



CITY OF BELLE ISLE, FL CITY COUNCIL MEETING

Tuesday, July 20, 2021, * 6:30 pm
MINUTES

Present was:

Nicholas Fouraker, Mayor
District 1 Commissioner – Ed Gold
District 2 Commissioner – Anthony Carugno
District 3 Commissioner – Karl Shuck
District 4 Commissioner – OPEN
District 5 Commissioner – Rick Miller
District 6 Commissioner – Jim Partin
District 7 Commissioner – Sue Nielsen

Absent was:

1. Call to Order and Confirmation of Quorum

Mayor Fouraker called the meeting to order at 6:30 pm, and the City Clerk confirmed quorum. Also present were Attorney Ardaman, City Manager Francis, Deputy Chief Grimm, and City Clerk Quiceno. Comm Partin's participation was remote via zoom.

2. Invocation and Pledge to Flag - Commissioner Shuck, District 3

Comm Nielsen gave the invocation and led the Pledge to the Flag.

3. Appointment of District 4 Commissioner

City Manager Francis said the City followed procedures outlined in the City Charter after Comm Sims' resignation. The City received three applications for the position, Randy Holihan, Daniel Barnes, and John Evertsen. Of the three candidates, two met the qualifications, Mr. Holihan and Mr. Barnes. On July 13, Mr. Barnes withdrew his candidacy due to possible conflict with a new appointment in Orange County. Therefore, Mr. Holihan is the one candidate for the position. He said Mr. Holihan currently serves on a few City boards and frequently attended the NAV Board meetings.

For clarification, Comm Miller asked why Mr. Evertsen was disqualified as a candidate. Mr. Francis said the staff received the application; however, the Election Officer, following Section 3.02 of the City Charter, disqualified the applicant because he is not a resident of District 4, therefore, does not meet the qualification.

Comm Miller said, to be fair to all applicants, we have a Mayor who does not live in the City and continues to be in that capacity because of a special exception from the Council. He asked why that courtesy was not extended to the applicant. Mr. Francis said the Mayor qualified and was already elected when Council extended the courtesy; the applicant was not.

Attorney Langley explained that under the Charter's laws, the Mayor was elected to the position. The only way to forfeit the position is to resign, die, or the person is declared to have lost the seat by Council. The Council determined that the Mayor still possesses qualifications to be the Mayor. The Charter provides a bonafide residence in the City if they hold a valid exemption in the records of Orange County. The Council has not voted to have the Mayor's office forfeited and continues to serve. A person who is not an existing council member and serves in any district seat must be a resident of the District one year before qualifying. If the Council disagrees with that position, the Council can change the Charter and the requirements for candidacy moving forward.

Mayor Fouraker asked how that would work in November during the upcoming qualifying period. While he has had continuity and ownership in the City and despite COVID19, he has not lived in his home for 12 months due to the ongoing construction. Attorney Langley said, without having all the particulars, he asked the Mayor if he intends to live in the City and has homestead exemption for a residence in the City at the time of qualifying. Mayor Fouraker said he was denied the exemption. Still, he asked the Orange County Appraisers office if he would qualify for homestead exemption and appeal the decision since he has lived on the property before tarring it down. The Appraisers Office said yes, he would be eligible and should re-apply. Mayor Fouraker said he did not appeal the decision because he said it would just be a technicality because he has performed his job dutifully.

Attorney Langley said the position of Mayor does not require the elected position to reside in a particular district in the City. There are more factors to homestead exemption to determine if a person lives in the City. The Charter elevates homesteaded status as a pre-empted case of residency. If that is one factor and the person can prove other factors that they were a resident for one year before qualifying, the Clerk can determine the qualification.

Comm Miller asked if there is an appeal process available above the Clerk level. Attorney Langley said there is no appeal process outlined in the Charter; however, there is a provision that the Council is the judge and qualification of its members. Comm Miller asked why the applicant would be excluded from due process, set precedence, and open ourselves to potential legal action. Attorney Langley said the Charter does lay out the procedure where a person is applying for the position that they satisfy the residency and qualification requirements. The Clerk did exercise the proper duty to make that determination. He did not see the appropriate mechanism to challenge the decision.

