

**CITY OF BELLEVUE
REGULAR COMMISSION MEETING
MINUTES**

**BELLEVUE CITY HALL
COMMISSION CHAMBERS**

**June 7, 2005
6:00 PM**

Mayor STEVE BAIRSTOW
Seat 1 EMERY ABSHIER
Seat 2 KENNETH R. NADEAU
Seat 3 PAULA CHAFFIN
Seat 4 PAUL B. ANDERSON

PRESENT: MAYOR BAIRSTOW; COMMISSIONERS: ABSHIER; ANDERSON;
CHAFFIN; NADEAU; ATTORNEY LANDT; PUBLIC WORKS DIRECTOR
MONROE; INFORMATION TECH TOWNE; CHIEF STRICKLAND; CITY
CLERK/ADMINISTRATOR McKAMEY, DEPUTY CITY CLERK
DeGENNARO

1. APPROVAL OF MINUTES

5/11/05 Workshop Meeting
5/17/05 Regular Meeting Minutes

Commissioner Nadeau made a Motion to Approve the Minutes and Commissioner Chaffin seconded the Motion.

On roll call vote, YES: Abshier, Chaffin, Nadeau, Anderson, Bairstow
The Motion passed with a 5-0 vote.

2. PUBLIC HEARING - FINAL READING, ORDINANCE 2005-02, CPA 05-01

Mayor Bairstow stated that this is a Public Hearing and Clerk McKamey read Title Only, of Ordinance 2005-02 and then gave a brief description of the Ordinance.

Mayor Bairstow asked if anyone in the audience who was in favor or opposed to the proposed Ordinance wanted to come forward. No one came forward.

Commissioner Chaffin made a Motion to adopt Ordinance 2005-02 and Commissioner Nadeau seconded the Motion.

On roll call vote, YES: Abshier, Chaffin, Nadeau, Anderson, Bairstow

The Motion passed with a 5-0 vote.

3. DONNA GEORGE - FUNDRAISER FOR AIDIAN EJNIK

Donna George came before the Commission and requested to use the COB parking lot and stage for a fundraiser for Aidian Ejnik who was injured when his grandfather ran over him with a lawnmower. The fundraiser would consist of a yard sale and bake sale and the money would help to pay for medical expenses.

Commissioner Abshier made a Motion to grant the request and Commissioner Nadeau seconded the Motion.

On roll call vote, YES: Abshier, Chaffin, Nadeau, Anderson, Bairstow
The Motion passed with a 5-0 vote.

4. LAMAR HUNT - STUFF THE BUS -DROP OFF LOCATIONS

Lamar Hunt came forward and stated that this was the fourth year of Stuff the Bus. The bus would be provided by the School District and the school counselors receive the supplies and distribute them to homeless children. Mr. Hunt stated that the K-Mart in Belleview has done more than any of the other stores.

Commissioner Abshier left the room at this time.

Commissioner Chaffin made a Motion to endorse the program and Commissioner Nadeau seconded the Motion.

On roll call vote, YES: Chaffin, Nadeau, Anderson, Bairstow

The Motion passed with a 4-0 vote.

5. ED AND DEBBEE SMITH - SHOW YOUR FAITH DAY

Ed Smith came forward and requested to use the COB parking lot and stage for a Show Your Faith Day on November 5, 2005 from 9:00 AM to 9:00 PM.

Commissioner Chaffin made a Motion to grant the request and Commissioner Nadeau seconded the Motion.

On roll call vote, YES: Chaffin, Nadeau, Anderson, Bairstow

The Motion passed with a 4-0 vote.

Commissioner Abshier re-entered the room at this time.

6. STATEWIDE MUTUAL AID AGREEMENT

Clerk McKamey stated that this agreement gives the City the guidelines for government agencies that are requesting assistance or receiving equipment.

The Clerk stated that Pgs 24-28 of the Agreement were replaced by the Division of Emergency Management after it was brought to their attention that Pg. 25 was missing from the Agreement.

Commissioner Chaffin made a Motion to approve the Agreement and Commissioner Nadeau seconded the Motion.

On roll call vote, YES: Abshier, Chaffin, Nadeau, Anderson, Bairstow
The Motion passed with a 5-0 vote.

7. DISASTER PREPAREDNESS PROCEDURES MANUAL

Clerk McKamey stated that this manual was Phase I came about as a result of the hurricanes the City went through last season. Phase II would be concerned with if the building was leveled and the City had to totally relocate its offices. The Clerk stated that all the Department Heads, City Attorney, and the Safety Committee had reviewed the manual and the PWD made some minor changes as a result of the State Wide Emergency Meeting he attended in Tampa.

