

**CITY OF BELLE ISLE
SPECIAL CALLED SESSION
WORKSHOP AGENDA
August 26, 2009
8:30 A.M.**

The Belle Isle City Council met in a workshop on Wednesday, August 26, 2009 at 8:30 a.m. in the Belle Isle City Hall Council Chambers, 1600 Nela Avenue, Belle Isle, FL 32809.

The following members were present:

William G. Brooks	Mayor
Keith Severns	District 2
Charles Scott	District 3
Harvey Readey	District 5
Lydia Pisano	District 6
Eric Spaulding	District 7

Not present was Commissioner Petruzzi, District 1 and Vice Mayor Ady, District 4.

Also present were City Manager, Be Bateman, City Attorney John Bennett, Police Chief Tegg, Administrative Assistant Yolanda Quiceno, and others

For the record, Mayor Brooks stated that the police chief should be present at all council meetings and his schedule should be changed accordingly to accommodate City Council meetings.

Keith McArthur and the Personnel Committee were not present at this workshop. Belinda Bateman will follow-up and reschedule for a later date.

Mayor's Report

Mayor Brooks said we will start our agenda with the Nuisance Abatement Ordinance.

Attorney Bennett provided a copy of the Ordinance for Belle Isle, Orlando, and Portland showing comparisons. Attorney Bennett stated that before looking into any other ordinance we should try to start enforcing the current one in place at Belle Isle then revisit.

Mayor Brooks asked if we have fully adopted the ordinance in Belle Isle and called for the creation of an Abatement Board for the Board to decide on the gray area. He noted that it was discussed at length at a previous meeting then died for about a year.

Ms. Bateman noted that the discussion at that time ended by agreeing to tighten the current code and did not adopt them at the time. Mayor Brooks stated that the issue has come up again over the July 4th weekend and made it difficult to enforce by staff.

The Board discussed weighted decibel levels equipment. They further discussed standards/certification in reading the equipment. The Mayor noted that with or without equipment there are cities all over America enforcing noise ordinances. He noted that it was a commitment to the ordinance that we have for noise.

Attorney Bennett noted that it is unconstitutional. If the ordinance does not have specific standards it will not be held constitutional in court.

Mayor Brooks recommended that staff keep a running list of the things we keep getting calls about that are not in the code to begin to tabulate what types of things that are happening in the code and/or nuisance ordinance. It was discussed in past meetings within the three years.

Mrs. Bateman noted that she will meet with staff and Mr. Bennett and bring a draft ordinance that will tighten the nuisance abatement concentrating in some of the models. Commissioner Scott stated that he would like to add a light ordinance and or enforcement on lights angling wrong on another property.

Mrs. Bateman noted that the only problem we currently have is with Mr. Strickland's property. Commissioner Pisano asked if Chief Tegg receives a call before or after 11:00pm can he do anything.

Ms. Bateman stated currently before 11:00pm he cannot do anything. After 11:00pm, if the noise is heard within approx 100 feet, the office can issue a verbal warning. She noted that we should concentrate on the distance and tighten the ordinance.

Chief Tegg stated that it is 50ft.

Mrs. Bateman asked if an officer needs to receive a noise complaint to respond or can an officer proactively go to a house with excess noise.

Chief Tegg stated that they would need a complaint even if anonymous. The courts can rule a breach of Peace with the Police Officer. However, he is not sure if it pertains to a nuisance ordinance. Chief Tegg noted that if he can show that they are responding frequently and have three documented reports it will show a nuisance house and easier to uphold the ordinance.

Chief Tegg also noted that there is a different statute for vehicle.

Mrs. Bateman asked if the Mayor has received complaints from residents

Mayor Brooks stated yes, however in passing by residents.

Mrs. Bateman noted that she has not heard of any at City Hall.

Commissioner Scott suggested the PD Department should keep a similar list of all incoming calls.

Commissioner Pisano stated if there is anything the PD can do with cars parked in the wrong direction.

