



city council agenda

Agenda
March 20, 2018 * 6:00 PM
City Council Meeting and
Executive Session Notice
City Hall Chambers 1600 Nela Avenue

CITY COUNCIL MEETING AND EXECUTIVE SESSION NOTICE AND AGENDA
CITY HALL 1600 Nela Avenue, Belle Isle, Florida 32809
PUBLIC NOTICE OF ATTORNEY/CLIENT EXECUTIVE SESSION AND CITY COUNCIL MEETING
TUESDAY, MARCH 20, 2018 at 6:00 P.M.

Pursuant to Section 286.011(8), Florida Statutes, the City Council of the City of Belle Isle, Florida, will commence a public meeting and then meet in an Attorney/Client Executive Closed Session to discuss strategy and settlement negotiations related to litigation expenditures in the following case: City of Belle Isle v. Florida Fish and Wildlife Conservation Commission Division of Administrative Hearings Case No.: 18-001101

The Attorney/Client Executive Session is estimated to last thirty (30) minutes and shall only be attended by the following individuals:

Mayor Lydia Pisano	City Attorney A. Kurt Ardaman, Esq.
Commissioner Ed Gold, Jr.	City Manager Bob Francis
Commissioner Anthony Carugno	Court Reporter
Commissioner Jeremy Weinsier	
Commissioner Mike Sims	
Commissioner Harvey Readey	
Commissioner Alexa Dowlen	
Commissioner Sue Nielsen	

CITY COUNCIL MEETING AGENDA FOR EXECUTIVE SESSION

1. Call to Order (A quorum is determined)
2. Business
 - Request by City Attorney for advice from the City Council concerning litigation and to discuss settlement negotiations and strategy related to litigation expenditures.
 - Recess public meeting and open closed Executive Attorney-Client Session
3. Reopen Public Meeting for termination of Executive Session
4. City Council Meeting
 - Discussion and potential action on matters relating to the above case.

Please Note: In accordance with Florida Statutes 286.0105: Any person who desires to appeal any decision at this meeting will need a record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based, which such written record is not provided by the City of Belle Isle.

Help for the hearing impaired is available through the Assistive Living System. Receivers can be obtained at the meeting from the Information Technology Director.

Also, in accordance with Florida Statutes 286.26: Persons with disabilities needing assistance to participate in any of these proceedings should contact the Office of the City Clerk, 1600 Nela Avenue, Belle Isle, Florida, (407)851-7730, 48 hours in advance of the meeting.

"If a person decides to appeal any decision made by the Council with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F. S. 286.0105). "Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office (407-851-7730) at least 48 hours in advance of the meeting." --Page 1 of 33

Lydia Pisano Mayor	Kurt Ardaman City Attorney	Bob Francis City Manager	Ed Gold District 1	Anthony Carugno District 2	Jeremy Weinsier District 3	Mike Sims District 4	Harv Readey District 5	Alexa Dowlen District 6	Sue Nielsen District 7
--------------------------	-------------------------------	-----------------------------	-----------------------------	-------------------------------------	-------------------------------------	-------------------------------	---------------------------------	----------------------------------	---------------------------------

Welcome

Welcome to the City of Belle Isle City Council meeting. Agendas and all backup material supporting each agenda item are available in the City Clerk's office or on the city's website at cityofbelleislefl.org.

1. Call to Order and Confirmation of Quorum

2. Invocation and Pledge to Flag - Alexa Dowlen - District 6

3. Consent Items

- a. Approval of the City Council meeting minutes for February 6, 2018
- b. Certificate of Appreciation to Conner Bradley for his transformation of Lesser Park.

4. Citizen's Comments

Persons desiring to address the Council MUST complete and provide to the City Clerk a yellow "Request to Speak" form located by the door. After being recognized by the Mayor, persons are asked to come forward and speak from the lectern, state their name and address, and direct all remarks to the Council as a body and not to individual members of the Council, staff or audience. **Citizen comments and each section of the agenda where public comment is allowed are limited to three (3) minutes.** Questions will be referred to staff and should be answered by staff within a reasonable period of time following the date of the meeting. Order and decorum will be preserved at all meetings. Personal, impertinent or slanderous remarks are not permitted. Thank you.

5. Unfinished Business - no report

6. New Business

- a. Rezone Wallace to Open Space

7. Attorney's Report

8. City Manager's Report

- a. Issues Log
- b. Chief's Report

9. Mayor's Report

- a. Legislative Update
- b. NAV Meeting Update
- c. Gondola Thru-Traffic Discussion

10. City Council Reports

11. Adjournment

"If a person decides to appeal any decision made by the Council with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F. S. 286.0105). "Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office (407-851-7730) at least 48 hours in advance of the meeting." –Page 2 of 33



city council minutes

MINUTES
February 6, 2018 * 6:30 p.m.
City Council Regular Session

The Belle Isle City Council met in a Regular Session on February 6, 2018 at 6:30 p.m. in the Belle Isle City Hall Council Chambers.

