



**City Council Meeting
City of Belleair Beach, Florida**

**Monday, April 8, 2024
Community Center, 6:00 PM**

PUBLIC MEETING MINUTES

The meeting was called to order at 6:00pm by Mayor Dave Gattis. The invocation was given by Mayor Dave Gattis followed by a Pledge of Allegiance to the Flag of the United States of America.

Roll Call: Present were Councilmembers Frank Bankard, Lloyd Roberts, and Kim Shaw Elliott; Mayor Dave Gattis; City Manager Kyle Riefler, City Attorney Randy D. Mora, and City Clerk Renee Rose

For continuity, items are listed in agenda order although not necessarily discussed in that order.

1. Swearing in of Public Officials.

City Attorney Mora administered the Oath of Office to Councilmember Frank Bankard and Councilmember Kim Shaw Elliott.

2. Approval of Agenda.

MOTION was made by Councilmember Bankard and seconded by Councilmember Roberts to approve the agenda.

Motion passed 4-0.

3. Citizens Comments. (Each speaker will be recognized once and will be limited to a (3) three-minute presentation on any subject that is not on the Agenda)

Iris Maluka, 110 1st St, spoke, in part, about the damage to her property and the 50% FEMA rule. She's been told the work to restore her home is \$14,000 over the 50% rule. She received a denial letter and was told to demolish the house. The FEMA regulation has a substantial improvement and substantial damage. They have been without a house since December.

Joseph Manzo, 102 7th St, said he will speak for 12 minutes, as three other people are gave him their three minutes. He spoke, in part, about a letter the Belleair Beach City Attorney received from the Town of Belleair Shore that he believed was withheld from council requesting reimbursement of legal fees and reporting a violation of the interlocal agreement as it pertains to parking passes. He urged council to not pay Belleair Shore.

Tammie Levenda, 97 Harbor Dr, spoke as the chair of the Belleair Beach Community Foundation. They are raising funds to commemorate Veterans with a memorial at Crossman Park. She shared the plans for monuments, benches and possibly a fountain. They need to raise \$15,000 by July and plan to have a ribbon cutting in November.

Marcie Maluka, 110 1st St, spoke about her experience with illness due to mold when her house was flooded. She moves around a lot now because her family has been told they can't fix their home, and this has affected her being able to keep up with her studies.

4. Presentation: Pinellas County Sheriff's Office.

- **Law Enforcement monthly report**

The representative for PCSO reviewed the monthly report. There were 873 calls for service in March and 152 citations issued.

Councilmember Bankard said he received 2 complaints from residents who were asked to move from Belleair Shore beach and asked about the high means water mark. The deputy couldn't speak to the actual number without a survey.

- **Code Enforcement monthly report**

City Manager Kyle Riefler reported that most cases are unpermitted remodels. As the growing season is starting, they are sending notices on weeds and high grass.

Councilmember Roberts asked if 107 21st St is occupied. City Manager Riefler said it's not. Roberts asked if the city can abate. City Attorney Mora said cities can abate nuisances but should exhaust all other measures first.

5. Presentation: Pinellas Suncoast Fire & Rescue District

Representatives from PSFRD were not available.

6. Presentation: FEMA Lookback Period/Cumulative Substantial Improvement for Beach Communities

- **Sean Haydon, St. Petersburg College Student**

Sean Haydon, St. Petersburg college student in Public Policy and Administration, introduced himself as having chosen the City of Belleair Beach 5-year lookback period as his Capstone project. He shared the results of his research for council consideration.

7. Quarterly Board Reports

- **Board of Adjustment (no report)**
- **Citizens Advisory Committee (no report)**
- **Park and Recreation Board**
- **Planning and Zoning Board (no report)**

Park and Recreation Chair Patti Roberts reported on recent and upcoming activities of the board. They are selling merchandise at the community center. The most recent beach cleanup had 12 attendees, which is more than they usually have. The board recently conducted park surveys on the city's green spaces. There have been many improvements to the parks over the past year. The board wants to place flowers in the medians. They are discussing a mural on the building wall at Morgan Park and will bring concept ideas to council. The board also suggested signs with more positive messages, rather than signs with big red 'no' symbols that aren't welcoming.