Chief Tegg stated that as they see them they are catching them. Not on the priority list but have been given a fine.

Attorney Bennett stated that unless they are blocking the roadway, the case law ties our hands on enforcing.

Mayor Brooks noted that generally speaking if we speak to the residents and give them fair warning and eventually the word will spread and take care of itself.

Mrs. Bateman asked if there was a way to regulate lawn care and water conservation. How can we help address residents who have water friendly yard i.e. pebble or rock?

Attorney Bennett states that there is a state law that limits us from doing that.

Commissioner Pisano stated that the law has been changed that allows a water friendly lawn. OC just passed landscaping ordinance.

Mayor Brooks said that the County is encouraging all to adopt the ordinance.

UNWIND C1 Ordinance

Attorney Bennett stated that at the last meeting the Board asked that the C1 ruling ordinance including used car lots. Some discussion came about to back off on that ruling. Attorney Bennett noted that the solution would be to add the approved compatible uses to the prohibited list.

Mayor Brooks noted that the ruling was a mistake and the direction should be headed toward better types of uses instead of more.

Attorney Bennett asked if the Board would like to start procedure to add to the prohibited list.

Mrs. Bateman noted that ASAP towing has come into compliance with the current violations and understands his limitations. Mrs. Bateman stated that the Board should reconsider fleet sales and used car sales as a prohibited use.

Mayor Brooks asked what the date we approved was and has the appeal time passed.

Mrs. Bateman stated yes. She noted that it is not an appeal issue but a legislative action.

Attorney Bennett noted that if it was a special exception the Board would be able to place conditions. However, on a use determination there is not an appeal process.

Mayor Brooks asked how we move forward.

Mrs. Bateman said that she will bring an ordinance to council that will include:

- looking at the individual uses and add different uses
- changing a section of the zoning i.e. professional retail

Commissioner Pisano asked what uses we will be adding to the prohibited list.

Mrs. Bateman said towing services, used and fleet car sales.

Attorney Bennett suggested that at the next meeting he can provide the C1 Ordinance back and reconsider the uses.

Mayor Brooks asked for an update on the City of Orlando Adult entertainment Ordinance. Commissioner Pisano provided an update and said alcohol sales were never allowed.

- Change 2500 from middle of ROW, we asked if they can change to 600 ft.
- September 14 to City Council with an email campaign 1 day after Labor Day.
- If passed, Ordinance first reading will be on second week of October. Or worst case, fourth week of October and 2nd week in November.
- If passed we will be protected.

Mayor Brooks introduced Jim Swann our Waste Management representative.

Jim Swann, Waste Management representative provided a brief major litigation that occurred in Louisiana. Waste Management has standard language to be placed in all our contracts. The refuse rate index required a bit more paperwork than he understood. What has been proposed is a combination of CPI and a Fuel charge. We have been partners and serving the community for a long time. From his perspective if he can renew existing contract with same language which allows to come back and revisit a fuel adjustment if needed. If council feels comfortable with an additional 5-year renewal same terms and conditions then they will get that done.

Attorney Bennett stated that he was concerned we will have to go out and bid if we had to make the changes requested. He stated that we can go to 2013 without any problems.

Jim Swann stated that for the record Larry Williams, former city manager, he sent a letter stating that the city will be extending the contract for another year. At that time there was not opportunity for discussion on renewals.

Mayor Brooks recommends that it come to Council on September 9th for a 4-year extension.

Jim Swann said that he wanted to make sure the new price rate of 16.10. He said that he will provide an updated rates appendix reflecting a 4-year extension, CPI clause with a cap of 3% per year. He stated that the current CPI is structured with only 15% related to fuel the remainder is the consumer price. He stated that if fuel gets out of hand as it did three years ago, he will be in front of the Council to request an adjustment. The fuel rate will be based on diesel fuel.

Mrs. Bateman confirmed that the contract amendment will be heard on the September 9th City Council agenda due to the fact that it goes into effect October 1st.

Commissioner Pisano asked if they can use a different company if they are recycling the material.