The Clerk stated that she is recommending that the Commission approve the manual.

Commissioner Chaffin asked who would be the Information Officer for the City this year and the Clerk stated that she was designated as such. The Commissioner asked who received emergency pay and how many employees were exempt. The Clerk stated all Department Heads and all first level supervisors.

Commissioner Anderson asked if the electronic signs were included in the manual. Clerk McKamey stated that she omitted the signs. The Commissioner explained that at the Safety Meeting it was discussed for the City to rent electronic signs during a disaster to give the residents information i.e. where and when ice, food would be distributed. Chief Strickland stated that he may have a source for the sign.

Commissioner Nadeau made a Motion to approve the manual with the insertion of the emergency signs and Commissioner Chaffin seconded the Motion.

On roll call vote, YES: Abshier, Chaffin, Nadeau, Anderson, Bairstow

The Motion passed with a 5-0 vote.

8. COB CODE - SECTION 134

Clerk McKamey stated that a question came up pertaining to the zoning of R-3 and R-4 and RMH, mobile homes, in the COB Code. The Code list R-3 and R-4 in the categories as Residential, multifamily, but in the schedule of regulations, the setbacks are different for R-3 and R4 and RMH has the same as R-1. The Clerk stated that there was conflict in the Code for where R-4 would be allowed.

The Clerk stated that some corrective action needs to be taken to the COB Code, either delete all R-4 then you would have to correct the zoning district maps because the City does have areas specifically zoned R-4. You could add a category specifically for R-4; or include R-4 in the RMH district. The Clerk stated her original recommendation was to delete the R-4 references, but she was now open to suggestions/direction.

Mayor Bairstow asked why delete R-4 and the Clerk stated there was a conflict. When looking at the definitions the only place that list R-4 was in multifamily, but mobile homes which are R-4 were not allowed in R-3 which was multifamily;

The Clerk stated she spoke with Commissioner Anderson to see why R-4 was created back in the 1970's and she had not had a chance to see what was omitted or changed in the Code. Commissioner Anderson stated that R-4 in the County was for mobile homes.

Commissioner Abshier asked the City Attorney what his recommendation would be. Attorney Landt stated the City should have an eye to the future in case someone shows up and wants to put in very large apartment complexes. R-4 was where you look at very intense use of land for multifamily dwellings.

The R-4 would not be able to handle the mobile home subdivisions whether in parks or in individual lots. The City should envision a plan that uses the R-4 designation for only very large apartment complexes. The Attorney stated that the City Staff, however, did not agree with his recommendation.

Attorney Landt stated the City should consider tonight what to do with R-4 and if you look at R-3 the intent and purpose was high density residential areas which were very different from large apartment complexes of 200 units or more. R-4 creates a particular zoning category to deal with them in some way that would be in keeping with the character of your neighborhoods.

Commissioner Anderson recommended to take R-4 out of R-3 because they are not compatible there was not a multifamily mobile homes that he knew of. R-3 was mobile homes and you could put R-4 with RMH. An R-4 mobile home subdivision; R-3 stand as multifamily with higher density because he could not see mobile homes in an R-3.

Commissioner Abshier stated he was inclined to eliminate R-4 because when we annex parcels in we take it in as the same zoning class as it is now. There was an R-4 that was contiguous to the City that was vacant land. The Commissioner stated he would not encourage mobile home subdivisions or mobile home parks. The Commissioner stated he agreed with Commissioner Anderson except for a distinct RMH and eliminate R-4 completely. The Commissioner stated he would go along with the Attorney and have an additional class for high density apartments.

The Clerk stated that she was misinformed and would have to check with the County on what their R-4 use was. Commissioner Anderson reiterated that R-4 in the County was mobile homes. Attorney Landt stated that in the COB there was already a parcel zoned R-4 and look at the Code in Section 134-240; R-4 are multifamily residential. In the description, it states R-4 was a mobile home subdivision. One place in the Code defines as multifamily residential and on the map it was a mobile home subdivision.

To fix the problem Attorney Landt stated to remove section 134-240 remove sub (1) and sub (c) under multifamily R-4 and add mobile home subdivision R-4. The Commission needs to decide what happens to the existing R-4; make it either multifamily or mobile home and determine what interpretation you are going to go with as it exist now.

