

**CITY OF BELLE ISLE
REGULAR SESSION
TUESDAY, MAY 1, 2007
5:30 P.M.**

The Belle Isle City Council met in regular session on Tuesday, May 1, 2007 in the Belle Isle City Hall Council Chambers, 1600 Nela Avenue, Belle Isle, Orange County, Florida 32809.

The following members were present:

William G. Brooks	Mayor
Thomas G. Petruzzi	Commissioner, District 1
Trudy Prince	Commissioner, District 2
Charles R. Scott	Commissioner, District 3
Larry I. Ady	Commissioner, District 4
Harvey Readey	Commissioner, District 5
Lydia Pisano	Commissioner, District 6
Eric S. Spaulding	Commissioner, District 7

Also present were City Manager Larry Williams, City Attorney John F. Bennett, City Clerk Belinda L. Bateman, Cdr. Ken Wynne, Orange County Sheriff's Department, and others.

The Invocation and Pledge to the Flag were led by Commissioner Scott.

MAYOR'S REPORT:

Mayor Brooks advised that a meeting will be held on May 15th at the new University of Florida/Orange County Cooperative Extension Office on Conway Road to discuss the proposed low income housing project. Area residents plan to attend to urge the County that it not be funded with County Grant money.

The Council met in a planning session and discussed the joint meeting held with Edgewood, Orange County and other interested parties regarding the Orange Avenue corridor.

He said he would like to see a similar meeting held with the Orlando City Council, the Conway Community Council and other interested parties to talk about the Conway Road corridor.

Mayor Brooks advised it is time the city talked about a vision plan, look at the Comp Plan and decided where we want to be in the future. We need to be involved with the discussion with other interested parties, citizens and

stakeholders. Where commuter and light rail impacts our community, we need to have input as to the type of development that is planned for the stations. Succeeding in having the right type of retail/commercial activity centers will impact us significantly. It is a turning point on whether Belle Isle continues to be a desirable community or declines. These are important issues.

Mayor Brooks stated he was sad to see the direction the Florida Legislature was heading with the property tax issue. He said it appears to be another bait and switch where the voters are being sold on eliminating property taxes and not being made aware that gambling is being slipped in the back door.

The tax elimination/reduction programs being considered assume a "one size fits all" approach. We know one size does not fit all and are concerned that the Legislature is not looking at the impacts their proposals will have on local governments.

Mayor Brooks stated he had encouraged some Belle Isle Citizens to attend this evening's meeting to speak to Council on issues of concern that are not on the agenda. He welcomed the residents and stated he wants as much input from the residents as possible.

CITY MANAGER'S REPORT

City Manager Larry Williams reported the following:

1. The elevation of Lake Conway this a.m. was at 83.62'. The elevation at which it is mandatory to close the Perkins Ramp is 83.0' and the ramp may be closed at Council's direction at 83.5' and below.

He advised the water at the ramp is very shallow for quite a distance and therefore extending the ramp is not really feasible.

Mayor Scott moved to authorize staff to close the Perkin's Ramp at 83.5' in water elevation. Commissioner Petruzzi seconded the motion which passed unanimously.

2. Advised that there has been a request by the appellant of the appeal hearing, Item 10 on the Council Agenda, to continue the hearing until the June 5, 2007 City Council meeting. He asked Council to consider opening the hearing, asking for public comment and then continuing it until the June 5, 2007 meeting.
3. Mr. Williams advised the Five Year Capital Improvement Program he was distributing in the packet this evening includes only those items as

discussed at the planning session; Street resurfacing for Lake Conway East at \$333,100 and overlay/seal coat for Windsor Place at \$43,000.

CITY ATTORNEY'S REPORT

City Attorney Bennett stated he had nothing new to report.

Commissioner Petruzzi asked if anyone was aware of the Citizen's Insurance debacle. He stated the agreement was to roll back rates to the 2006 level. However, the roll back is tied to a city by city program. The current rate average is 174% higher than 2006 rates and yet the roll back was only 11%.