Councilmember Elliott suggested more dog bag dispensers be installed throughout town.

8. City Attorney Report

City Attorney Randy Mora said the legislative session ended March 8th. He provided council legal updates on the more significant changes they are monitoring. He also provided a legal memo providing analysis concerning recent Supreme Court ruling on social media use by public officials. Mora provided a response to Mr. Manzo's claim that the letter from Belleair Shore was withheld. The letter was not withheld. It was dated after the election and arrived in Mr. Mora's

office on March 25. Mora contacted the Belleair Shore city attorney and was told she abruptly left the firm. Mora contacted their interim counsel and had planned to address on April 1, but the meeting was rescheduled to April 8. Mora addressed council that the letter was requesting out of pocket attorney fees for costs that Belleair Shore incurred litigating Belleair Beach residents. Mora doesn't believe that is a responsibility of this city and communicated that to their counsel. Regarding the parking pass, the broader concern lies with the interlocal agreement. It would benefit from a revision. If both parties agree the problem is the interlocal agreement, then they can pursue a revision. The letter does not threaten litigation. The letter was not withheld for any other reason than to allow Mora to provide the council will full context. Mora then provided Councilmember Bankard the state statutes for the mean high water line, noting it can't be pointed to on a map tonight. Mora closed by thanking Sean Haydon for his research and presentation.

Councilmember Bankard asked why they didn't get a copy of the letter. Mora said he received it and intended to provide context at the April 1 meeting. He didn't want to provide the letter and then leave town and be unavailable for discussion. There has been conflict between the two jurisdictions, and it's best to address openly in a public forum. Bankard believes the other jurisdiction didn't follow the interlocal agreement. Bankard said he's seen surveyors on the beach after each storm collecting data and has been told they give the information to the county, so he asked the county to provide some definition of where the mean high water line is. Beachgoers don't know where they can be on the beach. Mora can look into it. Mayor Gattis asked if renegotiating the agreement is coming the new Belleair Shore attorney or their commission. Mora doesn't know and said no matter who wrote the letter, it could have ended many ways, but ended with a suggestion to renegotiate the agreement. The preference is to reach an amicable solution. Mora doesn't believe Belleair Shore is legally entitled to funds.

Councilmember Elliott asked what the effective date is of the charter amendment regarding a quorum that was passed at the election. Attorney Mora said it takes effect immediately. It's interpreted that a quorum is a majority of the council as seated. Additionally, no action of the council shall be valid unless adopted by an affirmative vote of a majority of council. Councilmember Bankard said the meeting shouldn't have been canceled last week because they would have had a quorum of three. He also asked what the statute of limitations is to file an appeal on a charter amendment. Mora said it would be in the state statutes.

9. City Manager Report

City Manager Kyle Riefler noted the city posted door hangers on March 19 for the stormwater project. The contractor has begun on the north end of the project but will move to the southern end if the city comes to a decision on the study. There will be a work session on April 22 to continue the code review project. The Audit Committee will meet April 16 to review the audit and the audit RFP. Riefler noted he will be out of the office attending training April 23-26, but will be available by phone or email.

Mayor Gattis asked about the results they received regarding the stormwater pump study. Manager Riefler said Engineer Fluty worked with the pump manufacturer and came up with a double pump design so that if one pump malfunctions, the system still works. Riefler asked the engineer if they can run a one pump system to reduce costs. The engineer provided cost estimates for two locations, 9th St and 7th St. The engineer is working on fitting one pump into a precast structure to simplify the project and reduce costs. Councilmember Roberts asked if there's a timetable for the contractor working on the stormwater project. Manager Riefler said 6 months is optimistic but can't commit to that. Councilmember Elliott asked when they will receive a final report. Riefler said he will push for that this week, and Engineer Fluty will be at the next work session. Elliott referenced the code review project, specifically the sign ordinance, and recommends simplifying it and providing a handout to residents that's easy to understand. Attorney Mora said they can simplify but will need guidance.

