



CITY OF BELLE ISLE, FL CITY COUNCIL MEETING

Held in City Hall Chambers, 1600 Nela Avenue, Belle Isle, FL

Held the 1st and 3rd Tuesday of Every Month

Tuesday, February 02, 2021 * 6:30 pm

MINUTES

City Council Commissioners

Nicholas Fouraker, Mayor

District 1 Commissioner – Ed Gold | District 2 Commissioner – Anthony Carugno | District 3 Commissioner – Karl Shuck

District 4 Commissioner – Mike Sims | District 5 Commissioner – Harvey Readey | District 6 Commissioner – Jim Partin

District 7 Commissioner – Sue Nielsen

Also present was Attorney Ardaman, City Manager Francis, Chief Houston, Officer Ferrioula, and City Clerk Yolanda Quiceno

Absent was: Comm Sims and Comm Carugno

1. Call to Order and Confirmation of Quorum

Mayor Fouraker called the meeting to order, and the City Clerk confirmed quorum.

2. Invocation and Pledge to Flag - Comm Ed Gold - District 1

Comm Gold gave the invocation and led the Pledge to the Flag.

3. Public Hearing

- a. APPEAL OF CASE #2020-09-007** – Pursuant to Belle Isle Code Sec. 42-63 and Sec. 54-84 (D), the Council shall consider and take action on a requested special exception to allow active recreational uses on property zoned open space district and pursuant to Belle Isle Code Sec. 54-84 (G) (2) the Council shall consider and take action on a requested site plan for Wallace Park improvements, submitted by applicant City of Belle Isle, located at E. Wallace Street, Belle Isle, FL 32809 also known as Parcel # 24-23-29-8977-00-021

Mayor Fouraker opened the Public Hearing 2020—09-007.

City Manager Francis gave a brief overview of the continuation of the Appeal of the Planning & Zoning Board (P&Z) approval of Special Exception for Wallace Field. The P&Z Board made a decision, without conditions, and the special exception was granted. He said this hearing is for the Special Exception for the use of the field and if Council will consider CCA practice as active recreation. The building on the field will be some storage for City's mowing equipment and public restrooms. He stated that there would be no discussion tonight on the site plan (i.e., drainage, artificial turf, gate, and tree locations). The site plan was tabled at the P&Z meeting, and those individuals who would like to speak on those items should attend the P&Z meeting and submit their testimony at that time.

On November 17 public hearing, it was stated that the criteria for approval at the P&Z Board meeting did not meet the Code. The staff believes that the criteria were followed, proper notice was provided, and a public hearing.

The staff recommendation is to approve the Special Exception for Cornerstone Charter Academy (CCA) use on the field as a non-structured activity and allow the building on the field for restrooms and storing of City equipment.

Comm Readey joined the meeting.

Attorney Nathan Meloon, with offices at 1990 W New Haven Avenue, Melbourne, FL, representing his clients, said as a procedural matter, he reached out to the City Attorney and asked for a continuance to allow all his district Council members to be present. Mayor Fouraker stated that District 2 Commissioner Carugno said at the last meeting that he would not be present at this meeting and said he trust his Council. City Manager Francis further said that he did not receive any Commissioner correspondence to table this matter. Attorney Meloon noted, for the record, his clients strongly object.

Attorney Meloon said the Council should not proceed with this hearing because they did not follow the City Code per Section 42-71. Attorney Ardaman said the Council approved the hearing being moved forward and extended the date for this hearing. He does not see any basis for this being an illegal meeting or vote. The Council can proceed if they see fit, accept the appellant's request for a continuance, or deny it.

Attorney Meloon said his clients and neighboring property owners are agreeable for the school to use the field and for a special exception to be granted with the conditions of no artificial turf, no parking, and no restroom facilities. Their concern is about the homeless, sexual predators, parking on the adjoining property, and non-CCA organized sports.

He said the City had exparte communication with the CM and was not a noticed meeting. He hopes that the Council can be fair and play by the same rules it expects for all citizens. He further shared that a member of the Council stated too many P&Z decisions had been appealed at a previous meeting, and their decisions should be respected. This is in no way a De Novo hearing. Attorney Meloon said, at the November 17th meeting, the Council did not provide competent substantial evidence on why the request should be granted. Even if the evidence was provided, his clients can give testimony that the City is not entitled to the exception and that it would be against the requirements for a special exception.