Present was:

Mayor Lydia Pisano
Vice Mayor/Commissioner Harvey Readey
Commissioner Gold
Commissioner Anthony Carugno
Commissioner Jeremy Weinsier
Commissioner Alexa Dowlen
Commissioner Mike Sims
Commissioner Sue Nielsen

Absent was:

n/a

Also present was City Manager Bob Francis, Attorney Kurt Ardaman, Chief Laura Houston and City Clerk Yolanda Quiceno.

CALL TO ORDER

Mayor Pisano called the meeting to order at 6:30pm and the City Clerk confirmed quorum. Comm Gold gave the invocation and led the Pledge to the flag.

Mayor Pisano reported that item #5c has been pulled from the agenda. Mr. Comins rescinded the offer of the marine patrol boat.

CONSENT ITEMS

- a. Approval of City Council regular session minutes – January 2, 2018
- b. Approval of City Council workshop session minutes – January 11, 2018
- c. Approval of City Council regular session minutes – January 16, 2018
- d. Proclamation Celebrating Pine Castle Pioneer Days
- e. Proclamation Honoring Mayor Bruce Mount Sr.

Comm Dowlen motioned to approve the consent agenda as presented.

Comm Sims seconded the motion, which passed unanimously.

CITIZEN COMMENTS

Mayor Pisano opened for citizen comments.

- Andrew Thompson residing at 4058 Isle Vista Avenue shared his concern that the City is being denied on an issue that is not based on a legal opinion or on the required status to qualify. He further stated that he has heard many different concerns on the purchase of the Cornerstone Charter Academy. He asked Council for a plea for clarity on the proposal to purchase the school.
- David Woods residing at 3482 Hoffner Avenue stated that he believed the Boat Dock ordinance revisions were to be brought back to the Planning & Zoning Board before Council approval. Mr. Francis responded and said the reason it is presented on the agenda is to clarify Council request for changes before going back to P&Z for recommendation for approval.

There being no further comments, Mayor Pisano closed citizen comments.

UNFINISHED BUSINESS

Forensic Audit Proposal

City Manager Francis reported that he advertised twice and did not receive any proposals. After speaking with representatives the City received proposals from two audit firms. Because of how the proposals were received he was not able to perform an apple-to-apple comparison. He is recommending Council to postpone the consideration for approval until he has been able to review both proposals. Representative William Blend from Moore Stephens Lovelace, PA (MSL) is presents to answer any questions. William Blend gave a brief overview between a typical audit and a forensic audit.

Council discussed the time frame for the audit and cost difference between both proposals.

Vice Mayor Readey motioned to move forward with MSL and audit for the last five years.

Comm Nielsen seconded for discussion.

After discussion, the motioned failed.

Vice Mayor Readey motioned to move forward with MSL and audit for the last seven years.

After discussion, the motioned failed.

Vice Mayor Readey withdrew his motion to allow the City Manager to provide a scope for the audit.

Comm Nielsen seconded the motion and withdrew her second.

Boat Dock Ordinance

City Manager Francis presented Ordinance 17-19 with the proposed changes for discussion and approval. He said since its adoption, there has been difficulty in administering this ordinance due to places where it conflicts with itself. Council discussed the following policy issues for clarification, (1) definition of boat dock "covers/enclosures", (2) grandfathering non-conforming docks and housekeeping items that conflict in the code. Discussion ensued on automated canvas covers and other accessories fastened to the outside of the supports of the dock.

Attorney Ardaman addressed grandfathering non-conforming docks and stated that the City can require the homeowner to remove the dock; it is an unpopular, difficult process however it can be done. Natural attrition is usually the way most government agencies enforce; however, it does take a long time.

Council discussed permits issued in err of the City and inconsistent with the Code. Attorney Ardaman stated if a permit was issued in error by the City, the City does have the option to have the permit rescinded and the structure removed.

The following proposed changed were review and discussed,

Page 2

- *Normal High Water Elevation (NHWE)* means the water surface elevation of Lake Conway and its directly connected water bodies as defined by Orange County. As of December 2016 the NHWE was 85.45, NAVD 88.
- Definitions - ***Personal watercraft*** (Florida Statutes 327.39) means a vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

Page 4

- Application process - (3) The survey of the property, performed within the last three (3) years, shall be a boundary survey signed and sealed by a surveyor holding a current license with the State of Florida and certifying to the applicant and the City accuracy of the information list below. If the Applicant submits a survey over ~~five (5) three (3)~~ years old, the applicant shall submit an affidavit stating there is no change to land.

