

**CITY OF BELLE ISLE
WORKSHOP SESSION
SEPTEMBER 27, 2006
8:30 A.M.**

The City Council of Belle Isle met in workshop session on Tuesday, September 27, 2006, 8:30 a.m., in the Belle Isle City Hall Council Chambers, 1600 Nela Avenue, Belle Isle, Florida, 32809.

The following members were present:

William G. Brooks	Mayor
Thomas G. Petruzzi	District 1
Charles R. Scott	District 3
Larry I. Ady	District 4
Harvey Readey	District 5
Eric S. Spaulding	District 7

Absent were Commissioner Prince, District 2 and Commissioner Pisano, District 6 and City Manager Larry Williams.

Also present were City Attorney John Bennett, City Clerk Belinda Bateman, General Services Coordinator Suzanne O'Shea, Kristen Dion, Boyle Engineering, and others.

MAYOR'S REPORT:

Mayor Brooks asked Kristen Dion, Boyle Engineering Corporation, to advise Council of the Comprehensive Growth Plan amendment.

Ms. Dion advised that the City has received comments back from the Florida Department of Community Affairs (DCA), submitted a revised amendment, and now at a point where we are adopting by Ordinance, the amendment and transmitting the adoption copy of the amendment to DCA.

She asked Council if they had any concerns or questions regarding the amendments.

Commissioner Petruzzi stated it looked pretty straight forward to him and he did notice anything of concern.

Ms. Dion advised that Policy 1.3.3 regarding Level of Service does not show the correct LOS for Conway Road.

Mayor Brooks responded that Conway Road is not in Belle Isle.

Ms. Dion responded she would advised DCA.

There were no other items of concern and Ms. Dion ended her presentation.

Mayor Brooks opened discussion on Street Resurfacing.

He advised that to mill and resurface Nela and Homewood and replace the curbing would be in the \$800,000 - \$900,000 range.

Discussion ensued regarding the type of curbing that would be installed, whether there is enough budgeted for the proposed area, and if the street resurfacing would impact the speed tables.

Additional discussion included whether the speed tables can be traversed at the posted speed. Council discussed removing stop signs on Nela and Homewood at the intersections of Easter and Island Streets and lowering the speed limit to 20 MPH on the section on Nela east of the bridge.

Mayor Brooks stated there is a request from an area resident to add an additional speed table on Nela.

Mayor Brooks requested that he and Council receive a copy of the DRMP traffic study that was done on Nela.

Mayor Brooks stated Council can decide whether they wish to remove stops signs, change the speed limit or do nothing. The following items will be on the regular agenda for action by Council: Removal of stop signs and lowering speed limit on Nela Avenue.

CITY ATTORNEY'S REPORT:

Mr. Bennett reported the following:

Regarding the number of non-related adults within a household – There is a DeLand case but it did not go up to the 5th District Court and the City of DeLand is using their ordinance to limit the number of college students within one dwelling. Our proposed ordinance is worded similarly to the DeLand ordinance.

An alternative approach is through standard housing codes whereby the square footage required by code determines the number of persons within a dwelling. Daytona Beach Shores ordinance requires 150 sq. feet of habital space for the first person in a dwelling and 100 sq. ft. for each additional person.

Mr. Bennett stated that through licensing we can deal with rental units within the city. An ordinance requiring third party licensing in which property managers managing property within the city would have to be licensed by the city, property inspections could be required as part of the licensing.

Mayor Brooks stated this is becoming an issue in our community and we need to deal with it now before it becomes a bigger problem.

Council was asked by Mayor Brooks to provide Mr. Bennett, City Manager Williams or the City Clerk with addresses of properties within their districts they believe are multi family rentals or appear to be housing too many people for the size of the home.

Commissioner Spaulding suggested water usage may be an alternative way of limiting the problem.

Mayor Brooks stated the City will continue researching this issue and request that the Florida League of Cities do a session on the topic at one of their conferences.

Mayor Brooks suggested Commissioner Petruzzi discuss this issue up with Mrs. Leecie Doyle as she was appointed to serve on the Affordable Housing Committee.

Mayor Brooks brought up the proposal for an LED changeable sign submitted by Clear Channel and asked Council what they wanted to do with it.

Discussion ensued regarding what it would look like, would the city have guaranteed public service time on the LED board, and would the company be willing to prohibit adult entertainment advertising on the sign.

Mayor Brooks asked that a letter be issued from the city attorney advising Clear Channel that our code prohibits the type sign they are requesting; asking to be advised where this type sign is installed so the Council/Staff may see it in place; and that the city is continuing to look into the issue.

Attorney Bennett reported on his research regarding fences to the water line on canals and determined that all the canals are created equal.