10. City Clerk Report

CONSENT AGENDA

11. Approval of March 4, 2024, City Council Meeting Minutes

12. Approval of March 18, 2024, City Council Work Session Minutes

13. City Council Acceptance of the 2024 Pinellas County Multi-Jurisdictional Community Rating System Annual Report For Program For Public Information, Flood Insurance Improvement Plan and Flood Response Plan

- This annual report presents the ongoing status of Pinellas County's Program for Public Information (PPI), which includes the Flood Warning and Response

14. Consideration of Approval of a new Statewide Mutual Aid Agreement (SMAA) with the State of Florida, Division of Emergency Management

MOTION was made by Councilmember Bankard and seconded by Councilmember Elliott to approve the Consent Agenda.

Motion passed 4-0.

REGULAR AGENDA

15. Consideration of Applicants to Fill One (1) Vacant City Council Seat to a term ending November 2026

- Doug Prescott, Jr.
- David Tennian
- Anders Wellings

Mayor Gattis summarized his reasons for appointing only one applicant based on 82% of the voters approved the charter amendment to reduce to a council of five. Applicants were then provided an opportunity to introduce themselves and answer questions from council.

Public Comments:

Doug Prescott Sr., 100 Aleta Dr, spoke in support of Doug Prescott Jr. Prescott Jr. has lived here his entire life and both his father and grandfather served on council. They have a long history in the city and care about it.

Jody Shirley, 207 Harrison Ave., thanked the candidates and spoke in support of Prescott Jr. She thought they were adding three members tonight. Mayor Gattis said they will have a motion on it, but he proposed only one because a large majority of the community wants five members. They are not required to fill all seats.

Mayor Gattis called for a paper ballot vote ranking the applicants 1 – 3:

Councilmember Elliott: 1-Anders Wellings, 2-David Tennian, 3-Doug Prescott Jr.

Councilmember Bankard: 1-Anders Wellings, 1-David Tennian, 1-Doug Prescott Jr.

Councilmember Roberts: 1-David Tennian, 2-Anders Wellings, 3-Doug Prescott Jr.

Mayor Gattis: 1 – Doug Prescott Jr., 2-Anders Wellings, 3 – David Tennian

City Attorney Mora suggested selecting only one member versus a ranked vote. Mayor Gattis called for a second vote, this time choosing only one:

Councilmember Elliott:	Anders Wellings
Councilmember Bankard:	Doug Prescott, Jr., David Tennian, and Anders Wellings
Councilmember Roberts:	David Tennian
Mayor Gattis:	Doug Prescott, Jr.

Attorney Mora said 2.06(c) of the Charter states "a vacancy on the council shall be filled by a majority vote of the remaining members of the council." There are four members of the council, so a majority vote would be three. He suggested having a discussion on the council's goal and how it intends to proceed. Councilmember Bankard said it was suggested to fill one seat, but it hasn't been motioned. The charter says seven members. They have three people who want to serve. The voters chose to reduce it to five at the next election, so council should put them all on. Councilmember Roberts said they should listen to the citizens. They voted by a large margin to go to a council of five. He supports appointing one. Councilmember Elliott said they aren't required to fill all positions, but they have people willing to serve. Mayor Gattis said he brought this item forward so it looks like the future of the council and what the citizens voted for and he stands behind going to a five member council.

Public Comment included:

Jody Shirley, Harrison Ave., said the charter allows for drawing of straws and they may need to do that if no one is willing to give.

Joseph Manzo, 7th St., said the idea sold to the voters was that they couldn't get seven people to run. Three people stepped forward tonight which would make seven. He supports taking them all. People have been leaving council for a variety of reasons, so they can't have too many people on council. He continued, stating that charter changes don't become effective until they are filed with the state. If that's the case, they still have a seven-member council.

Tammie Levenda, Harbor Dr., said she voted to decrease the council to five people because no one was running and the fear that the state would take over, but she has no issue with seven people on the council until the next election.

Hart McIntyre, 2040 Hibiscus Dr., said the people voted to get council to five. This city has more council members than other cities that are much larger. Having seven has prevented them from getting business done in the past. They can get business done with five.

