



The Belle Isle City Council met in a City Council Regular session on November 4, 2020, at 6:30 p.m. at City Hall 1600 Nela Avenue, Belle Isle, FL 32809.

Present was:

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

Absent was:

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

CALL TO ORDER

Mayor Fouraker opened the meeting at 6:30 pm. Comm Gold gave the invocation and led the Pledge to the Flag. The City Clerk confirmed quorum.

Mayor Fouraker shared his condolences to Comm Readey and his family on the passing of his wife, Alice Readey. Comm Readey said they would have a Memorial Service at St John's Vianney on November 21, 2020, at 1:00 pm.

APPEAL OF PUBLIC HEARING

Mayor Fouraker opened the Public Hearing and called for any ex parte communication. He stated that Mr. Giles is his neighbor and has had numerous conversations with the applicant regarding the proposed variance and Dale Robinson.

Comm Partin and Comm Carugno also shared that they have had some communication and have seen the property from the waterside.

Don Gervase, Attorney for the applicant, spoke on the denial of the variance and clarified some of the existing issues that were not addressed at the Planning & Zoning meeting. Mr. Gervase provided a handout with Orange County Maps from 2006-2020 and 10 photos of the dock. He addressed the following citing City Code Section 48-33,

1. The last meeting staff's recommendation addressed all of the issues and recommended approval of the variance request.
2. The dock was put in place over ten years ago and grandfathered-in.
3. As a reference point, the aerial photos from 2006-2020 show the structures very close to each other and always abutting.
4. In 2018, the roofline changed. Attorney Gervase stated that the applicant pulled a permit for a new roof for his home and, at the same time, repaired his existing boat dock roof. The applicant was not aware that a separate roof permit was required.
5. The applicant corrected a safety hazard with a 2-foot extension, into his property, on the right side of the boat skip, and has enhanced the boat dock's complete safety and that of his neighbor Mr. Robinson.
6. The applicant has complied with the Code and passed inspections once he was informed that he did not initially follow the City Code by the City.
7. This is a unique situation to enhance the community and to have to deconstruct the dock would be wasteful when it has been grandfathered-in. Attorney Gervase asked that the Council grant the variance before passing the proposed After-the-Fact Ordinance.

John Giles, residing at 6838 Seminole Drive, said he is a licensed electrical contractor and explained that he was not aware that additional permits were required when repairing his boat dock. In good faith, we were beautifying the property and was not aware of the Code.

Dale Robinson's residing at 5834 Cove Drive, spoke in favor of the proposed variance. As a resident of 53 years, he said he has no objection to the repairs. He understands that the docks are very close, but the expansion provides him much needed access to his dock and board system.

Mayor Fouraker opened for public comment. There being none, he closed public comment and opened for Council discussion.

Comm Readey asked if the dock was structurally sound and inspected by an Engineer. Mr. Giles said, yes, the additions have already passed the permitting phase. Comm Readey said the inspector should have caught the setbacks of the dock.

Comm Partin asked if the P&Z Board provided a recommendation. City Manager Francis said yes, it was to deny the variance.

Attorney Langley read the requested variance for the record; pursuant to Belle Isle Code Sec. 48-33, the Board shall consider and take action on a requested variance from Sec. 48-32 (A) (1) and Sec. 48-34 to allow an expansion of the dock to extend the roof of an existing nonconforming dock, allow replacement of pilings and decking on the nonconforming dock, and allow a variance from the required side setback for the existing dock, submitted by applicant Jeffrey Giles, located at 5842 Cove Drive, Belle Isle, FL 32812 also known as Parcel Number 20-23-30-1660-00-090.

Attorney Langley said this is a de novo meeting, and Council grants a motion to approve or deny the variance on what is presented at this meeting.

Comm Nielsen asked if the applicant is asking for approval of variance after completing the work without a permit. Mr. Giles said, yes. Comm Nielsen shared her concern and said Mr. Giles is a licensed contractor and should have known better and have followed the rules. She is inclined to deny the variance and support the decision made by the Planning & Zoning Board.

