardaman@fishbacklaw.com>

Bob/Kurt:

Council member-elect Miller is missing the part of AGO 90-26 discussing how the City of Sweetwater Mayor **was not** a member of the Council and did not chair the City Council meetings. That Mayor in AGO 90-26 was effectively an administrator like a city manager and not a member of the City Council.

**“According to your letter, the Mayor of the City of Sweetwater is not a member of the city council which has its own president and vice-president. He does not participate in the council proceedings except to be allowed to speak. He has no voting power and in the case of a tie vote, is not permitted to break the tie with a vote.” See AGO 90-26**

Section 3.01 of the Belle Isle Charter expressly makes the Mayor a member of the City Council. Under Section 3.01, City Charter, the term “City Council” includes the commissioners and the mayor. The Sunshine Law prohibits non-public meeting discussions between two or more members of the same board, commission or council discussing city business. Since the Mayor is on the city council he cannot have non-public city business discussions with any other member of the city council.

Sec. 3.01. - Creation, powers and composition of city council.

There shall be a city council with all the legislative powers of the city vested therein. The city council may by ordinance or resolution prescribe the manner in which any power of the city shall be exercised. The city council shall consist of seven (7) commissioners; one residing in each of seven (7) election districts, elected at large by the qualified voters of the city. **The mayor shall be a non-voting member of the city council.** The term city council in this Charter shall include the commissioners and the mayor.

I have no problem with asking for an AGO for the City if that is what the Council wants to do. Thanks.

**Daniel W. Langlely**

Fishback Dominick

**A: 1947 Lee Road, Winter Park, FL 32789**

**P: (407) 262-8400**

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**E: [dlanglely@fishbacklaw.com](mailto:dlanglely@fishbacklaw.com)**

**W: [fishbacklaw.com](http://fishbacklaw.com)**

Agenda Item 10.a. BING Application

**BELLE ISLE NEIGHBORHOOD GRANTS (BING)**

<b>BUDGET AND GRANT REQUEST</b>		
<b>NAME OF BUSINESS</b>	<b>TOTAL COST</b>	<b>DESCRIPTION OF SERVICES</b>
Vinyl Nation	\$ 8799.00	Vinyl Swing Set E-54
	\$ 2300	Playground Border 8" (32 x 28)
	\$ 250	Fabric liner
	\$ 2850	3-ton rubber mulch
	\$ 275 (Not taxed)	Removal of old swing set
<b>TOTAL AMOUNT OF PROJECT</b>	<b>\$ 15,467.93</b>	
<b>GRANT AMOUNT REQUESTED</b>	<b>\$ 8467.93</b>	
<b>NEIGHBORHOOD PARTICIPATION AMOUNT (REMAINDER OF INVOICE)</b>	<b>\$ 7000.00</b>	