

**CITY OF BELLE ISLE
SPECIAL SESSION
AND WORKSHOP
DECEMBER 1, 2009
5:30 P.M.**

The Belle Isle City Council met in Special Session and Workshop on Tuesday, December 1st, 2009 at 5:30 p.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
Sam Butler III	District 1
Keith Severns	District 2
Charles Scott	District 3
Vice Mayor Ady	District 4
Harvey Readey	District 5
Lydia Pisano	District 6
Eric S. Spaulding	District 7

Also present were City Manager Be Bateman, City Attorney John Bennett, Police Chief Tegg, City Clerk Miriam Rodriguez, and others

Mayor Brooks called the meeting to order.

- **CITIZEN'S COMMENTS** –
Mayor Books opened the public hearings for citizen's comments. There being no comments, Mayor Brooks closed the public hearing
- **CONSENT AGENDA:**
 - a) Minutes of September 30th, 2009, Workshop Session, October 28th, 2009 and November 4th Regular Session.
 - b) City Manager's Annual Performance Review

Vice Mayor Ady moved to approve consent agenda.
Commissioner Pisano seconded the motion which passed unanimously.

- **PRESENTATION** of Certification of Achievement for Excellence in Financial Reportings presented to Lucia Ramos.
- Mayor Brooks announced that the tree lighting date has been postponed until Saturday, December 5th at 5:00 P.M.

- **PROCLAMATION** presented to Mr. Ron Borgon for being the Teacher of the Year.
- Chief Tegg presented special awards to those that made it possible for the police department to be here.

PUBLIC HEARING: Re-consideration of an appeal by Bob Harrell of 2800 Trentwood Blvd., to the P&Z Board's denial of a variance request to construct a boat dock in excess of 500 SF

Mayor Brooks said this is a continued public hearing. For the record, we have the same Council plus Commissioner Spaulding.

Attorney Bennett said the testimony taken at the last hearing is still before you plus you can consider anything new tonight.

Mr. Harrell said I have my attorney here, he will speak for me. If there are any questions I will be here to answer them.

Attorney Brennen said for the benefit of those that were not here, this came up in August for a variance for his dock. At that time the appeal was approved. Due to a glitch he had to come back to the November meeting and that meeting had to be carried over to this meeting. His request is for a dock in excess of 500 SF. The new dock is somewhat smaller, the design is better. I would like to give you some documentation to include in the records. One is 3 pages of petitions from residents along Trentwood and Flowertree in support of his request. The property in question has 300' frontage, the second thing is a partial copy of the construction contract he signed. The total cost exceeds \$70,000. The third item is the City of Belle Isle's boat dock application, minutes of August 6th meeting, the building permit from the county, copy of the transcript of the November 4th meeting. I don't want to take up a lot of your time, I know there are a number of people here in favor and some opposed.

Mayor Brooks said the prior testimony is part of the record. By show of hands how many people here are in favor of the appeal request? Six hands went up. By show of hands how many people here are opposed to the appeal request, four hands went up.

Mayor Brooks opened the public hearing.

1. Bobby Lance of 3401 Trentwood spoke in support.
2. Carrie Haan of 2499 Trentwood spoke against the request.

Attorney Bennett said, how did we get here, at the last meeting we ended up with a 3:3 tie and at the end of the meeting we decided to bring it back while we have a full council. The existing dock was there before the present regulations. Even though it is non conforming, he has a right to keep that there forever. What he is proposing is less non conforming than the existing dock.

3. Mike Schmidt of 2900 Trentwood said the existing structure is bigger than what he is proposing.

Mr. Harrell said I would like to clarify a couple of things. First off the county's regulations for a boat dock are not to exceed 1000SF and they do not count the walkway. The boat dock I have now is 716 SF plus the walkway. The dock I have now is an enclosed screen; the enclosed ski storage area stays the same. We have 300 ft of lake frontage. We could have had four docks, we are asking to build one 50% bigger than your ordinance allows. Again, I am trying to accommodate my neighbor, I moved the dock in 25 ft instead of the required 10 ft. what we are attempting to build is improvement to what we have. Our new dock is about 4 inches shorter than our existing dock.

There being no further comments from the public, Mayor Brooks closed the public hearing and opened it to the Council for discussion.

Mayor Brooks said we are here because adequate notice was not given.

Commissioner Readey said the attorney mentioned that we were back here because we didn't have a full council, the reason stated was that we were afraid that we would get sued.

Commissioner Pisano said I did make a motion, it had nothing to do with a lawsuit.

Commissioner Pisano asked Mrs. Haan, did you happen to get anything in writing from the people that opposed this from your neighborhood?

Mrs. Haan responded no.

Commissioner Readey said I still want to correct what the attorney said. I think that is important because the reason stated and the reason the motion passed was because we were afraid that the city was going to face a lawsuit. I think this whole story is not accurate and the other thing I want to state is I have no objection, my concern is the enclosed storage.