Jim Swann said it is illegal to put controls on recycling.

Jim Swann said that WM acquired a company called BagStar. Bagstar is a heavy duty cloth type bag which people can acquire. They can place approximately 1000 pounds of garbage and a lot more convenient. Once he receives some additional paperwork he will provide it to Council as an additional option.

Mrs Bateman requested Jim to send the final edits of the contract.

City Managers Report

Mrs. Bateman said that she would like to have the new police officers in the new building by Monday morning. Mrs. Bateman noted the only hold up is the importing of the phone lines.

We have sent an article to Conway News and scheduled Sunday September 13 from 1-4 for the open house separate from the ribbon cutting at a later date.

Mayor Brooks requested Monday morning for the ribbon cutting.

The Board agreed on Friday, September 4th for the official ribbon cutting and a press release will be sent.

Chief Tegg Update

Chief Tegg updated on the car burglaries and stated that they were caught by OPD for a seat belt violation with the property in their back seat. The biggest problem they are having is residents leaving things in their car unlocked with the keys in the vehicle.

Orange County negotiated their price with Motorola. We will be knocking off \$500-600 on each radio. Motorola will be sending a new pricing sheet. The radios will be encrypted for safety. The media is a little upset because they will no longer be able to monitor activity.

Chief Tegg provided an update on the traffic surcharge money. He requested to receive the \$39,000 collected on traffic surcharge money. We were not part of the agreement however we did hire OC deputies paid out of city tax money. A letter was sent to Mike McCoy for the County to agree in our benefit. We will use the funds for our radios and computers.

Chief Tegg reported a couple of cases of residents pulling up to residential houses and trespassing on the sand bar. At this point the State Attorney's office said if they stay in the water and not on dry land there is nothing we can do.

Attorney Bennett said that anything below the water mark belongs to the State. On meander lakes the State did not have the authority to deed the territory. In a lot of places the State is charging rent to have a dock.

Commissioner Readey asked when you build a dock on the lake do they have the right to sit on your dock.

Chief said that he defines the confines from the dock inward property of the owner.

Commissioner Readey asked when the water line is down below the 86.9 can someone just go on the property.

Attorney Bennett said legally they can.

Chief said that the police officer cannot determine the water line. They will be booked and processed and they will be able to fight it in court.

Mayor Brooks asked with all the effort to protect the water system if someone goes out with a vacuum pump you will get fined for damaging the bottom of a lake. I think there is a way to approach the State and cross swear each other and help force state law in damaging the bottom of the lake with our law enforcement personnel.

Chief Tegg said the bigger problem is the trespassing. He asked if there is anything we can do as a City or through the League of Cities to help with this issue. Chief Tegg said that an issue arose at his in laws this summer. He said that the boaters feel they are entitled and there is nothing the PD can do.

Mrs. Bateman also said that there was an issue on Day Point by the Nela Bridge. After the two houses were built they started pulling up on Robert Collins lake shore.

Keith Severns asked if Laws International still patrol Belle Isle.

Chief Tegg said that we are adjusting their hours and as of Labor Day they will cease to operate in the City limits.

Mayor Brooks asked of the 2nd round of stimulus fund. The Byrne Justice Assistance grants were granted.

Chief Tegg said that he just found out that the State of Florida will now do their own scanning, fingerprinting and application, all in one place, to generate money. Nonetheless, we will move forward and have the services here at Belle Isle for our residents at a nominal fee.

Mayor Brooks provided a survey to Chief Tegg from US Management, requested to the Mayor at the FL League of Cities conference. US Management is asking Belle Isle to fill out a survey for research regarding how our PD administers or manages off duty police officers.

Mayor's Report

Mayor Brooks provided feedback from the Florida League of Cities conference.