City Attorney Mora read Charter section 9.01, which states "upon adoption of the Charter amendment by majority vote of the electors, council shall have the amendment incorporated into the Charter. The revised Charter shall then be filed with the Florida Department of State, and it will then be in effect." The language from the Florida Statute states "upon adoption of an amendment to the Charter of a municipality by a majority vote of the electors (...) the governing body of said municipality shall have the amendment incorporated into the charter and shall file the revised Charter with the Department of State. All such amendments are effective on the dates specified therein or as provided in the Charter." The date specified therein was immediately effective upon adoption, however the Charter states that all amendments be filed with the state and then be in effect. He recommended tabling this issue.

Mayor Gattis recommends holding a special council meeting prior to the work session scheduled on April 22. Councilmember Bankard said they should proceed as the agenda states and follow the Charter as it states. He read the question as stated on the approved ballot measure: "Shall the City amend the Charter to provide for a city council composed of five at-large council members, including the Mayor, as opposed to the existing language providing for a city council composed of seven at-large city council members, including the Mayor, and adjust the corresponding voting requirements for the council to take action?" He noted it doesn't say it is in effect today. Attorney Mora said the language in the amendment ordinance does provide

the date. Nothing in the Charter mandates only filling a single seat; it's at the discretion of this council. He explained that the transition is complicated because there are three vacancies. If all positions were filled, the council would transition to a five-member body during the November 2026 election. If council chooses, they can still transition in November 2026. Council has the option to fill one or three seats. Mora's advice is to table this to a later date. Bankard said putting three members on tonight would not be in violation of anything.

MOTION was made by Councilmember Roberts and seconded by Councilmember Elliott to table the item to April 22.

Motion failed 3-1.

Councilmember Bankard said they have three people, and they should take them all. They wouldn't have this problem if they had put two people on in December instead of one. Councilmember Roberts said other larger cities have five council members.

Mayor Gattis called for another vote asking for a Yes or No on each candidate:

Councilmember Elliott: Y – Anders Wellings, N – David Tennian, N – Doug Prescott Jr.

Councilmember Bankard: Y – Anders Wellings, Y – David Tennian, Y – Doug Prescott Jr

Councilmember Roberts: N – Anders Wellings, Y – David Tennian, N – Doug Prescott Jr

Mayor Gattis: N – Anders Wellings, N – David Tennian, N – Doug Prescott Jr.

Item failed due to lack of motion.

16. Nomination and Election of Vice Mayor by Ballot

Citizen comments included three residents sharing their support for Councilmember Roberts and three residents sharing their support for Councilmember Bankard.

MOTION was made by Councilmember Bankard and seconded by Councilmember Roberts to nominate and elect a vice mayor.

Councilmember Bankard thanked everyone who wrote in their support. He was unaware of an email campaign until he got an update Friday afternoon. He loves the city and wants to serve the people lawfully. He is the senior council member. He has volunteered for every event for 10 years.

Councilmember Elliott shared reasons behind her intent to vote for Councilmember Roberts.

Mayor Gattis said he wouldn't have any issue working with either nominee until today when he saw the email Councilmember Bankard sent out asking for people to contact the city. In the email, Bankard wrote that he was able move a change in the ordinance of the 5-year look back rule. Gattis doesn't see Bankard as a team player. After reading the letter, Gattis will not support Bankard. Bankard said the Charter doesn't say they are a team. They are elected individuals.

Councilmember Roberts appreciates the support that he got this evening. He didn't send anyone an email and appreciates that people were writing to the city for him unsolicited. Both he and Bankard have the capability to do this job and Roberts would love the opportunity. Roberts addressed Bankard's email where Bankard said he was the only council member that did not say they view this as a thankless job. Roberts has never said that it was. Roberts said when he came onto council, they didn't open the meeting with a prayer of invocation, and he feels good that he was able to change that.

Mayor Gattis called for a vote by paper ballot:

Councilmember Elliott:	Roberts
Councilmember Bankard:	Bankard
Councilmember Roberts	Roberts
Mayor Gattis:	Roberts

Motion failed 3-1.

Mayor Gattis said this will need to be added to the next meeting agenda, pending receipt that the Charter amendments are transmitted to the state.