CITIZEN'S COMMENTS

Mr. Rich Holiday, 5270 Oak Island Pointe Road, discussed his concerns of increased crime in the Conway area, including Belle Isle.

Mayor Brooks advised there is a public meeting scheduled by Orange County Commissioner Linda Stewart on May 9 at the new Ag Center on Conway Road to discuss crime issues.

Commissioner Harvey Readey advised the COPS program is always looking for more volunteers.

Mr. Sam Butler, 2914 Hoffner, asked where the crime data is kept and stated we are creating a community we don't want to live in and that he supported the concerns raised by Mr. Holiday.

Mayor Brooks responded the Orange County Sheriff's Office collects and keeps the data.

Mr. Art Peloso, 1437 Horizon Court, related an incident in which his neighbors found the suspect and his vehicle and the Sheriff's Office would not prosecute.

Mr. Esgro, 1903 Wind Willow Road, expressed his displeasure with the vegetable garden in his neighbor's front yard.

Ms. Sandy Walker, 2503 Nela Avenue, supported the comments made by Mr. Holiday.

Mr. Gene Aiello, 5008 Belleville Avenue, spoke in support of Mr. Holiday's concerns. He stated the citizens expect the city to take care of them and protect them.

Mr. Jack Liberty, 7501 Lake Drive, stated his support for the crime concerns and encouraged support for redevelopment and beautification of the corridors.

Mr. Jerry Edge, 1806 Swann Avenue, expressed his concerns regarding damage to his private property during the drainage project construction.

Discussion ensued regarding the condition of trees on his property as a result of the right-of-way construction work.

Commissioner Ady asked what Mr. Edge would find acceptable.

He responded that he would like to see at 9" girth tree and a 6" girth tree to replace the two trees whose roots were so badly damaged; and that he would like a 25' high tree next to it. He would also like to see some landscaping around the drain inlet to make it more presentable.

Commissioner Pisano advised she had driven by the property and agreed the City should do what is being requested. She requested a professional landscaper be called to recommend the planting around the inlet.

City Manager Williams responded that a forester determined the trees are diseased and should be removed.

Commissioner Scott asked if the drain inlet is on the right-of-way.

Mr. Williams responded affirmatively.

Mr. Williams stated the engineering firm selected for the project was selected based upon their expertise; Council had the plans to review for a period of time; we are replacing 19 trees for residents in similar situations; and three varieties of trees were offered. He also advised a 4" tree is \$805 each, 6" tree is \$1,750 each; and 9" trees are over \$3,000. He advised he feels it is unfair for one resident to get bigger trees while all the others are getting what is in the contract for replacement.

Mr. Williams advised the forester also stated the existing tree without the root damage would live another 5 to 15 years and Mr. Edge signed the form to have the trees replaced. He stated what you do for one, you should do for all.

Commissioner Scott suggested moving ahead with removing the trees and stated he was not prepared to vote without knowing the cost of the replacement trees requested.

City Manager Williams advised there were 19 trees removed. 16 of the 19 were in the right-of-way.

Commissioner Petruzzi stated most of the residents have signed off on the replacement of trees in their right-of-ways.

Commissioner Prince stated she had no problem with replacing his large trees with reasonable sized trees.

Commissioner Pisano stated she agreed fully with Commissioner Prince.

Commissioner Readey stated we have to draw the line somewhere.

Commissioner Petruzzi moved to engage a professional landscaper to plan a remedy on the property and that a cost estimate for the work be brought to Council at the next meeting; and that estimate is to include the landscaping around the drainage structure; and that such professional landscaper be Robert Collins. Commissioner Ady seconded the motion which passed with six ayes and one nay vote, the nay being from Commissioner Scott.

Mr. Drexall Strickland, 1915 Wind Willow Road, spoke in support of Mr. Esgro's objections to the vegetable garden in their neighbor's front yard.

Lt. Ken Wynne, OCSO, spoke in response to citizens' comments on crime in our area. He advised that of the 22 home burglaries; 5 were by known suspects, 10 were solved with an arrest charges filed; leaving 7 unsolved. He also reported there have only been two robberies; 1 at Winn Dixie Pharmacy and 1 at the Dollar General Store.