Mr. Harrell said the only reason why I think I should be entitled to have that is because I have it now, is not a safety issue, is not obstructing anything, what we are proposing is less of what is acceptable now.

Commissioner Readey said we need to re visit the ordinance and address the enclosed storage unit issue as well as the square footage issue, but that was my problem and that is why I voted to deny the request.

Commissioner Butler said as there was an approval of this and a change to the code in the works, I would not want to penalize a citizen of the community; at the same time I am wondering when you make that motion attach a contingency about the enclosed storage area

Attorney Bennett said you can put condition on a motion but being that this is less than what he has now.

Commissioner Spaulding asked what is the footprint of the enclosed portion of the boat dock?

Mr. Harrell said approximately 40 SF (3' 2" x 13' L). If we keep the old one we have a screened in boathouse, storage area and deck for sunning. We are saying we will give up the deck on top, keep the screened in area and the storage area. I signed a contract in good faith, I'm baffled that anybody would object

Commissioner Spaulding asked what does screening constitute?

Mayor Brooks said City Manager has pointed out that the term enclosed would be defined but not by limitation screen, lattice, fence

Commissioner Pisano said I just wanted to say that we have heard this testimony two or three times. We don't have any letter of opposition. I would like to make a motion to grant his appeal of the previous P&Z hearing.

Commissioner Severns seconded the motion.

Commissioner Readey said I would vote for the motion if we modify it to disallow the enclosure.

Commissioner Pisano said I went and looked at Mr. Harrell's boat dock and I think people are just misconstrued the word enclosure.

Mayor Brooks said screen enclosure, we will need to deal with that when we revisit the ordinance

Commissioner Butler said this enclosure thing has me worried now you can go out and create a living area in this space.

Commissioner Readey said I find that people with enclosures have refrigerators, hot water heaters even washer machines. I think it sets a precedent.

Mr. Harrell said we have lived in that house for 30 years

Vice Mayor Ady said we are going to go ahead and change the boat dock requirements, but needless to say the problem I have with this is Council approved this previously and now we are going back. I would be in favor of the motion that Commissioner Pisano made.

Mayor Brooks said let me say this, we recall the workshop where the P&Z Board came in and expressed their frustration. The subject really boils down to does our ordinance need to be revisited, I think in terms of the size. I just want the Council to recognize the frustration of the P&Z Board. Having a motion and a second to grant the appeal, upon roll call, motion passed 5:2 in favor of granted the appeal as Commissioner Butler and Commissioner Readey voted nay.

PUBLIC HEARING: Re-consideration of an appeal by Walter Schytte of 2909 Trentwood Blvd., to the P&Z Board's denial of a variance request to construct a boat dock in excess of 500 SF

Mr. Schytte said my situation is similar. I went through a hearing, I was approved, dock is completed, and then I come back from being away and see the property posted.

Mrs. Bateman clarified that the property was posted so we could go ahead and hear the public hearing, and on this boat dock there is no enclosure of any kind.

Mayor Brooks said this would be new testimony, Novo hearing.

Mayor Brooks opened the public hearing.

Upon a hand call there were six persons present in favor of the appeal.

Holly Dragon of 5120 Pleasure Island Road asked why people that should have received notice did not.

Mayor Brooks said mistakes do happen.

Bob Harrell of 2800 Trentwood said he is my neighbor, four houses up, the dock is complete it looks wonderful.

Kathy DeFilippo of 3501 Cullen Lake Shore Drive said I would urge Council to revisit the ordinance

There being no further comments, Mayor Brooks closed the public hearing and opened it to Council for comments and a motion.

Commissioner Pisano said I move that we grant Mr. Schytte's appeal.

Commissioner Severns seconded the motion which passed 5:1 as Commissioner Readey voted nay and Vice Mayor Ady was not present for the vote.

PUBLIC HEARING: - Consideration of an appeal by David Woods of 3042 Hoffner Ave., to the P&Z Board's denial of a variance request to allow a flag to be flown at the maximum height of 49 feet on an existing flagpole which is also being used as a weather station.

Mr. Woods presented his request for a 62' flag pole erected January 2009

Mayor Brooks opened the public hearing

1. Walter Currie of 3010 Hoffner spoke in favor of the request.

There being no other comments, Mayor Brooks closed the public hearing and opened it to Council for discussion

Vice Mayor Ady asked if there were any restrictions for a weather station

Mayor Brooks said the P&Z Board gave him 55' and he has taken it down to 40' flag pole which also serves as a lightning rod

Commissioner Readey said we have lightning rods that extend beyond that.

Commssioner Spaulding said I appreciate you providing this service to the city.

Commissioner Scott said we have a tower that exceeds this, the other thing is how the flag is going to be treated, does the flag come down?