17. Consideration of a Selecting Councilmembers as Alternate Voting Delegate #1, and Alternate Voting Delegate #2 for the Barrier Islands Governmental Council (BIG C)

- **Nominate and elect alternate voting delegates**

MOTION was made by Councilmember Elliott and seconded by Councilmember Roberts to accept nominations for Alternate Voting Delegate for the BIG-C.

Councilmember Elliott nominated herself, seconded by Councilmember Bankard.

Councilmember Roberts nominated himself, seconded by Councilmember Bankard.

Motion passed 4-0.

Mayor Gattis clarified that Councilmember Elliott would be Alternate #1 and Councilmember Roberts would be Alternate #2.

18. Consideration of Appointment/Reappointment of Citizens Advisory Committee Members

Mayor Gattis said this is to consider reappointing Ron Ciganek, Mark Goldman, John Handzuk, Rob Risberg and Thomas Elliot and appointing Tammie Levenda as an Alternate.

MOTION was made by Councilmember Bankard and seconded by Councilmember Roberts to reappoint and appoint members to the Citizens Advisory Committee.

Motion passed 4-0.

19. Consideration of Reappointment of Park and Recreation Board Member

MOTION was made by Councilmember Bankard and seconded by Councilmember Elliott to reappoint John Wagner to the Park and Recreation Board.

Motion passed 4-0.

20. Consideration of Reappointment of Planning and Zoning Board Members

MOTION was made by Councilmember Bankard and seconded by Councilmember Elliott to reappoint Angela Berry and Brenda Buonasera to the Planning and Zoning Board.

Motion passed 4-0.

21. Consideration of Reappointment of Board of Adjustment Members

Mayor Gattis said this is to consider reappointing Board of Adjustment Members Mike Kelly, Jane Mason Goldman, David Gardella, Marv Behm, and Alternate Gerald Wiszowaty.

MOTION was made by Councilmember Bankard and seconded by Councilmember Elliott to reappoint members and alternate members to the Board of Adjustment.

Motion passed 4-0.

22. Consider Authorizing an Amendment to Piggyback Agreement for Consulting Services Related to Utility Undergrounding and Approval to Execute Purchase Order

City Manager Riefler summarized his staff report, stating this is an amendment to the piggyback agreement the city signed in September 2022. This agreement to install conduit for Spectrum for Phase 2 of the undergrounding project is less than the costs of Spectrum's subcontractors. The contractor is already mobilized and doing the conduit for Duke Energy.

MOTION was made by Councilmember Roberts and seconded by Councilmember Bankard to authorize the City Manager to amend the piggyback agreement and execute the purchase order with Utility Consultants of Florida.

Motion passed 4-0.

23. Consider Authorizing the Execution of a Purchase Order with Charter Communications Holdings, LLC

City Manager Riefler summarized his staff report, stating this service can only be offered by Charter Communications. He needs council approval to execute the purchase order.

MOTION was made by Councilmember Roberts and seconded by Councilmember Bankard to authorize the City Manager to execute a purchase order with Charter Communications Holdings, LLC.

Motion passed 4-0.

24. Unfinished Business

None

25. City Council Comments

Councilmember Bankard said he was accused of not being a team member. He played team sports when he was younger. He served business administrations as part of a team. Team is not in the city's Charter or the Constitution. He votes his conscience and will follow the city's Charter and the oath he took tonight to the letter of the law.

Councilmember Roberts said teamwork is very important but doesn't need to be written. It's an understood benefit to the city. Recently this same four-person council worked together to move things forward. They negotiated. They shouldn't be negotiating; they should vote their heart. Once the council is set with the correct number, they won't be faced with that situation again.

Councilmember Elliott said they are a team in that they are equally committed to pursuing the best interests of this community. At the same time, they are independent and have responsibility to vote their own voice.

Mayor Gattis thanked everyone for coming out tonight. He looks forward to a resolution when the Charter is officially changed.

Adjournment

MOTION was made by Councilmember Bankard and seconded by Councilmember Roberts to adjourn the meeting at 9:08pm.

Motion passed 4-0.

<u>May 6, 2024</u>	APPROVED: <u>Dave Gattis</u>
Date Approved	Dave Gattis, Mayor
ATTEST: <u>[Signature]</u>	
Renee Rose, CMC	
City Clerk	