Lt. Wynne further advised that Belle Isle has coverage 24 hours/7 days a week in addition to the regular Sheriff's Office coverage. During many shifts there may be two or three officers working for the City. We have Marine patrol, unmarked cars, and K-9 units working in the City.

Mayor Brooks commented that the convenience store on Daetwyler Drive is selling drug paraphernalia and he has talked with Representative Gardiner about introducing legislation to require customers to sign for such products as a deterrent.

Lt. Wynne suggested Attorney Bennett could look at possibly having a local ordinance prohibiting the sale of such merchandise if there is evidence the materials are being used for consumption of illegal or controlled substances.

Mr. Rich Holiday stated a lack of numbers is not a good enough excuse.

Commissioner Pisano thanked Lt. Wynne for being at the meeting and advised that some of the street racing has slowed down.

Lt. Wynne said they moved to South Orange Blossom Trail.

Mrs. Kathy DeFilippo asked if being in a gated community makes a difference.

Lt. Wynne stated there is no advantage to living within a gated community.

APPROVAL OF CONSENT AGENDA

Commissioner Readey asked that the March 26, workshop minutes be amended and provided his comments for addition/correction to the minutes. City Clerk Bateman noted the amendments and advised they would be made to the official record.

Commissioner Ady moved to approve the consent agenda, with the amendments as noted by Commissioner Readey to the March 26, 2007 workshop session minutes, and including the March 2007 Monthly Financial Report, approval of a NIMGrant to Regal Landings Phase I, not to exceed \$8,900 and a NIMGrant to Regal Landings, Phase II, not to exceed \$8,700; and Resolution 07-09 approving a lot split requested by Gary Davis for Lots 11, 12, and 13, Block A, Belle Isle Court Replat.

Commissioner Pisano seconded the motion which passed unanimously.

DENIAL OF AN APPEAL REQUEST BY KATHERINE AND VICENT DE FILIPPO FOR A VARIANCE TO FRONT SETBACK FROM THIRTY FEET TO 6' AND 6'1" RESPECTIVELY FOR THE COLUMNS OF AN EXISTING PORTE COCHERE.

Mayor Brooks advised this was a trial de novo hearing that has been continued from the April 3, 2007 regular meeting. He asked the appellant to present their request.

City Manager Williams stated the City has not received the additional information requested by the Council at the April 3 meeting.

Ms. Mary Solik, Attorney for Katherine and Vincent DeFilippo, distributed the information and stated she misunderstood and thought she was to present it this evening.

Ms. Solik also submitted exhibit "K" – a letter from the Code Enforcement Officer requesting the columns be surveyed; exhibit "L" which is the survey done by Boyle which shows the new garage additions.

Mr. Williams stated the question posed regarding shifting the driveway closer to the entry. The survey the Council has does not show the location of the garages.

Ms. Solik advised the photographs document the garages have been constructed and Boyles survey shows their location.

City Attorney Bennett stated, for clarification, the variance is for what is there now.

Ms. Solik stated Boyle was asked to do a survey and that is what she submitted.

City Manager Williams stated the City Council had requested "as built" – this is not what Council wanted. What we need to see is a sealed survey showing what is on the property today.

Ms. Solik responded the previous survey shows the location of the columns and the Boyle survey shows the location of the garages and has the standard front set back line, the initial approved variance set back line and the current requested variance setback line shown on the survey.

Ms. Solik stated her client was asked to show where the garages are located and where they were to be built. Discussion ensued regarding the exact location of the garages.

Ms. De Filippo advised she had given the Boyle drawing to Mr. De Board and asked if that

City Manager Williams recommended to Council that without a sealed "as built" survey showing the location of the garages the Council does not have the ability to determine if the garages are accurately located and what amount of room there is with the existing column locations. He stated he had no confidence that the garages are actually located where shown.

Mayor Brooks stated the applicant is asking for a variance out to where the columns are actually located now. To bring it into compliance with the previously granted variance which is from 30' to 10' the columns would have to be moved back approximately four feet.