City Manager Francis gave an overview of his findings and referenced Section 48-34(b)-Maintenance and repair of docks and Section 48-34(c)-Nonconforming "grandfathered" docks. Mr. Francis spoke on the following,

1. The current issue is self-created because he failed to obtain a permit. If he would have received a permit, he would have been informed of the requirements, setbacks, and permitting.
2. The roof was repaired and lowered, having the two docks to touch, causing a safety hazard without a permit. The walkway was added with no permit. In 2016, the Orange County Code and City Code was clear that a separate permit was required to initiate any construction to a boat dock or pilings.

Mr. Francis further noted prior violations for a patio, no turbidity barrier around the dock, no safety fence around a swimming pool, sand beach installation violation with EPD, and unsubstantiated violation for a drain field non-permitted room addition/bathroom.

Mrs. Giles residing at 5842 Cove Drive, shared her frustration, and explained the drain field's unsubstantiated violations and proposed room addition/bathroom.

Comm Sims said this type of work requires a permit, and if the process was followed, the applicant would not be having this discussion because the need for the variances would have been evident. He agrees with Comm Nielsen and is inclined to second the motion to deny the variance.

Comm Shuck called for the question.

Comm Gold asked how the applicant can rectify the wrong without costing the applicant a high cost; what harm has it caused. City Manager Francis said the harm caused was that the rules were not followed. The applicant has violated the Code on numerous occasions, and in this instance, the abutting docks have caused a navigational safety hazard.

Comm Carugno shared his concern with the extended walkway and the pictures that show a pump on the beach and lights on the dock. The amount of work on the dock is way over the amount that was written in the permit. Comm Carugno said there is a lot more unpermitted work done in the City, and if the Council lets this go, it is opening a Pandora's Box.

Comm Nielsen moved to deny the appeal of Public Hearing 2020-08-006 application for a variance by Jeffrey Giles, 5842 Cove Drive, Belle Isle, FL 32812. She also moved that the dock located at 5842 Cove Drive be brought into conformance with Section 48 of the BIMC by applying for and receiving an approved permit within 90-days of the date of this hearing and constructing the dock within 6-months of the date of the permit.

Comm Sims seconded the motion, which passed unanimously by roll call 7:0.

CONSENT ITEMS

- a. Approval of the October 6, 2020, City Council minutes.
- b. Approval of the October 20, 2020, City Council minutes.

Comm Shuck moved to approve Consent Items a and b as presented.

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

CITIZEN COMMENTS

Mayor Fouraker opened for citizen comments.

There being no comments presented, Mayor Fouraker closed citizen comments.

UNFINISHED BUSINESS

Proposed Ordinance to change "After-the-Fact" permits and fines

Mr. Francis said, as a result of the October 20, 2020 meeting, the Council directs that the staff research what other municipalities provide in the way of penalties associates with after-the-fact fees. He offered a list of approx 10-cities that currently apply after-the-fact fees. He spoke of an existing violation of Seminole. To reiterate, he said permits are essential because they provide a permanent record of work and inspections on a project. He asked Council three questions.

1. Does the Council want to have a date of March 1, 2010, as discussed or the date of the Ordinance adoption?
2. Does the Council want to have both the After-The-Fact permit and Work-Without-Permit permit or just an ATF permit?
3. What is considered a fair penalty but strong enough to dissuade residents from applying for a permit?

Comm Carugno moved to accept the staff recommendation to increase the after-the-fact penalty and direct that the appropriate Ordinance be drafted for a first reading.

Comm Sims seconded the motion for discussion.

Comm Gold said he would like to see the penalty breakdown as simple and sufficiently painful and be based on double the permit fee and triple the after-the-fact fee.

After discussion, the motion passed unanimously upon roll call 7:0.

NEW BUSINESS

Donation Request for Pioneer Days

Comm Nielsen motioned to sponsor \$600.00 to the Pine Castle Pioneer Days for the acoustic stage.

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

ATTORNEY REPORT

No report.

