

**CITY OF BELLE ISLE
REGULAR SESSION
NOVEMBER 4th, 2009
5:30 P.M.**

The Belle Isle City Council met in Regular Session on Wednesday, November 4th, 2009 at 5:30 P.M. in the Belle Isle City Hall Council Chambers, 1600 Nela Avenue, Belle Isle, FI 32809.

The following members were present:

William G. Brooks	Mayor
Keith Severns	District 2
Charles Scott	District 3
Larry Ady	District 4
Harvey Readey	District 5
Lydia Pisano	District 6

Not present were, Commissioner Spaulding, District 7 and City Manager Mrs. Bateman

Also present were City Attorney John Bennett, City Clerk Miriam Rodriguez, and others

Mayor Brooks called the meeting to order.

Mayor Brooks introduced Mr. Sam Butler, he said Council members you have seen the credentials and resume of Sam Butler, my nomination for District 1 seat held by Mr. Petruzzi who has resigned.

Commissioner Pisano moved to approve nomination of Sam Butler to District 1 seat.

Commissioner Readey seconded the motion which passed unanimously.

Mr. Butler was sworn in by Mayor Brooks.

CITIZENS' COMMENTS

Mayor Brooks opened the Citizens' comments session, there being no one to speak, Mayor Brooks closed the Citizens' comments session.

CONSENT AGENDA

- a) Minutes of October 6, 2009 Regular Session

- b) Addendum to Solid Waste Service Agreement
- c) Proclamation Daetwyler Shores Homeowners Association 50th Anniversary

Mayor Brooks asked to pull Item C from Consent Agenda.

Commissioner Scott moved to approve Consent Agenda Items a and b.

Commissioner Pisano seconded the motion which passed unanimously.

(Vice Mayor Ady walked in the meeting)

Mayor Brooks read Item C on the consent agenda; Proclamation for Daetwyler Shores Association's 50th Anniversary.

Vice Mayor Ady moved to adopt Proclamation.

Commissioner Severns seconded the motion which passed unanimously.

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 an enclosed boat dock in excess of 500 SF

Attorney Bennett briefed Council about this hearing, that it was previously held, proper notices did not go out, we need to redo it is properly done. It is a de novo hearing

Mayor Brooks asked, for the record, are we supposed to ask the same questions?

Attorney Bennett said it's decided on what happens here tonight.

Mayor Brooks opened the public hearing.

Mr. Harrell, property owner said we live at 2800 Trentwood Blvd, we own 4-3/4 acres; we applied for a boat dock in excess of 500SF. We have an existing boat dock that we could rebuild and keep. The existing boat dock has a deck on top which is no longer permissible; the new dock has the same square footage and length out into the water. Our property could have been divided into four lots and build four docks, I think the fact that we have an existing boat dock and the fact that we have 300' is the reason that our variance should be granted Mr. Bennett has indicated that we have been here previously, my next door neighbor wrote in support.

Mayor Brooks said we will not take testimony from anyone who wishes to oppose the appeal.

1. Carrie Haan of 2622 Trentwood and 2499 Trentwood Blvd., said what is built should be built according to code, visibility and safety standards. If you grant this variance it opens the door for everyone on the Lake Conway that we live on and other to come back and have their previous denials to be overturned. I don't believe I saw anything that identifies a hardship.

Attorney Bennett said one comment, the failure to give notice was not Mr. Harrell's fault, it was the City's fault.

Mr. Harrell said in reference to the visibility what we are putting up, the square footage for the enclosed area for the skis is the exact amount as what you see in the picture, nothing larger than what we have right now. This board did not deny me, this board approved me. As far as the hardship there is no requirement to prove a hardship for a variance to build a dock.

2. Pat McGee of 2502 Oak Island Point, said I think the reason in granting this type of variance is the applicant's compliance to Chapter 48 Section 48-33 subsection D & F, structure that is needed on this lot subsection D unnecessary hardship. With regard to the ancillary argument that I have a non conforming structure and I'm entitled to build another non-conforming structure; that is not the way the ordinance should be applied.

Mr. Harrell said again we have 300', and I think if we have others that have 300' they should be entitled to build.

Mayor Brooks asked anyone speaking in favor of the appeal? Anything else Mr. Harrell?

Mr. Harrell said is not like we are going to tear this dock down, we will keep the dock that we have. By granting this variance you will end up with a dock more in compliance than the existing dock.