In his research, Attorney Mellon said the City has ten parks in City that show that they are great for the community and property values and have no parking available. In sum, he asked that the Council deny the motion.

Mayor Fouraker opened for public comment.

Charlene Cross residing at 5260 Chiswick Circle, spoke in favor of the special exception. She said the field was purchased a few years ago, and the school can use the property. The plans have already been approved, and having no restrooms available can create an issue for people using the park. The concerns shared is no different from any other park in the community. The area needs to be revitalized for the children, the school, and the community.

Gary Meloon residing at 6101 Matchett Road, clarified that he is not opposed to the school using the property as a practice field. The special exception they would like to see is a passive recreational use and not an active use with bathrooms. He further noted that a previous meeting school representative said they do not need parking or restrooms on Wallace Field. Initially, Mr. Meloon noted that the property was purchased under Open Space's assumption, and they are not asking for anything different. A designated Active Use can impact their quality of life and surrounding home values.

Residing at 1303 E Wallace Street, Jim McCrae urged Council to delay the meeting until their District Commissioner is present to vote and comment. There are two Commissioners absent today, and there should be a full representation. He shared his concern and frustration with the previous discussions and this evening's presentation.

Hilary Maul residing at 1130 Waltham Avenue, said she would prefer to have the hearing move forward with all Commissioners present. She is primarily opposed to public restrooms and will impact the quality of their lives in their back yards.

Mayor Fouraker read for the record an email submitted by CCA Board member Liza Jennings on behalf of the Cornerstone Academy Foundation dated February 2, 2021, in favor of the Special Exception.

Mayor Fouraker read for the record an email submitted by Tanner Davis residing at 5138 Oak Island Road dated February 2, 2021, in favor of the park's proposed improvements.

Larry Miles residing at 6110 Matchett Road, said this is a historic property and unique to the community. He would like Council to consider the City's character when developing the property, i.e., master plan park with lots of trees and no active use. He recommended the idea of utilizing the existing Lancaster House or Pine Castle Fire House. There being no further comment, Mayor Fouraker closed public comment.

Comm Partin asked for the record, clarification of an Active Use vs. Passive Use, and the ramifications if it is not changed. Attorney Ardaman read Sec 54-84 of the Code as follows,

Active recreation. Active recreation is generally any recreational activity that requires significant infrastructure for the purposes of active sports or organized events. It is about engaging in adventure sports or outdoor games. An active park refers to structured recreational activities which require specialized parkland development and management which may restrict general use of the parkland or facility. Examples of active recreation include, but are not limited to, sports fields, ball fields, playgrounds, skateparks, swimming pools, gymnasiums, and outdoor theaters.

Passive Recreation. Passive recreation area is generally an undeveloped space or environmentally sensitive area that requires minimal development. Emphasis is placed on the preservation of wildlife and the environment. Passive park use refers to less structured recreational activities that require little or no specialized parkland development and management and therefore can be provided at a low cost to communities. It involves casual activities and the pursuit of hobbies with no adverse impact on the natural habitat. Examples of passive recreation include, but are not limited to, walking and jogging, hiking and nature walks, community gardens, painting, photography, kite flying, picnicking, Frisbee, fishing, and outdoor theaters.

Comm Nielsen said the Council had discussed this issue many times, and the vast of the residents support the field being used for school practice. She agrees that the property was purchased for all residents to use as open space. To find a solution, Comm Nielsen spoke of the possibility of using another building across Wallace (Pine Castle District) for restrooms and parking. She said it might be purchased by some of the residents and the City with joint ownership.

Mayor Fouraker said the property is directly behind the home of Larry Miles. He asked Larry Miles if he was in favor of the solution posed by Comm Nielsen. Mr. Miles said the main thing to consider is maintaining the City's character and maintaining the open space. Initially, he is willing to work with the City to consider the option; however, he reserves the right to change his mind depending on what is offered by the City.

Since it makes sense, Comm Readey said to have public restrooms and limited parking for a city park similar to Warren Park for the entire City to enjoy.

Comm Shuck shared his frustration and said the Council is going down the same rabbit hole and not discussing the topic at hand; approval of a Special Exception. He said site plan discussions started in 2019, and if there is no further comment, he called for a motion.