Commissioner Nadeau stated to designate R-4 as high density residential and then create two mobile home designations: one for mobile homes, and one for mobile parks. The City needs to

establish guidelines because a large apartment complex was coming to COB. Attorney Landt stated to use PMH or RMHP something like that and Commissioner Abshier stated that sounded fine to him.

Commissioner Anderson stated to let the Clerk do the research she needs to do and bring this issue back in two weeks; Commissioner Chaffin was in agreement. Attorney Landt stated the Commission should decide tonight what R-4 should be.

Mayor Bairstow asked what was the purpose of R-4 and the Clerk stated mobile home subdivision on the map, but there are no guidelines in the current Code. R-4 was included in multifamily district, but mobile homes are prohibited in multifamily district R-3. Mayor Bairstow stated R-1, R-2 and R-3 were perfect, but we need another category no matter what you call it. We could hold a workshop or have it on a regular meeting agenda. Commissioners Chaffin and Nadeau were in favor of having it on the next light agenda.

9. ROBERT S. BOLEY, TERMINATION APPEAL

Mayor Bairstow stated that a pre-termination hearing was held on 5/24/05. At that hearing, testimony was heard from PWD Monroe, Mr. Robert Boley, PW Supervisor, and several witnesses and it was concluded that the recommendation of termination by PWD Monroe was an appropriate resolution of the matter.

The City's procedure state that employees can Appeal that decision, and Mr. Boley decided to appeal as per his letter dated 5/31/05, a copy of which, was in the Agenda Packet.

Mayor Bairstow swore PWD Monroe in and the PWD stated that the City utilizes labor supplied by the Marion County Sheriff inmates and have been doing so for several years. This program has been very successful and the City derives great benefits from the program. The van goes to the jail each morning and the City is assigned various inmates to use for that day. There are a list of rules and regulations concerning inmates i.e. no cigarettes, no contact with family members and we discuss these regulations with the City employees on a regular basis.

The incident occurred on 5/19/05; Mr. Boley violated regulations when he permitted a Marion County Trustee Inmate to visit with his wife at the Belleview Cemetery while under Mr. Boley's supervision. Calls to the inmate's wife were also made from a personal cell phone belonging to Mr. Boley. The PWD stated that he met with Mr. Boley, discussed the incident with him and the PWD felt that it was a violation of several COB rules and suspended Mr. Boley with pay effective immediately.

COB Field Supervisor Gerald Lee was sworn in and stated that a part of his job was inmate labor and the Marion County Sheriff Department provides rules and regulations on handling the inmates. Field Supervisor Lee stated that they were posted on the Board and that he gave Mr. Boley several copies of the rules and regulations and asked him to go over them with his employees and turn them back in to him.

Mr. Boley stated that he was told the rules and regulations were on the board, read them and then a month or so ago he was handed several copies of the rules and regulations and was told to go over them and have your employees sign them and return them to Field Supervisor Lee. Field Supervisor Lee never sat down and went over the rules with him, just posted them on the board and said to go over them.

PWD Monroe asked how Field Supervisor Lee reviews City policies with new employees. Field Supervisor Lee stated we go over the rules and the chain of command and equipment during orientation. Field Supervisor Lee stated if they have questions, he expects them to come to him and ask him. Mr. Boley stated that he had gone to Field Supervisor Lee in the past with questions about day to day information, and Field Supervisor Lee stated that was correct he had.

Commissioner Nadeau asked if the forms state that the employee understands the information he read. Field Supervisor Lee stated it doesn't specifically state that because they are the Sheriff's forms. Field Supervisor Lee stated he got all the forms back, except for Mr. Boley's.

Commissioner Chaffin stated was the intention that when they sign it they have read it, and he was given the batch to give to the other employees. Field Supervisor Lee stated that was correct.

Commissioner Abshier stated what was the regulation concerning overseeing inmates when he witnesses contact with a family member. Field Supervisor Lee stated the rules state that the Sheriff Department must be contacted. The Commissioner asked how many inmates was Mr. Boley responsible for that day, and Field Supervisor Lee stated just one inmate; only Mr. Boley and the Trustee were at that location.

Commissioner Anderson stated to Field Supervisor Lee, without a doubt in your mind, if he read the letter he knew that the Trustees were not supposed to have contact with family members. Field Supervisor Lee stated if he never read the letter, he would still have known that no contact was allowed.

Officer Morales was sworn in and stated that he was dispatched to check a 911 call from the COB cemetery for an escaped prisoner. He observed no one in the old cemetery, but saw a black sports car in the east left-hand corner and saw Mr. Boley was outside his truck on a cell phone. The Trustee expedited out of the vehicle and the Officer put the Trustee in the Police Officers Cruiser and then made contact with the person in the Nissan who was Mary Adcock, the Trustee's wife. Her husband had called and arranged the meeting.