Mr. Woods responded that the flag was lit.

Commissioner Butler asked Attorney Bennett, does the variance apply to the address or the person?

Attorney Bennett responded to the property.

Commissioner Severns said Mr. Woods and I spoke yesterday we certainly don't want a car lot type flag flying

Vice mayor Ady asked you can lower it and raise it?

Mr. Woods responded yes.

Commissioner Readey said the weather station would be the justification for the approval of the flag pole.

Commissioner Spaulding moved to approve the request with the condition that the flag size is 3 x 5 no bigger than that and as long as he continues to provide data to the city.

Vice Mayor Ady seconded the motion which passed unanimously upon roll call.

Mayor Brooks thanked Mr. Woods for his services.

Second Reading and Adoption of Ordinance 09-11

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING CHAPTER 10, ARTICLE III SECTION OF THE BELLE ISLE CODE OF ORDINANCES REGULATING NOISE AND LIGHT POLLUTION; PROVIDING SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

Mayor Brooks opened the public hearing. There being no comments he closed the public hearing and opened it to Council

Vice Mayor Ady moved to adopt Ordinance 09-11

Commissioner Severns seconded the motion which passed unanimously upon roll call.

Second Reading and Adoption of Ordinance 09-14

AN ORDINANCE AMENDING THE CITY OF BELLE ISLE LAND DEVELOPMENT CODE; BY ADOPTING REVISIONS TO CHAPTER 32 SECTION 32-31 (c) RESTRICTION ON IRRIGATION AND ACCESSORY USE PROHIBITIONS; EXCEPTIONS; CHAPTER 42, ARTICLE III SECTION 42-65 (2) CHANGES TO THE OFFICIAL ZONING MAP (REZONING OF PROPERTY) AND SECTION 42-66 LAND USE PLAN AMENDMENTS; CHAPTER 46 CONCURRENCY MANAGEMENT SYSTEM ARTICLE IV SECTION 46-107 WATER SUPPLY AND ARTICLE VI SECTION 46-161 INTERGOVERNMENTAL COMMUNICIATION; CHAPTER 50 ARTICLE III

SECTION 50-76 2 (b) 11 XERISCAPING AND SECTION 50-76 2b (2) IRRIGATION, AS REQUIRED BY THE CITY'S ADOPTED WATER SUPPLY FACILITIES WORK PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Brooks opened the public hearing. There being no comments he closed the public hearing and opened it to Council for discussion and a motion.

Vice Mayor Ady moved to adopt Ordinance 09-14

Commissioner Spaulding seconded the motion which passed unanimously upon roll call.

RESOLUTION 09-19 Authorizing specific council members as signatories on the city's checking account

Commissioner Spaulding moved to adopt Resolution 09-19

Vice Mayor Ady seconded the motion which passed unanimously.

Mayor's Report

Mayor Brooks said we will have the second harvest food bank drive at city hall through Monday December 20th

He asked about the Conway Road project and who was fixing the median, they had agreed the contract would be back.

He gave an update on the Charter school.

He thanked Be and staff for the postcard and email for the tree lighting.

Chief Tegg's Report

No Report

City Attorney's Report

No report

City Manager's Report

No Report

City Council's Report

Commissioner Readey said I want to support the High Speed Rail but with a 23% fall next year, I don't know

He commended the maintenance crew for their work on the bridge.

Mayor Brooks asked about the walks

Steven Gillis said they were being done today.

Commissioner Scott – no report

Commissioner Spaulding – It has been a busy year for all, city council, city staff, I want to commend our city.

Commissioner Pisano commended Chief Tegg for his work.

She asked Steve Gillis, the new sidewalk on South Conway, it does not look like it is going to meet up, the plans show that they were going to meet up. Are they?

Steven Gillis said I will get with them on that.

Commissioner Pisano handed out a photo of what the police department will look like; the grant will be submitted by Monday.

Commissioner Butler said I want to thank all of the commissioners and staff for helping me in my transition. Safety and security is very important for our community and to be able to call the squad car directly is an excellent tool.

Commissioner Severns said the lawn maintenance crew is working out pretty good. He asked about the graffiti under the Neal bridge. He also said I got a chance to visit some charter schools in Miami and it was very exciting.

Mrs. Bateman said we will do a work order on it

Mayor Brooks asked how is the Delia retention pond?

Steven Gillis responded they are doing a good job with that.

Mrs. Bateman said they are also providing perennials throughout the city, so far we are very pleased with that.

Vice Mayor Ady spoke on the economic downturn and how we can get local congress to create an earmark on the upcoming grants.

PROCLAMATION – of 2010 Election

Mayor Brooks read the proclamation for the 2010 election

There being no further items to come before the Council, meeting was adjourned at 7:35 P.M.

Miriam Rodriguez
City Clerk