Comm Gold said if the applicant was present to speak on an appeal, maybe Council can consider and override the decision. However, without him being present, the decision should stand.

Comm Gold moved to appoint Randy Holihan as the District 4 Commissioner for the remainder of the term, effective immediately.

Comm Miller seconded the motion, which passed unanimously 6:0 upon roll call. Comm Partin was not eligible to vote due to remote (zoom) participation.

Mayor Fouraker swore in Randy Holihan as Commissioner for District 4.

4. Consent Items

- a. Approval of the July 6, 2021 meeting minutes
- b. June Reports: Code Enforcement, BIPD UCR Report 2020, Marine Stats, NAV Board, and OC Fire Unit Responses

Comm Nielsen moved to approve the Consent Items as presented.

Comm Carugno seconded the motion, which passed 6:0. Comm Partin was not eligible to vote due to remote (zoom) participation.

5. Citizen's Comments

Mayor Fouraker called for citizen comments.

Glen Harris residing at 2100 Nela Avenue spoke on a couple of landscaping issues on his property and asked the staff for some assistance with the City Code and requirements. Mr. Harris further asked for clarification of employment and the resignation of Dwayne Bennett. He shared his concerns with the information he received and asked if there was potential legal action to the City, and asked if there was any public information that can be shared. Mayor Fouraker said there is pending litigation, and the staff will contact him regarding the landscaping concerns.

There being no further comments, he closed citizen comments.

6. Unfinished Business

- a. Discussion regarding bank signatures

Mr. Francis said the concern was discussed previously of the City banking services only verifying one of the two signatures on City checks. City Council asked City staff to draft an RFP for banking services. After some further research, he found that very few banks perform a dual signature certification, and if they perform this function, it may be an extra charge. The double signature is an internal City policy to prevent fraud. City Manager Francis shared some of the concerns of the Council and welcomed and introduced South State Bank representatives John Wayne, Kim Henschhold, and Jeff Braumal to answer any questions.

Ms. Kim Henschhold, Treasury Manager, stated that the City's internal controls are solid. The dual control requirement and verification of checks are typical with small municipalities and are considered best practices.

Comm Miller shared a scenario of an authorized signer having the ability to go to the bank and deposit/wire or cash a signed check that does not require dual signature verification. Mr. Braumal said it is highly unlikely and unusual to occur; however, the staff would call City for verification if such would happen. Due to the sheer volume of dual check verification, it would be costly and sent to the central office for review; it would not be verified at the local bank.

Mr. Braumal said the City opts to participate in the Positive Pay Program, which provides additional external controls. Comm Miller stated that he could not sign the Resolution and the bank documents in good conscience because they are contradictory. After further Discussion, Comm Miller shared his concerns and said there might be other opportunities to make additional interest revenue and offer higher protection on resident dollars.

Mr. Francis said after researching the Positive Pay Program, he found that it may add additional internal control processes that may be hard to manage with a Department of one staff. Mr. Francis stated that the City is bonded and has Errors & Omissions insurance. Discussion ensued. John Wayne spoke on the City and Bank's long-term relationship.

After further Discussion, Comm Shuck moved to continue with the current bank relationship. Comm Carugno seconded the motion, which passed 5:1 with Comm Miller, nay. Comm Partin was not eligible to vote due to remote (zoom) participation.

Comm Miller stated that the Resolution and bank documents should acknowledge one-signature verification. Attorney Langley recommended that the Resolution be placed on the agenda at the next meeting for Discussion and approval.

Mayor Fouraker called for a five-minute recess.

Attorney Langley said Resolution 21-05 authorizes a member of Council and Mayor to sign checks. It requires two signatures on all payments, and it does not require any verification of the bank. The bank signature card document states that the bank will verify only the required two internal control signatures.

Attorney Langley suggested a motion to have Resolution 21-05 revised to remove Comm Sims and add Comm Holihan as a signatory.