The Officer stated he made contact with Mr. Boley who did not know what was going on. Susan Gordon and two children were visiting a grave at the cemetery and she made the 911 call that a prisoner was loose. Ms. Gordon stated that a female and the trustee were sitting there talking and Mr. Boley was wondering around while the Trustee got back into the car and was involved in sexual acts.

Officer Morales stated that the Sheriff Deputies came in right behind him, and City Truck, the black sports car, SUV and 4 police cars were all in the area. Officer Morales stated as a result of this incident the COB privileges were revoked.

Officer Morales stated that on the way back to the jail the Trustee stated that Mr. Boley had knowledge that this was a planned event. The Trustee stated that he spoke with his wife the night before from the jail, and he knew his wife would be there at the cemetery. The Trustee did not want Mr. Boley to get in trouble over this.

Commissioner Abshier asked how many entrances were there into the cemetery and the Officer stated one was opened and the rest are all fenced in.

Investigator Ray Dwyer was sworn in and stated that he spoke with Mr. Boley and Mr. Boley told him he had no knowledge of the contact and no idea that anything was set up or prearranged. The Trustee stated that he knew he would see his wife the next day and that Mr. Boley would allow him to see his wife. The wife stated it was set up to meet at the cemetery. Ms. Adcock stated she knew her husband was using the cell phone to set up the meeting and she expressed her remorse.

Investigator Dwyer stated that Ms. Gordon saw the Trustee get into the vehicle and thought the Trustee was going to escape and the City employee was not looking in that direction. The conclusion was that Mr. Boley made an error in judgment by letting the Trustee use his cell phone. There were numerous phone calls from the jail which backed up that everything was prearranged. Ms. Gordon also showed concern that Mr. Boley would get into trouble over this situation.

PWD Monroe stated that Mr. Boley knew of the meeting and took the Trustee to the cemetery to see his wife. Mr. Boley asked the Investigator if the Trustee used his name and Mr. Dwyer stated that in numerous phone calls, the day of and the day prior to the incident, he used the name Robert.

Commissioner Abshier asked where are the cell phones kept and Mr. Dwyer stated that was Mr. Boley's personal cell phone that the Trustee used.

Mr. Boley was sworn in and made a statement that he took the Trustee to the cemetery to clean it. Mr. Adcock got out of the vehicle and was to pick up and clean up the cemetery. Mr. Boley was talking to his brother about his son baseball games when he saw two vehicles come into the cemetery. Mr. Boyle stated he could not see the vehicle from where he was sitting which was over 300 feet away and at no time did he get out of his vehicle and mingle. Mr. Boyle stated he was guilty of talking to his brother and he had no idea the Trustee had called his wife. Mr. Boyle stated he was guilty of being on the cell phone and not keeping a total eye on the Trustee, but he did not know the Trustee had prearranged this meeting with his wife.

Commissioner Chaffin stated to Mr. Boley that the inmate got out of the vehicle and you stayed in your vehicle to talk to your brother; 10 minutes the trustee had no supervision. Mr. Boyle

stated he did not leave him unattended; he was just not in plain eyesight. Never left him unsupervised, may be unseen, but not unsupervised.

Commissioner Abshier asked what had to be done at the cemetery and Mr. Boley stated we manicured trees and did extra work for Memorial Day. It was on the schedule to be mowed and he was not aware that the City had mowed it the night before. Commissioner Abshier asked if Mr. Boley was concerned that the Trustee might have escaped, and Mr. Boley stated that there was only one way out and he was there. Commissioner Abshier stated his concern was in order to supervise the Trustee, you would have to see him or have visual sight of where he was and how did you know he was not attacking the lady in the car.

Mr. Boley stated that he had worked in this field for over 23 years and this would be the only blemish on his career and he would like to be reinstated. Mr. Boley stated he hoped the Commission would take his word over that of the Trustee, but if not, he would like to be able to resign; letter of resignation instead of termination.

Attorney Landt stated that should have been done before the appeal was filed. It would not be an advantage to anyone except the employee and future employers have a right to know about this incident. The Attorney stated that he would counsel the Commission not to try and hide this incident.

Commissioner Nadeau made a Motion to approve the termination and Commissioner Chaffin seconded the Motion.

On roll call vote, YES: Abshier, Chaffin, Nadeau, Anderson, Bairstow

The Motion passed with a 5-0 vote.