Vice Mayor Lady asked it was mentioned that this would set a precedent?

Attorney Bennett said not a legal precedent.

Commissioner Readey asked how many SF does the existing boat house has now

Mr. Harrell responded we now have 1212

Commissioner Readey said I want a storage space on my dock, I learned to live with the open dock, the more space I have the more junk I put out there.

Mr. Harrell said I have it now if we get the variance denied we will keep the dock we have, we have 300' we have shrunk the dock area, we are not building anything larger

Commissioner Scott asked what is the SF on the new dock

Mr. Harrell responded 1144 SF

Commissioner Scott said we don't know how many other docks on the lake will be affected that have 300' on the lake do you know of any other?

Mr. Harrell said I think there are a couple others.

Mayor Brooks said we did the estate zoning it was not based on width, the numbers of parcels were less than 20.

Commissioner Pisano said if I could just ask you, the difference is 68' smaller and then you say the dock is going to the same length.

Mr. Harrell said it is 3" shorter we did go through this process, we have a contract for \$72,000, we are under construction

Vice Mayor Ady asked what are the legal implications since we already approved it, he has a contract. Can he come back and sue us? Can he go over to the higher court?

Attorney Bennett said yes

Commissioner Butler asked why P&Z denied it

Mr. McGee responded it didn't meet the criteria for granting the variance.

Mr. Harrell said for the record, your representative said to my understanding that there is no requirement for showing a hardship to build a boat dock.

Attorney Bennett said in the variance requirements other than boat docks and the variance for docks specifically says that does not apply.

Vice Mayor Ady said I think we have a problem with the seasonal flows of water. I think we are too strict on the ordinance. I think we need to be more liberal. We should readdress this issue.

Commissioner Readey said it seems to me that the area is not the problem, the problem is how far out on the lake it can go.

Mayor Brooks said P&Z came before Council their issues with boat docks in particular. Is it time to revisit that ordinance? What is reasonable? I think they would appreciate clarity. No matter what happens here tonight we should revisit the ordinance in the future. It is obviously a source of frustration for them and for us. Just want to acknowledge that meeting with them and express my appreciation.

Commissioner Readey said I don't have a problem what I do object to is the enclosure of the facility I don't think that is necessary

Mr. Harrell said the only area that we are talking about is the area at the end of where the boat parks just to store the skis in. your code requires the 10 feet from the property line we placed mine 25 feet from the property line, we moved it over.

Commissioner Readey said I would like to move to deny this appeal.

Mayor Brooks asked for a second. No second motion dies.

Commissioner Pisano moved to grant appeal.

Commissioner Scott seconded the motion. Upon roll call

Vice Mayor Ady Nay
Commissioner Severns Aye
Commissioner Butler Nay
Commissioner Pisano Aye
Commissioner Scott Aye
Commissioner Readey Nay

Mayor Brooks said motion fails for lack of majority. Appeal is not granted. Mr. Harrell the next step would e to the circuit courts or to leave it there.

Second Reading and adoption of Ordinance 09-10

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING CHAPTER 54, SECTION 54-79(d) OF THE BELLE ISLE CODE OF ORDINANCES PROHIBITING VEHICLE SALES IN C-1 ZONING DISTRICTS; PROVIDING SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

Mayor Books 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 09-10
Commissioner Scott seconded the motion which passed unanimously upon roll call.

Consideration and First Reading 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 asked Chief Tegg if he was satisfied with Ordinance 09-11. Chief Tegg said yes.

Vice Mayor Ady moved to advance to second reading.
Commissioner Readey seconded the motion which passed unanimously.

Second Reading and Adoption of Ordinance 09-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING CHAPTER 52, ARTICLE II, SECTION 52-32 OF THE BELLE ISLE CODE OF ORDINANCES TO PROHIBIT OFF-SITE SIGNS IN RESIDENTIAL DISTRICTS AND TO ALLOW FOR SIGNS IDENTIFYING CONTRACTORS DURING CONSTRUCTION OF IMPROVEMENTS ON A RESIDENTIAL PARCEL; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

Mayor Books 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 09-13
Commissioner Pisano seconded the motion which passed unanimously upon roll call.

Second Reading and Adoption of Ordinance 09-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA RELATING TO THE LEVY AND COLLECTION OF A NON-AD VALOREM SPECIAL ASSESSMENT ON RESIDENTIAL PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF BELLE ISLE FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE

Mayor Books 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 asked how long will this take.