Comm Shuck moved to bring forward Resolution 21-05 to remove Comm Sims and add Comm Holihan as a signatory. Comm Gold seconded the motion which passed unanimously 6:0. Comm Partin was not eligible to vote due to remote (zoom) participation.

7. New Business

a. Ordinance 21-09 - AN ORDINANCE OF THE CITY OF BELLE, FLORIDA, AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF BELLE ISLE TO ADOPT A PRIVATE PROPERTY RIGHTS ELEMENT TO COMPLY WITH SECTION 163.3177, FLORIDA STATUTES; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND EFFECTIVE DATE.

City Clerk read Ordinance 21-09 by title.

Attorney Langley stated that the Legislature passed a bill that is effective as of July 1, requiring all cities and counties to have a Private Property Rights Element in their Comprehensive Plan. The City will not be able to process any Comp Plan amendments through DEO without adopting the required element.

Comm Nielsen moved to read Ordinance 21-09 for a second reading and adoption at the next Council meeting of August 3, 2021.

Comm Holihan seconded the motion, which passed unanimously upon roll call 6:0. Comm Partin was not eligible to vote due to remote (zoom) participation.

b. Resolution 21-15 - A RESOLUTION OF THE CITY OF BELLE ISLE, FLORIDA, APPROVING A POLICY TO PROVIDE AN EMPLOYEE BONUS PROGRAM; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

City Manager Francis said on June 15th City Council discussed the Governor's order to allow public safety officers a \$1000 one-time bonus payment. A few years ago, the City Attorney's office stated that employee bonuses are not allowed under State Statute, and therefore, the bonus policy was rescinded from the personnel manual. Since that time, the City Attorney reviewed the Statutes and determined if bonuses are authorized, it will not be retroactive; but for those bonuses moving forward and adopted by Resolution.

Comm Nielsen shared her concerns with performance bonuses. She said it was discussed a few years back by Council, and it was determined that it was a bad way to award employees towards merit. She believes bonuses are terrible for morale and are open to charges of favoritism. Mayor Fouraker shared his opinion on the benefit of staff bonuses.

City Manager Francis said one-time bonuses for uniformed and non-uniformed staff are awarded to employees who have worked above and beyond at that time. A merit raise will carry over regardless of the work performed. The Policy will also outline clear standards and criteria. He believes it is a good tool for morale as long as there is a clear criterion in place. In addition, the City Council will have budgetary controls and will depend on the availability of funds.

Comm Miller said the federal funds be paid through the ARPA Funds to award uniformed/first responder staff who worked through COVID. The internal bonuses would be given to those employees not covered under the government order. Discussion ensued.

Attorney Langley said approval of the Resolution depends on whether the majority of the Council supports both concepts to allow the Governor's Order and allow for Employee Bonuses. Suppose the majority of the Council does not agree with both concepts. In that case, the motion will need to be separated. The Resolution should be amended to add a contingency to have the City match the State bonuses to non-uniformed employees.

Comm Carugno moved to approve Resolution 21-15 adopting an employee bonus policy and providing a one-time \$1000 bonus to employees.

Comm Holihan seconded the motion.

Mayor Fouraker said the motion should be clarified to prove they receive State funds to avoid double compensation. Comm Carugno said no; his motion is to adopt the Resolution as written. Discussion ensued.

Comm Miller said the policy doesn't allow for the payments to be described because some Department totals are capped at \$10,000 and have more than ten employees.

Attorney Langley asked for clarification if Council's intent to amend the Resolution was not to allow a double bonus. Discussion ensued on Sections 3 and 4H.

The motion failed 1:5 with Comm Gold, Comm Shuck, Comm Holihan, Comm Miller, and Comm Nielsen, nay. Comm Partin was not eligible to vote due to remote (zoom) participation.

Comm Nielsen moved to approve the one-time \$1,000 from the State to every employee who came to work during COVID.

Discussion ensued. City Manager Francis said the State Funds are for first responders/uniformed employees and not for non-uniformed employees. He may be able to submit a request for ARPA funding for non-uniformed employees. The State funding will be sent directly to the staff; the funding will not be issued to the City. Comm Nielsen said she does not support a Bonus Policy as a routine matter.