10. DEPARTMENT HEAD COMMENTS

PWD MONROE: a) Discussed street lights with Progress Energy on Highway 441 and C-25 and it would be a minimum of 8 weeks before the lights would be in place;

b) Discussed the trash in the right of way which he investigated. The City advertised along with the County that the last pick up was 10/31/04. The street that the trash was on according to the FEMA records and the auditors' records show that it was picked up on 11/2 and 11/3/04. The City contacted the owners and they stated that they would handle the trash that had been placed there since the last pickup.

c) Discussed the letter the Mayor received about the lights at Cherokee Park. The PWD talked to Cherokee Park and was told that they turn those lights on to avert vandalism. The City was working with them to get more lights for the Park.

d) Discussed the annual City property insurance increase of 5%. The PWD stated he wanted to get better appraisals and evaluations of the buildings to get more accurate numbers. Penny Byrd stated that Risk Management referred the City to this company and Commissioner Abshier stated he felt better knowing that because most companies do not honor your own personal appraisals.

CHIEF STRICKLAND: Discussed the Police Department's 911 Emergency Phone. The Chief stated the phone was having some technical difficulties and he would notify everyone when it was activated.

IT COORDINATOR TOWNE: Nothing at this time.

CITY CLERK McKAMEY: Stated that she and the Deputy Clerk would be absent at the next meeting because they would be attending the annual City Clerk's Conference in Orlando.

11. UNSCHEDULED AUDIENCE

Patricia DeLeon came forward and stated her mother, Shirley Rodriguez, received a letter that the COB was annexing property around her mother's property. Her mother had a concern that they would not be able to put mobile homes on their property in the future for her grandchildren because a large community was going in there and Ms. Rodriguez owns only a small area.

Mayor Bairstow stated that property was in the County and the COB had no control over that area. The Mayor suggested to Ms. DeLeon to contact their County Commissioner and let their voices be heard.

12. COMMISSION COMMENTS

Commissioner Abshier - Discussed if there was an advantage of employees using cell phones when not on break or at lunch. The Clerk and the PWD stated no. Commissioner Abshier stated what happened with the Trustee incident could have been a lot worse than it was and he was in favor of minimizing the use of cell phones for all of the employees because of the act of one employee. The PW Director stated that there was some cell phone abuse going on, but employees like to have them for emergencies.

Commissioner Abshier stated he would like to see some kind of policy which would outlaw the employees personal cell phones while at work. Commissioner Chaffin stated she did not want to eliminate the cell phones but to reduce the problem and the Staff could handle and monitor it.

Commissioner Anderson felt that cell phones at work are trouble and should be left out of the work areas. The employee did not pay attention and someone could have killed the Trustee; the employee would not have known about it. The sirens went off and then the employee knew something was going on; without the sirens he would not have known. The cell phones need to be left at home or in the vehicles.

Mayor Bairstow stated he was opposed to Commissioner Abshier's proposal.

Commissioner Chaffin - a) Discussed changing the date of the Final Hearing on Alcohol Beverage Ordinance because she would not be at the July 5, 2005 meeting. The Commission agreed to change it to July 21, 2005 if the Ordinance passes the First Reading;

b) Discussed the problem with the lift station by her house and asked that the City Engineer look at and solve the problem.

Commissioner Nadeau - a) Discussed the Greyhound Bus discontinuing service to the COB, but stated he had not had any comments from any residents.

b) Stated that he has asked the Clerk to get copies of two ordinances for him to review a) County Ordinance that deals with new signs in right of way; b) City of Oviedo's Ordinance limiting sexual offenders from moving into the City limits.

c) Discussed Project Graduation - the Commissioner lost the swim competition to a County Commissioner;

d) Discussed when individuals use City property for fundraisers if they sign a cleanup agreement. The Clerk stated only when they use the Commission Room do they sign an agreement. Attorney Landt stated just ask the parties to clean up when they are done using the City's property.

e) Discussed if a workshop should be scheduled for the expansion of the City Service Area and the PWD stated they were working on the maps and had meetings with the County. The PWD stated he would follow through and get that done.

Commissioner Anderson - a) Discussed St. John's Storm Water Management Cost Sharing Program;

b) Discussed putting long extensions on the street lights on SR-35;

c) Discussed Cherokee Park keeping the lights on to avoid vandalism and the having the lights repaired;

Mayor Bairstow - Nothing at this time.

The meeting was adjourned at 7:20 P.M.

ATTEST:

Sandi McKamey, CMC, CPM
City Clerk/Administrator