1. Provided a copy on Foreclosures and commends the Code Enforcement side.
2. Most interesting was a new technology called the smart sponge which soaks up hydraulics and debris. This is a cost effective option to existing storm drains.
3. Fair Districts Florida Organization Endorsement Form
4. SBA Florida local government investment pool Fund B
5. Census Form re: Homeless problem
6. Conference presentations on CD-Mayor asking City Hall to order and have available to residents.
7. Resolution of Support for the National Guard & Reserve recognizing their contribution to the country. Will be asking Council to adopt at the next council meeting.

Mayor Brooks provided a brief discussion on the Charter School effort. He said they had the thirds and final parent and teacher information meeting. We had approximately 15 parents who have not heard the presentation at the 1st or 2nd meeting. In essence, Supervisor of Elections had ballots and asked if they wanted to sign the provisional ballots. Again we are seeing tremendous support from parents and other schools. Most of the teachers are more interested on their salary and benefits than the long term sustainability of the school.

Some issues that continue to arise and causing our consultants on the conversion of pine castle elementary school. We want to see 100% credibility, done right and in the open. What we have seen is a pretty concerted effort spearing tremendous miss information. It has been unfortunate. It has clearly affected the process. Greater than 20% of the database provided by the school is corrupt. When we had over 40 envelopes returned it caused us significant concerns. No matter which way it goes people are going to say we had a bogus database. The school botched the entire bi-racial committee and halted the school closing. Our consultants are mulling it over. In all honesty one of the options, with respect to the conversion is to withdraw the application for one year.

The school district is now saying they will not be closing the school. If that was the case we would not have started the process of conversion to save the school. It s worth proposing the conversion charter application until they can get the legislation fixed and agree on the process of obtaining the database.

If they close the school this year, then it will be vacant property that we can negotiate to lease from them. Financial it will be more costly. In talking to Fernando Zulueta, President of Academica and Victor Borroso President of Somerset consultants they are prepared to move forward with K8-12 regardless if the conversion moves forward.

Commissioner Scott asked if we can wait for the counting of the votes. Then it will prove that we did not have the 50%.

Mrs. Bateman said she has a concern with the total number of ballots. When we did the postcard they said we had 239 eligible parents to vote. We had 250 pre paid post cards to school board. There were more than 25 extra. Now we know how inaccurate the database was with the number returned. In addition to the 40 returned ballots the representative from the Supervisor of Elections she had received 50 ballots which represent approximately 90 ballots.

Mayor Brooks said that the school board admitted that they were changing the data during the process. It bothers me from an ethical stand point that it doesn't bother them. The teachers and parents need a length of time and adequate education on the process to answer the question.

Commissioner Pisano asked do we have a registration list of the parents who attended the meeting.

Mayor Brooks said that the meetings were poorly attended and we did not have the opportunity to reach all the parents.

Commissioner Pisano is there anything legally that can be done to the school board for not providing the correct information. She has an issue just doing nothing and not to move forward. Commissioner Pisano asked if we are going to put out some material noting that we are withdrawing the application.

Mayor Brooks said that we will not do anything until it is brought to City Council.

Mrs. Bateman said that the important thing to take away from this process is that the City of Belle Isle and Edgewood stood up and took it on their shoulders to try to preserve an icon in the community with historic value and a corner stone of our community. Parents have been begging us to do something about the Oakridge problem and that is what we set out to do.

Commissioner Scott said one of the things that come up is the lack of cooperation from the school board.

Mayor Brooks said that there was not a single attempt by the school district to inform the parents. It was all our efforts. When it came to the teachers they were having secret meeting. They will be having one today at 2:00pm and we are banned from the meeting at the teachers request. If the school district can get the teachers to vote it down then the conversion school application get withdrawn now they can close the school and save 350,000 a year.

Commissioner Pisano asked if we know who is facilitating the meeting and if CTA is involved.

Mayor Brooks said Mrs. Quint is the host of the meeting. Dr. Chandler and the HR Director will be there to answer questions and not provide opinions. CTA is not involved. I met with Mike Cahill, he was in the dark.

This year they laid-off 800 teachers. All 800 are one year contract, except one which was hired back.