Comm Gold gave a brief history of the purchase of the property. He said it was purchased as Open Space to comply with the Comp Plan's green space requirement. We have to consider three stakeholders, residents, the City residents as a whole, and the school. He proposed using the Fire Department restrooms and asked if that was an option to consider.

Attorney Ardaman said the Public Hearing is for a special exception. There are the two primary criteria that must be met to grant the special exception,

1. If the Council finds the special exception shall not adversely affect the public interests;
2. It is determined that public health, safety, comfort, order, convenience, prosperity, morals, or general welfare is promoted, protected, or improved.

Under the Code, the Council is empowered to also place conditions on the use of the field with approval.

Comm Shuck said there should not be any bearing on the absence of any commissioner. Comm Shuck moved to approve the special exception for Wallace Field to allow CCA to use the field for practice and to allow a building on Wallace Field and that the two criteria have been met.

Comm Nielsen seconded for discussion.

Comm Readey asked that the motion includes a building height limitation condition. After discussion, Comm Readey motioned that the size should be the same as what was discussed and agreed with the site plan and the Use Agreement.

**Comm Gold moved to table the discussion to allow all Commissioners to be present.
The motion dies for lack of a second.**

Comm Nielsen seconded Comm Readey's amendment, which passed unanimously 5:0.

The motion made by Comm Shuck to approve the special exception for Wallace Field to allow CCA to use the field for practice and to allow a building on Wallace Field and that the two criteria have been met with the amendment passed 4:1 with Comm Gold, nay.

4. Consent Items

- a. Approval of January 5, 2021, City Council minutes
- b. Approval of January 19, 2021, City Council minutes

**Comm Gold moved to approve the minutes as presented.
Comm Nielsen seconded the motion, which passed unanimously 5:0.**

5. Citizen's Comments

Mayor Fouraker called for citizen comments. There being none, he closed citizen comments.

6. Unfinished Business

- a. Ordinance 21-01 – First Reading and Consideration: After the Fact Permit - Penalty for failure to obtain a permit

Since the last council meeting, City Manager Francis said he and the City Attorney met with the Orlando Regional Realtor Association (ORRA) to discuss possible resolutions to their concerns. The revised version only contains the penalties for failure to obtain a permit outlined in Section 6-5. Most of the items in the draft were removed because they were more procedural and not needed for the Ordinance. Also, the After-the-Fact permit fee was removed because it was just the cost of the permit.

The only other item that needs to be revised is the Section "(a) Definition" existing permit date from March 1, 2017, to read effective upon adoption of the Ordinance.

Comm Nielsen said she would like to scrap the Ordinance altogether. Changing the Code at this time will cause a lot of confusion and questions from the residents. ORRA contacted her, and it seems they are concerned about the language in the Ordinance, and the date of March 1, 2017, is arbitrary. She does not want to forward the Ordinance to a first reading but allows ORRA to create an educational piece on the process and mailed out to the residents.

Comm Nielsen motioned to not move to the first reading and work with ORRA with an educational piece for City residents.

Comm Gold seconded the motion for discussion.

City Manager Francis said he believes that ORRA does not understand the purpose of the After-the-Fact Ordinance. This Ordinance will allow homes on the market with no permits to get their work inspected accordingly to enable them to move forward and sell their home. The Ordinance will ensure work completed without a permit is documented to be safe and secure for its intended use by a licensed inspector.

After discussion, Mayor Fouraker reminds Council that Council asked this to have the City Manager research reoccurring permit issues. He said the City had seen so many after-the-fact permits, and many know that they are foregoing the Code. At this point, the City does not have a healthy hammer to discourage this type of behavior, which is why the Ordinance was revisited. Mayor Fouraker asked if a resident can appeal the fine to Council.

City Manager Francis said there is no fine imposed on an after-the-fact permit.

- 1. If a resident is found to have After-the-fact work, they will have to obtain a permit and pay for a permit fee only.

2. If a resident is found to be Working-Without-a-Permit, they will incur a fine and double the permit fee. They will have an opportunity to appeal to Council and give testimony as to why they should not have to pay the fine.

After discussion, the motion made by Comm Nielsen was withdrawn.