Discussion ensued and Attorney Bennett read the definition of Lake Conway from the Belle Isle Code which states "Lake Conway" means the three lakes and the interconnecting canals."

TREE ORDINANCE DISCUSSION:

Mayor Brooks welcomed the representatives from City of Orlando and Progress Energy and asked Andy Kittsley to talk about Orlando's ordinance.

Mr. Kittsley advised the Orlando ordinance is based upon a per acre formula for specific land uses and consideration of adjacent land uses. He stated Orlando does not require a permit to remove any tree that is less than 4" in Breast Height Diameter(BHD). There is no charge/ no permit required to remove a tree on the "Do Not Plant" list.

A fee of \$25.00 per residence and \$50 per acre of commercial zoned properties is charged for a tree removal permit. The Code Inspector issues the permit on-site.

He also advised the City of Orlando provides an inspection by a certified arborist at no charge to the residents. The certified arborist determines if a tree needs to be removed.

Attorney Bennett asked if Orlando requires replacement trees or if there is a penalty for removing trees without a permit.

Mr. Kittsley responded that residents are required to replace the tree and if there is not room on the property for replacement they responsible for a 1" to 1" total BHD replacement and charged a per inch fee that is paid into the street tree trust fund.

He advised that the cost of a 6" live oak from Cherry Lake nursery is \$1,250 and is in a 200 gallon container. Some nurseries my have them in the price range of \$800. The cost to have a tree this size installed is in the neighborhood of \$2,000.00.

If a tree has split or fell and needs to be removed the property owner is not required to replant, but are encouraged to do so.

He also stated that a property owner is allowed six to twelve months to replant before any further action is taken.

If a property owner fails to replant within the grace period, the city purchases a tree and places a lien against the property in violation.

Mayor Brooks asked what minimum size trees are allowed for replanting.

Mr. Kittsley responded they require a 4" minimum BHD tree and that anything smaller does not cost enough to induce the proper care to maintain the tree for some property owners.

Commissioner Scott asked if Pine trees with pine borer beetles can be removed without penalty.

Mr. Kittsley responded that most are authorized for removal. In rare instances they will be called to inspect a tree that is not badly infested and the property owner is given information on treating the tree to save it.

Mayor Brooks asked if Mr. Kittsley could be a consulting arborist to Belle Isle.

Mr. Kittsley responded there are a number of ISAD arborists in Central Florida.

Commissioner Petruzzi asked how long response time is between a property owner calling in for authorization and the inspector going out and issuing the permit.

Mr. Kittsley said it is usually within a couple of days.

Mr. Kittsley was asked about appropriate trees for the urban landscape.

He recommended Sand Live Oaks, Shumard Oak, Sycamores and Sweet Gums. He said a sweet gum can grow up to 6' within a year with heavy watering. He also encouraged planting hackberry and sugarberry trees. He emphasized the importance of getting back to a fuller spectrum of trees and plants.

He discourages the planting of cherry laurels, camphor trees, scheffleras and Norfolk pines.

He added native trees are required on the landscaping plans for new development. He said non-native trees may be planted but they do not count towards the landscaping requirements of the code.

Mayor Brooks recapped, that based on the discussion, the City of Orlando does not charge residents for the arborist, they provide the list of approved trees from which the replacement tree must be selected; the ration for tree replacement is inch for inch; or the property owner must pay into the Tree Trust Fund for trees not being replaced.

Richard Alexander, Progress Energy, spoke about the need for tree services to be licensed and properly insured to protect the property owners. He encouraged

the city staff to collect names and addresses of "citizen foresters" who are working for residents.

Mr. Alexander stated that Progress Energy has a full time, certified arborist that is available to the city. He also stated Progress Energy will be happy to remove trees in the right-of-way that are impacting power lines.

Mayor Brooks asked if an arborist that is also under contract with the city for tree service is a conflict.

Mr. Kittsley responded that the city's arborist should not be connected with a tree service. They should be independent and avoid any appearance of conflict of interest.

Mr. Kittsley also talked about the importance of having root encroachment permits for construction that will be in close proximity to trees that are not being removed. Orlando does not allow any equipment of encroach within 10" of any tree base to protect the tree from destabilization.

He also talked about the two types of roots that hold the tree in place; those that provide tension and those that provide compression. Crown reduction is a good method of lightening the stress loads on the roots.

Mr. Alexander stated Progress Energy can provide the city with information about tunneling under a tree versus having to cut the roots.

Mayor Brooks advised the City would benefit from a Tree Trust Fund.

Mr. Alexander encouraged the Council and Staff to contact him regarding any tree limb/power line conflicts.