Comm Holihan said regardless of where the money is coming from why the Council would penalize the employees. A couple of employees will not receive State Funds and have worked hard, and the City should fund the bonus.

Comm Nielsen clarified her motion to approve State bonuses to uniformed employees and, if applicable, to give non-uniformed employees out of ARPA funding.

Comm Gold seconded the motion.

After Discussion, Comm Nielsen withdrew her motion.

Mayor Fouraker recommended a motion that would oblige Comm Carugno's original request. Approve the Resolution, as it relates to the bonus policy, per the line item that needs to be incorporated.

Comm Partin said he would like to have the motion include funding from the State or ARPA for those non-uniformed employees who came to work during COVID. The bonus policy can be handled separately.

Comm Nielsen moved to approve State and ARPA funding to give all employees a \$1,000 bonus.

Comm Gold seconded the motion.

The motion did not pass.

Discussion ensued.

Comm Carugno moved to table the item for further research.

Comm Nielsen seconded the motion, which passed unanimously 6:0. Comm Partin was not eligible to vote due to remote (zoom) participation.

c. Approval of Strategic Planning

The City Manager said the last Strategic Planning Session held in 2019, the Mission and Vision were updated, and some objectives were created. At that time, there was not much community input. He has received two proposals for consideration that will incorporate community open house and information.

Comm Nielsen moved to approve the Florida Institute of Government proposal at the University of Central Florida for strategic planning services.

Comm Shuck seconded the motion, which passed 6:0. Comm Partin was not eligible to vote due to remote (zoom) participation.

8. Attorney's Report – No report.

9. City Manager's Report

a. Issues Log

- City Manager Mr. Francis (CM) gave an overview of the July 20, 2021 issues log; he noted the following
- Two grants were submitted to FDEP for Wallace and harmful algae
- Preparing to bid Sol project
- 1st draft of Impact Fees should be received next week
- CCA will start the first element development stage for Wallace field – Parking and Artificial Turf
- Charter School Lease to be scheduled for discussion
- Municipal updated – Accessory Dwelling Units and Comp Plan updates
- Lake Conway - Discussed issues with Lobbyist to meet with FWC
- Chambers Audio system completion date September 30
- Based on complaints, City contacted Orange County (OC) on poles on Hoffner. The City has total jurisdiction on the ROW on Hoffner (Embassy east to the back of Shopping Center). OC has responsibility between the white lines on Hoffner (Embassy west towards Hansel – from the back of the Belle Isle Commons plaza back to Hoffner).
- CM added (1) Process of ARPA Funding, (2) Redistricting, and (3) Palm Square Condo Issues on the issues log. CM gave a summary on the current Palm Square Condo issues as aired on Channel 9 News.
- Ethics Training will be available again sometime in August.

Mayor called for a five-minute break. The meeting resumed at 8:50 pm.

Comm Nielsen moved to extend the meeting by 15 minutes.

Comm Miller seconded the motion, which passed unanimously 6:0. Comm Partin was not eligible to vote due to remote (zoom) participation.

c. Chief's Report

Deputy Chief Grimm said the agency has been proactive throughout the City and has no report.

10. Mayor's Report

Mayor Fouraker reminded residents of the Back to School Vaccine Event to be held at the BOA Building on August 2 from 3-7 pm.

11. Items from Council

- Comm Nielsen said the CM Evaluation is due and may need to schedule a date for review. CM Francis said he would provide an updated Evaluation packet to the Mayor and City Clerk for distribution.
- Comm Miller gave an overview of the Florida League of City Legislative updates. Comm Miller also noted that former staff Dwayne Bennett had contacted him in the past. City Manager Francis said the City is not in litigation now; however, the City has received information from Mr. Bennett's attorney for payment. The request has been forwarded to the Insurance company for review.

12. Adjournment

There being no further business, Mayor Fouraker called for a motion to adjourn. The meeting adjourned at 9:15 pm.