Attorney Ardman clarified that the effective date under Section 7 had been changed to read, "shall become effective immediately upon adoption by City Council in the City of Belle Isle."

Comm Partin moved to read Ordinance 21-01 for the first time at the February 16, 2021, Council meeting.

Comm Gold seconded the motion, which passed 4:1 with Comm Nielsen, nay.

7. New Business

a. Request of Pioneer Days to hold Event at Wallace Field

City Manager Francis said he spoke with Billy Morgan from the Pioneer Days Committee, who asked that the request be pulled from the agenda. He said that their Board would meet via Zoom to discuss 1) cancel the event, 2) postponed to a later date, or 3) move to an alternative site. He is appreciative and is looking forward to work with the City on other events. Mrs. Lance sent an email for the record.

b. RFP for modernizing Audio/Visual Equipment in Council Chambers

City Manager Francis stated that the citizens had many complaints about our meetings' current audio and video. The City does not have the infrastructure to produce a good quality audio and video meeting. He said the RFP clearly states that the City does not have the staff to operate the equipment and be simple to manipulate. When the RFPs are received, they will be given to the Budget Committee for review and recommendation to Council.

Comm Gold said before submitting the RFP; he would like to find a solution for minimal cost. If we can try to attach the audio to the current system, he believes it would work for under \$500. Mayor Fouraker said he believes Council should move forward with the RFP to weigh both options for transparency.

Comm Partin moves to direct the City Manager to advertise the proposal for modernizing the Council Chambers audio/visual and recording system.

CommNielsen seconded the motion, which passed 4:1 with Comm Readey, nay.

c. Policy for the Installation of Speed Humps

For the past two months, City Manager Francis reported that the staff had received a request for speed humps in Daetwyler Shores, Lake Conway Shores, and Seminole Drive. The City does not have a policy on how speed bumps are installed and what is the specifications. The Police Chief reviewed the policy. The policy will govern the process and provides clear guidance and criteria. Mr. Francis said if you live in an HOA, you will need 75% of those residents in favor. If not in an HOA, they will have to go to an adjacent street and get 75% of the residents' favor.

Comm Gold said for the record, the residents and the Fire Department are against speed humps in their neighborhood because the residents say it causes physical discomfort.

Comm Partin moves to adopt the policy for the installation of speed humps.

CommNielsen seconded the motion, which passed unanimously 5:0.

8. Attorney's Report – No report.

9. City Manager's Report

a. Issues Log

City Manager Francis report on the following,

1. Board & Committee Members: There are a few openings on some of the City Boards, and staff has a tough time getting new members. He asked if Council would be interested in changing the Code to be appointed At-Large if we do not get district membership.

Mayor Fouraker asked if we are suffering this because of COVID or something we want to do in perpetuity. Council consensus was to move forward with the change; however, make every effort to stick with a member by District.

2. Electronic Recycling Day Event – February 20, 2021.
3. Bank of America Open House: He said he would like to schedule an Open House on February 25, 2021, at the Bank of America building from 6-7 pm. Staff can display the Master Transportation Plan and tour the Bank of America building. Council agreed to have the event.
4. FWC Meeting Feb 25-26 Boating Restrictions: FWC will be holding a meeting to change the boating restrictions area criteria. Part of the criteria is to allow PD warnings, videos as substantial evidence. Also, they are looking to restrict the hunting areas to 300ft. At the next Council meeting, he will introduce an application for approval to send to the FWC for Canoe Trails in our City with 100 ft buffer and a sand bar designated swimming area with a mooring spot.

b. Chief's Report

Officer Ferriouola reported on the following,

- In January, the Agency issued 464 citations- traffic warnings.
- Applied for a new Corona Virus Grant Funding
- February 5 is National Crossign Guard Day – Let's thanked them for their service.

10. Mayor's Report – No report.

Tree Board meeting Monday, February 8, 2021, at 6 pm.

11. Council Reports

- Comm Readey thanked Council and the City for all his years of service.
- Comm Nielsen said she would like to see Council go back to workshops.
- Comm Shuck said he would like to see the residents get involved with Boards and Committees. Take the time and be part of your City Government.

12. Adjournment

There being no further business, Mayor Fouraker called for a motion to adjourn. Motion passed unanimously at 8:45 pm.