Commissioner Readey advised having a sealed survey showing everything as it is today is important because the applicant is basing the appeal on a "useable drive through" driveway.

The criteria for granting a variance were read for the Commissioners by Ms. Solik.

City Manager Williams stated he did not believe any of the criteria have been met and the Planning and Zoning Board did not approve what has been built.

Mayor Brooks opened the public hearing.

Ms. Patti Johnson, 3433 Cullen Lake Shore Drive, spoke in opposition to the request.

Commissioner Petruzzi stated no one is addressing the contractor. If the flaw was created by the contractor, then the contractor should be held accountable.

Discussion ensued regarding the depth of one of the garages.

Ms. De Filippo advised the garage was built to accommodate a boat.

The public hearing was closed.

City Attorney Bennett advised the Council that the number of opponents can not be considered. Only the criteria is to be considered. Any reference to the previous hearing is irrelevant and should not be considered. The specific criteria should be stated that are or are not met within the motion.

Mayor Brooks stated that if one or more of the criteria are not met, the request should be denied.

Commissioner Ady moved to grant the variance based on the criteria of Chapter 42-64, 1, e, f, & g having been met. Commissioner Prince seconded the motion.

Commissioner Pisano stated all the criteria have to be met to grant a variance.

Commissioner Ady stated he would include all the criteria in his motion to approve.

City Manager Williams stated staff recommends against the motion. He said the hardship has been created by the appellant. Had it been done correctly they would not be here this evening. He further stated he did not believe any of the criteria have been met.

Commissioner Readey stated that most vehicles will pass through a 9' 11" opening easily and his experience as a paving contractor tells him there is an alternative that will work. He advised he will have to vote against the motion.

Mayor Brooks called for the roll and the votes were as follows:

Commissioner Ady	Aye
Commissioner Prince	Aye
Commissioner Petruzzi	Nay
Commissioner Pisano	Nay
Commissioner Spaulding	Nay
Commissioner Scott	Nay
Commissioner Readey	Nay

With two ayes and five nay votes the motion failed.

Commissioner Scott moved that criteria d. and f. having not been met to deny the request and uphold the Planning and Zoning Board's decision.

Commissioner Readey seconded the motion.

Upon roll call the votes were as follows:

Commissioner Ady	Nay
Commissioner Prince	Nay
Commissioner Petruzzi	Aye
Commissioner Pisano	Aye
Commissioner Spaulding	Aye
Commissioner Scott	Aye
Commissioner Readey	Aye

With five ayes and two nay votes the variance request was denied.

CONTINUANCE OF AN APPEAL HEARING REQUESTD BY DENNIS GLEESON AND CHRISTINE PRODEN TO THE PLANNING AND ZONING BOARD'S DENIAL OF A VARIANCE TO SIDE SETBACK FROM 5' TO 1' FOR A NON PERMANENT CARPORT.

Mayor Brooks opened the public hearing. There were no public comments and the public hearing was closed.

Commissioner Ady moved to continue this request to the June 5, 2007 meeting as requested by the appellant. Commissioner Spaulding seconded the motion which passed unanimously.

FINAL PLAT APPROVAL FOR BELLA PIAZZA, A PLANNED DEVELOPMENT TO BE LOCATED ON LOTS 1, 2, & 3; PLAT BOOK G, PAGE 138, ORANGE COUNTY RECORDS, ETC.

Robert Collins presented the final plat and advised he was available to answer any questions the Council may have.

Mayor Brooks opened the public hearing.

Commissioner Petruzzi asked questions regarding odor and noise from the lift station and if there is a back up generator designated for the lift station to cover power failures?

Mr. Collins stated that can be required in the HOA C & R's.

City Manager Williams asked if the lift station was being dedicated to Orange County Utilities.

Mr. Collins responded it will remain privately owned, at least initially.

City Manager Williams asked if there is adequate capacity for other residents to hook up?

Mr. Collins stated the force main was designed to handle their development but said he would be willing to work with the city and Orange County should the city be interested in bearing the cost to provide sanitary sewer service to area residents.