Mayor Brooks said he believed more careful pruning by Progress Energy would provide adequate maintenance and eliminate some of the excess pruning that is currently done. He also asked Progress Energy to provide advanced notice to the city of proposed trimming activities.

Commissioner Petruzzi asked if Progress Energy has a plan for trimming.

Mr. Alexander responded they typically plan to trim an area once each year; however emergencies and other priorities can impact that plan. He offered to meet with the City Manager to review the trimming plan for Belle Isle.

He also stated they do not have a "hot spotting" schedule. Those assignments are generally in response to call ins.

Mr. Alexander advised he would be happy to sit down with city representatives to discuss any issues the city may have.

Mayor Brooks thanked Mr. Alexander and Mr. Kittsley for coming before Council.

COUNCIL REPORTS:

Commissioner Ady – no report.

Commissioner Petruzzi – Asked that a Mayoral Proclamation be prepared to honor Dr. Henry Bancroft who is retiring from the Orange County School Board.

Mayor Brooks asked Commissioner Petruzzi to provide him the pertinent information for the proclamation and it would be done.

Commissioner Petruzzi advised he had a call from an area resident regarding the Orange County Utilities lift station on Cullen Lake Shore Drive. He stated the resident has been dealing with this problem for three years with no action from the city.

Commissioner Petruzzi asked Code Enforcement Officer O'Shea if any action has been taken against the resident on St. Moritz that installed gate access through the neighbor's yard to get to his motorhome.

Ms. O'Shea responded that he was issued a courtesy notice and wanted to appeal. It was determined he could not appeal a courtesy notice since no action had been formally taken.

Ms. O'Shea the issue is whether to issue a parking violation which carries a \$75.00 fine and can be appealed for a fee of \$35 or to issue a notice of violation and go through the process in which he has ten days to correct the problem before he can be found in violation and taken to the Code Enforcement Board.

Commissioner Petruzzi stated we just need to take a position and move forward. He advised the next door neighbor has been burdened with this for months and we need to consider his rights and get this situation corrected.

Mayor Brooks stated the options are to issue a non-moving citation which carries a \$75 penalty and can be appealed for \$35; or issue a notice of violation and move through the code enforcement process.

It was the consensus of Council to move forward with the code enforcement process.

Commissioner Petruzzi asked if the trailer will be cited or a notice of violation issued?

Ms. O'Shea responded the trailer is in compliance with our codes. The only issue with the motor home is it encroaches into the required five foot side setback. She advised she will issue the notice of violation.

Commissioner Scott – stated he would like to see us re-work the tree ordinance to incorporate no charge to the residents for the arborist. He said he would like to have this issue on the next workshop for discussion.

Mayor Brooks stated we would also get the tree list from City of Orlando.

Commissioner Readey – advised he had not yet met with Ms. Stewart but will meet with her on Tuesday prior to the Council meeting.

Commissioner Scott asked if the repaving project and the bridge project can be coordinated to be done at the same time.

Mayor Brooks stated the bridge is already under contract, but that would not preclude the bridge contractor from bidding to do the paving work.

Resident addressed Council:

Mr. Anderson, a Lake Drive resident asked to speak with the Council.

Mayor Brooks advised the workshop is not a public forum meeting but would indulge Mr. Anderson's request.

Mr. Anderson expressed his belief that private property rights were being trampled by the City Council in their adoption and enforcement of the parking ordinance and fence ordinance. He questioned the City's authority to limit where vehicles can be parked and fences located on private property.

Mayor Brooks stated the authority is granted by the Florida Statutes which empowers municipalities with "Home Rule".

Mr. Anderson stated he was discouraged that the elected officials had not responded to the two letters he issued in which he asked their opinion of his statements.

Mayor Brooks advised the City Council followed all the legal requirements and went above and beyond those requirements for the parking ordinance. Articles

were in the newsletter, legal advertisements were placed and residents were mailed a special notice of a public input meeting held off-site to accommodate the anticipated crowds.

Mayor Brooks allowed Mr. Anderson to talk about the fence ordinance.

Mr. Anderson expressed his opinion that the fence ordinance is in violation of the U.S. Constitution and violates personal property rights.

Mayor Brooks again stated the city has Home Rule authority to pass and enforce local laws. All legal requirements are met in advertising and accepting public input prior to an ordinance being adopted.

Mr. Anderson stated the city is not closing the boat ramps as required by law.

Mayor Brooks responded that there is no law requiring the boat ramps to be closed/locked at night. The City has asked that the gate be secured at dusk, but this is not a legal requirement.

Mayor Brooks adjourned the workshop at 11:30 a.m.

Belinda L. Bateman, MMC
City Clerk