Mrs. Bateman stated that students merged to three other schools with full staff where are the open positions coming from to place Pine Castle teachers. They will be placed on a waiting list.

Mayor Brooks said they had an interview with school district staff to go over the application for the other two charters. We came out feeling that it went out very well.

FCAT scores are third and up and that is how they measure the goals. K-2 grades do not have measurements or goals. Inadvertently we left that out. They had legitimate questions on how we were going to provide the measurement. We will provide a response and presentation to the Board on September 15th between 2-4:30pm. They scheduled us for a single presentation on all three applications.

Karl Shuck, Belle Isle resident, asked if we withdraw the request for the conversion. Will the city give the parents the reason why it was withdrawn?

Mayor Brooks said that we will say the basis was because the data was incomplete.

Mrs. Bateman said we will know how many ballots have been cast after September 10. At that time we will know if we meet the 50% requirement with the ballots that were sent out. That will be the point when we can decide to withdraw the application.

Commissioner Scott asked if we can hand out flyers to students and parents.

Mrs. Bateman said we are not allowed to hand out any flyers.

Mrs. Bateman said that we have done everything we can do.

Karl Shuck asked if we were able to copy the envelopes.

Mrs. Bateman said no we were not allowed.

Mayor Brooks added that when we started this process Pine Castle was not originally in our scope of work. It came in as a means to keep it open. Then it became a vision.

City Council's Report

Mayor Brooks said that in regards to Commissioner Petruzzi he will be bringing recommendations for replacement. He spoke with two individuals who do not have the time to be on the Council. He stated that he will have a good candidate brought forth at the next Council meeting.

Commissioner Scott would like to clarify the minutes of the last workshop where he stated that he was spending a lot of time on the project. It sounded like I was complaining. It was my intent to say we should write a letter of appreciation to his company.

Commissioner Scott asked how a quorum is determined.

Mayor Brooks said a total of 4.

Commissioner Scott asked if the Mayor is absent. The Vice-Mayor will be acting Mayor. Can a vice-mayor still be eligible to vote to make a quorum? Commissioner Scott noted that it is not clearly stated in the Charter. Is there a provision to have anyone appointed if the Mayor or Vice Mayor is absent?

Attorney Bennett said no. It is not in the Charter but it is stated by the Attorney General. Attorney Bennett said that he will be able to look into that his research did not go into that much detail.

Mayor Brooks said that basically we are looking to have the Charter allow the Council to appoint an interim Mayor or City Manager so that the Vice Mayor can take the roll. Charter calls for appointment of the Mayor once a year however, it can be done at anytime.

Commissioner Scott said we should formalize the request for absence. It is not fair for the other commissioners to reschedule if a quorum is not available. We as Commissioners need to be responsible to report if we are not going to be available.

Mrs. Bateman said it would be very helpful to staff. Maybe a personal phone call to city clerk or a form would be adequate.

Attorney Bennett said that the Council must vote on excused absences. Assume a person is in an accident and in a coma he will be out for a long time. It doesn't state for good cause. Council can still remove because you don't excuse the absences. You must give the person an opportunity to be heard.

Attorney Bennett commented on the Flag/Tower issue. He said that he has doubts whether or not we can hear that request. It is a jurisdictional requirement to appeal on a timely manner. He will research further.

Mayor Brooks asked if he can appeal with a different height.

Attorney Bennett said there is a 6-month requirement for an appeal.

Commissioner Scott asked if there are certain requirements for treating a flag that he will not be able to live up to.

Attorney Bennett said, assuming we do hear it, that is in nature of a quasi-judicial manner and we should not be discussing the merits of it.

Mrs. Bateman said we were looking for the file to determine whether or not he made an appeal request within the 15 day time frame.

Attorney Bennett said there is a letter in the package that he did not which he wrote himself.

Commissioner Severns said that he recalls an email saying that he did not have to send an appeal.

Attorney Bennett stated that his request was stated in the agenda as a variance.