He also stated they are looking at directional boring to minimize the impact to the neighborhood.

Commissioner Scott asked how the waste collection would be handled.

Mr. Collins stated it would be taken to the curbside by the residents.

Commissioner Ady asked how many boat slips there would be.

Mr. Collins responded that in the preliminary plat approval they had asked for 9 slips and that will provide half the development a slip based on a first come, first

available process. He would like the final plat approval to include approval for 9 slips.

Mr. Collins advised the existing ramp and two dilapidated docks would be removed.

Mayor Brooks asked about shoreline vegetation.

Mr. Collins responded they would meet all the EPD requirements.

A resident from 2827 Nela stated he supports the project.

There being no further comments, the public hearing was closed.

Commissioner Readey moved to approve the final plat including all items and discussed in the meeting (8' high masonry wall that drops to a metal fence 4' in height the last 35' landward of the 86.9 NHWE, nine boat slips and floating structures to be prohibited in the C & R's, a generator be dedicated to the lift station and owned by the HOA, uniform waste collection containers be furnished by the HOA, and that the maximum building height to allow for the top of the chimney flue caps not exceed 40 feet). Commissioner Ady seconded the motion.

Upon roll call the vote was as follows:

Commissioner Ady	Aye
Commissioner Prince	Aye
Commissioner Petruzzi	Aye
Commissioner Pisano	Aye
Commissioner Spaulding	Aye
Commissioner Scott	Aye
Commissioner Readey	Aye

With seven ayes and no nay votes the final plat for Bella Piazza was approved.

APPROVAL OF FINAL PLAT FOR BELLE VISTA SUBDIVISION

Mayor Brooks opened the public hearing.

Mr. Steve Pash, M/I Homes representative, presented the request for final plat approval for the 108 home subdivision which includes six lakefront lots.

Commissioner Ady asked if there will be a sidewalk on Conway Road outside the development.

Mr. Pash stated the required sidewalk will be stubbed out as required, but currently there is no sidewalk to which it can be connected. He stated when the Conway Road widening project is done, the sidewalk will be connected with new sections of sidewalk.

Boyle Engineering reviewed the final plat and found it to be in compliance.

The subdivision will be a private, gated community with a mandatory HOA, the lift station, located on Tract "D", will be dedicated to Orange County Utilities and a back up generator dedicated to the lift station will be included.

Commissioner Ady asked about noise and odor control.

Mayor Brooks asked that a 6' panel fence shield the lift station to reduce noise.

Commissioner Ady asked how much the lots will sell for.

Mr. Pash stated they will go as high as \$600,000 for the platted lake front lots. He said all the lots will be sold prior to construction and he did not know if there will be any on-site sales.

Commissioner Spaulding moved to approve the final plat for Belle Vista. Commissioner Prince seconded the motion.

Upon roll call the vote was as follows:

Commissioner Ady	Aye
Commissioner Prince	Aye
Commissioner Petruzzi	Aye
Commissioner Pisano	Aye
Commissioner Spaulding	Aye
Commissioner Scott	Aye
Commissioner Readey	Aye

With seven ayes and no nay votes the final plat for Belle Vista was approved.

Commissioner Ady asked that the commercial vehicle portion of the parking ordinance be reviewed and reconsidered and that an appeal process be added.

Mr. Ady stated a resident filed for a variance hearing and was told the issue for which he was cited cannot be appealed to the Planning and Zoning Board.

Commissioner Spaulding exited the meeting.

Commissioner Ady moved to suspend issuance of any parking citations for commercial vehicles until the issue has been reviewed and an appeal process has been implemented. Commissioner Prince seconded the motion.

Mayor Brooks asked if there were any additional comments and upon hearing none, closed the public hearing.

Mayor Brooks called for a vote on the motion. The Motion failed with five nay votes and 1 aye vote. The aye vote was made by Commissioner Ady.

There being no further business to discuss, the meeting was adjourned at 9:30 p.m.

Belinda L. Bateman, MMC
City Clerk