CITY MANAGER REPORT

City Manager Francis gave an overview of the following,

- November 11 is Veterans Day – City will send a message via elert.
- November 13th, the City will be closed for the installation of a generator. However, the City Clerk will be available from 8-12 noon on Friday, November 13th to accept qualifying packets.
- Bing Grant (10,000) for Lake Conway Estates Dock has been completed.
- The first week in December, staff will meet with Sienna Condos staff to discuss Annexation
- He will be on vacation from November 16-20
- Tri-County League of Cities asked if the City would like to host the luncheon on April 15, 2020. Council consensus was in favor of the request, and Council will discuss at a later date on location and menu.
- New Red Cedar was planted at City Hall. The tree will serve as the City's permanent Christmas Tree.
- RFP out for Flashing Beacon/Crosswalk on Hoffner and Monet.
- OC and Wawa have been working together to correct the right-in to the plaza. Two options discussed; the more favorable is to put a right in only by Wendy's and Wawa.

Issues Log:

- The staff is working on the cost of paving for proposed projects.
- Storm Drainage – Flag locates on Sol moving forward.
- 1631 Wind Willow project moving forward; Stafford Ave and Pam Circle project plans almost complete for approval.
- We are awaiting the NAV Board report on the current project list to partner 50/50 split.
- Wallace Appeal to be heard on November 17, 2020
- Close on the BOA property on November 10, 2020. The car dealership is currently parking on the lot and will be noticed accordingly by BIPD once the City closes on the property.
- CCA discussions on the expansion continue.
- Waltham residents and Publix continue discussions regarding involuntary Annexation.

Re-Appointments of Doug DeYoung-District 1 and Emily Wakley-District 5 for the Tree Advisory Board

Comm Sims moved to reappoint Doug DeYoung and Emily Wakely to the Tree Advisory Board.

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

Chief's Report

Chief Houston reported on the following,

1. Chief Houston urges all residents to be respectful to Law Enforcement, who are doing their job and upholding the law.
2. Holidays around the corner - Do Not Drink and Drive.
3. Zero Tolerance – Traffic detail by Cork and Fork
4. We are placing portable signs and speed trailers around the City.

Special Events Committee Holiday Report

Holly Bobrowski, Chairman of the Special Events Committee, presented the Holiday Santa Ride for consideration. Following the CDC Guidelines and social distancing, the Committee recommends a two-night (December 15-16, 2020) Santa Ride around the neighborhoods. No one will be allowed on the sleigh other than the Mayor, Santa, and three members of the Committee. Toys and small candy bags will be provided in a sealed cellophane bag to prevent any contamination.

Comm Carugno said he received an email from Anita Saaco from Lake Conway estates who said she did not see the need for such expense at this time and asked if the Committee will be able to obtain donations. Ms. Bobrowski said she is working on donations for the event.

The consensus was to move forward with the proposed event.

Comm Carugno asked Council for consideration and a motion to cancel the second meeting, December 15, 2020.

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

MAYOR'S REPORT

Mayor Fouraker reported on the following,

1. Mayor Fouraker spoke on the NAV Boards' agenda item to increase the City's MSTU taxes and review the assessment report to improve the canals. He announced the NAV Board meeting is scheduled for Tuesday at 6:30 pm – Environmental Division Office 3165 McCrory Place Suite 200, Orlando. He asked for resident and Council participation. Any comments or questions and requests to attend the meeting can be emailed to Tara.Erbanik@ocfl.net.
2. KUDOS to Otter Paddle for the Lake Cleanup efforts.
3. KUDOS to the Public Works Department for their work on Hoffner.

COUNCIL REPORT

Comm Gold

- Comm Gold thanked the BIPD for their commitment to the community. He further thanked them for their assistance in clearing the group of individuals camping out at Cork and Fork.

Comm Carugno

- Daytona Ordinance – Comm Carugno noted that Daytona had passed an ordinance: Vehicle Noise on and asked staff to research further to see if we can apply a similar ordinance in our Code.
- Santa Ride – December 14, 15 and 16th
- ANAC Meeting – December 11, 2020, Orlando Intl Airport Conference Room
- Free firewood available. If interest, please contact Comm Carugno.

Comm Nielsen

- Comm Nielsen said she believes wearing masks is required in Orange County and should consider placing signs accordingly.

ADJOURNMENT

There being no further business, Mayor Fouraker called for a motion to adjourn. The motion passed unanimously at 9:45 p.m.

Yolanda Quiceno, CMC, City Clerk