Mayor Brooks wanted to add to his report some information from Wachovia Bank received at the Florida Leagues of Cities conference. They have a Customer Fraud Assistance Information Package that I would like to have added to the next newsletter and available to residents.

Commissioner Ready reiterated Mayor Brooks' comments of the Florida League of Cities conference. He stated that the sponge pump was very interesting. He commended Mayor Brooks on his chair presentation on the Polarizing Issues Seminar with John Marks.

Commissioner Readey asked about his request to have the brick painted on the other side of the bridge.

Ms. Bateman noted that it is on schedule.

Commissioner Pisano informed Council that she was appointed to the Intergovernmental Relations Legal Political Committee for the League of Cities looking at legislation for the 2010 year.

Commissioner Severns asked for an update on Delia Beach.

Mrs. Bateman said that they will be removing all the stone and place a new liner. They will reinforce the washout and put everything back in place to dissipate the flow. Steven Gillis was working on the project this morning.

Attorney Bennett addressed the upcoming regular session Bed & Breakfast ordinance. Last night the Planning & Zoning voted 4-1 against the special exception.

Mayor Brooks noted that he heard from a resident opposing the ordinance. He also noted that the P&Z Board would like to meet with Council with regards to overturning their decisions.

Commissioner Readey said that they are especially annoyed with their Boat Dock issues. Maybe we should think about increasing the ordinance regarding the square footage.

Mrs. Bateman asked if anybody has experience or knowledge of about how many variances are granted for size in Orange County and Windermere where they have 1000 sq ft limit. Or, do they not have a variance process. Is there not a way to have a variance process?

Attorney Bennett noted that we can eliminate the variance process however it will tie our hands if there is a unique situation.

Commissioner Pisano said that it should depend on frontage.

Ms. Bateman said that is the issue.

Mayor Brooks said in the case of different widths of lakefront it is not unreasonable to have larger lake fronts to have something larger on it.

Mrs. Bateman said one of the issues with Mr. Harrell is that his dock was grandfathered in. It should have been viewed as a non conforming structure instead of a boat dock variance request. It seems that the defense for this particular dock is that there was something there that was not conforming and the new structure is less of a non-conformity coming into compliance with the roof line and reducing the amount of closure on the structure. This might give the P& Z Board a measure of comfort.

Steve Gillis joined the meeting as provided an updated on Delia Beach. He said that they are placing a new liner and adhering it to the new liner along side of the bank to stop the erosion. We will be keeping the planting material however moving it back a little higher. We will place river rock and boulders to keep the line in place.

Commissioner Severns asked if Belle Isle is doing the repair.

Steven Gillis noted that it is being completed by Groundwerks.

Mayor Brooks asked about RPMs.

Steve Gillis said that he contacted 3-Points yesterday and today.

Mayor Brooks said that he noticed along Hoffner in front of Mr. Woods' house again where the pavement is stripped and lost. There are probably 3 or 4 in front of his house. It hasn't been too long since they overlaid. They cannot keep building up.

He said that they just adopted another long range transportation plan that shows Hoffner as a thoroughfare. We can do a truck study to ban trucks on the road and make it a no truck route. We have to prove there is an alternate route available which is Sand Lake and McCoy.

Mrs. Bateman asked what would be the fiscal impact on the city would be for maintenance

Mayor Brooks said it would be big. We will no longer be the cheapest taxation City in Orange County, it will be expensive.

Commissioner Pisano said the good news that from Goldenrod to Conway, Hoffner got delayed to 2015. The other issue is Shadowridge which also got delayed to 2015.

Mrs. Bateman asked if we move forward to the annexation south of us and get some commercial industrial property it would help in generating some revenue.

Mayor Brooks said the question is really that they have a fire they are fighting. They don't like the County. They are not motivated. Pete and Reese are the two key players. That part was not supported last time.

Commissioner Scott asked when we will generate tax revenue.

Mrs. Bateman said not until January.

There being no further items to come before Council, meeting was adjourned.

Yolanda Quiceno
Administrative Assistant