Mayor Brooks responded upon adoption.

Vice Mayor Ady moved to adopt Ordinance 09-15

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

Consideration and First Reading 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 COMMUNICATION; 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 said this is a requirement from previous comp-plans.

Rebekka Hammond of Ivey Planning Group said I wanted to point out the ordinance was changed to remove existing code language and has been an accepted ordinance, so the change to chapter 32 should no longer be included in the ordinance. The next issue P&Z recommended not to make the changes to Chapter 50 they did not feel it was necessary.

Mayor Brooks said that was just P&Z's recommendation

Commissioner Scott asked Ms. Hammond if she agreed with that decision

Rebekka Hammond said the changes that we are recommending are based on the requirements that the water management district is recommending.

Mayor Brooks asked is that being posed as a recommendation?

Rebekka Hammond said it is mandatory that you would have to use xeriscaping

Mayor Brooks said I would also suggest changing list of acceptable xeriscape plants can be found on file in the office of the City Manager, change that to City Clerk.

Commissioner Scott said that under section 50-76 (2)b.11 Xeriscaping line 2 Xeriscaping is required should be changed to Xeriscaping is encouraged.

Commissioner Scott moved to accept the changes as discussed

Commissioner Severns seconded the motion which passed unanimously

Vice Mayor Ady moved to advance to second reading with edits

Commissioner Pisano seconded the motion which passed unanimously

Consideration and Adoption of Resolution 09-17

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF BELLE ISLE, FLORIDA EXPRESSING
ITS INTENT TO USE THE UNIFORM METHOD
FOR COLLECTION OF A SOLID WASTE**

SERVICE ASSESSMENT WITHIN THE CORPORATE LIMITS OF THE CITY OF BELLE ISLE STATING THE NEED FOR THE LEVY OF SUCH NON-AD VALOREM ASSESSMENT; PROVIDING A LEGAL DESCRIPTION OF THE REAL PROPERTIES SUBJECT TO THE LEVY AND PROVIDING FOR THE MAILING OF THIS RESOLUTION BY THE STATUTORY DEADLINE

Mayor Brooks explained that this the budget instruction that we need. This year we are doing the mail out next year it will be on your tax bill.

Vice Mayor Ady moved to adopt Resolution 09-17
Commissioner Severns seconded the motion which passed unanimously.

Commissioner Pisano said she would like to bring the boat dock issue. I don't understand why it failed and I think it's a travesty, he is already under contract. I would like to bring it back up for discussion.

Mayor Brooks said before we go into that discussion we would need a motion and a second

Commissioner Pisano moved to bring the item back on the agenda.

Vice Mayor Ady seconded the motion which passed unanimously.

Vice Mayor Ady said my concern is a potential lawsuit, I think we need to revisit this.

Commissioner Readey said two points, first of all we don't allow anybody else to have an enclosed boat dock and second it was a vile threat that he was going to go back and keep the old boat dock.

Commissioner Scott said I don't think we should be discussing it.

Mayor Brooks said I think we can have this discussion now, you can decide to put it back on the agenda. Who can put an item on the agenda, I understand a council member can put it on the agenda to talk about it.

Attorney Bennett said on the other hand you closed the public hearing it would not allow them to say anything else, in public relations it would be a bad thing to do. If you want to take action I would suggest a motion to continue and re-notify

Commissioner Severns said he is not closing in the slip itself, we have so many others that are totally blocked out. What he is talking about building is a fraction of that.

Commissioner Readey said I know what you are saying, the enclosed is something he has done by choice, it does obstruct the view.

Commissioner Severns said I don't call what he is talking about an enclosure.

Commissioner Butler said it seems to me we have standards there should be a good reason for that or change the standards.

Mayor Brooks said to spare us all, if we want to do a reconsideration of that action tonight the appropriate means would be to make a motion to reopen at next council meeting and notify everyone present.

Commissioner Pisano moved to reopen and set the public hearing to the council meeting and notify everyone that was present.

Commissioner Severns seconded the motion

Commissioner Scott said I think P&Z should also be notified

Motion passed 4:1 Commissioner Readey voted nay.

Mayor Brooks gave an update on the charter school.

Commissioner Pisano gave an update on the solar system.

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

Miriam Rodriguez
City Clerk