- (v) The NHWC line across the property;
- (vi) Elevation 79.5 (NAVD 1988) ~~NHWC~~ of the lake bottom closest to the upland subject of the application established by Orange County.
- (vii). Elevation 80.0 (NAVD 1988) contour of the lake bottom closest to the upland subject of the application.

Page 5

(vi) The depth of the water at the end of the proposed terminal platform;

(1) *Setbacks.* Private docks shall have a minimum side setback of ten (10) ~~five (5)~~ feet from the projected property lines of all abutting shoreline properties. Public and Semi-private docks shall have a minimum side setback of twenty-five (25) feet from the projected property lines of all abutting shoreline properties. For purposes of setback, the terminal platform includes any moored boats. Any deviation from the minimum side setback will require a variance.

Page 6

(iii) 40' from the NHWC shoreline.

(3) *Total area.* The dock collectively may not exceed the square footage of ten times the linear shoreline frontage for the first 75 feet of shoreline and then five times the linear shoreline frontage for each foot in excess of 75 feet thereafter, and the total of each when combined shall not to exceed a maximum of 1,000 square feet. The minimum dock area for any dock shall be 400 feet or ten times the shore linear frontage, whichever is more. The area for the docking and mooring of boats, ~~jet skis~~ personal watercraft, watercrafts and other appurtenances is included in the dock area calculation.

(v) Dock(s) that are semi-private or owned by a homeowners association (HOA) or governmental agency shall be adjacent to and attached to upland property that is semi-private or owned by the HOA or public agency. These docks shall be exempt from the provisions of subsection 6(i) and (ii) of this section so long as the HOA, public agency, or other relevant owner owns the attached upland property and is the applicant.(OR: Docks that are owned by a public agency will be exempt from the provisions of subsection 6(i) and (ii). Docks that are semi-private or owned by the HOA are exempt from subsection 6(i); however before a permit will be issued for a semi-private or HOA-owned dock, the upland property shall have at least one principal building constructed on the property. Only one dock per parcel may be located on the property. The term "parcel" as used in this subsection (v) shall mean all contiguous property owned by a HOA or by a public entity.

Attorney Ardaman said Council can add to the definition as language that will allow two adjoining homes to share a single dock".

Page 7

(2) No flat roofs. Minimum roof pitch (slope) is 2:12; Maximum roof pitch (slope) is 5:12. ~~The maximum pitch of the roof on a boathouse on a dock shall be a slope of 5:12.~~

(3) ~~Except as describe in Section 38-44 if the BMC, no~~ No structure having enclosed sidewalls shall be permitted on any dock. The term "enclosed" shall include, by way of example but not by limitation, plastic, canvas and other screening enclosures, chain link and lattice fencing, or any form of paneling. For the purposes of this section, a power curtain canvas, boat lift canopy skirt, retractable canopy curtain, or any other similar product made for the protection of a boat will not be considered as a dock enclosure.

(5) Storage lockers shall not exceed 30 inches in height above the deck; 36 inches in width; 9 feet in length. ~~be limited on a dock to a cumulative maximum of sixty five (65) cubic feet.~~ Storage lockers on a dock shall not be used to store boat maintenance and/or repair equipment and materials, fuel, fueling equipment, and hazardous materials or hazardous wastes. Storage lockers are prohibited on semi-private or publicly owned docks.

(c) *Nonconforming "grandfathered" docks.* A dock that was duly permitted and authorized by the County when under County jurisdiction, or by the City under a previous version of the City's dock regulations, which dock does not conform with the City's current dock regulations under this article, shall be considered a "grandfathered" dock and shall be an authorized non-conforming use, with the exception of those docks that are have active permits or enforcement actions on them at the time of the passage of this ordinance.. However, when a grandfathered dock is damaged or requires any maintenance or repairs, the costs of which equal or exceed 75 percent of the assessed value of the dock, such maintenance or repair shall not be permitted unless the dock is brought into compliance with the current regulations under this article and any other relevant City regulation.

Vice Mayor Readey motioned to approve the proposed revisions as corrected to be referred to the Planning & Zoning Board for approval. Comm Gold seconded the motion which passed unanimously.

Mayor Pisano opened for citizen comment.

- Nelson Wright residing at 2025 Hoffner shared his concern on blocking the view and safety from the use of boat dock power covers.
- Randy Holihan residing at 2513 Trentwood spoke in favor of the covers because it protects the boats.
- Gary Maloon residing at 6101 Matchett said the covers do protect the boat from the sun and is the next best alternative.
- Bobby Lance residing at 6615 Matchett Road said the closer the homes are to the airport, the cover will protect the boats from the black film coming from the airplanes.
- Phil Price residing at 2414 Daetwyler said he is not in agreement and does not think it would be fair to have existing covers be removed because they are non-conforming.
- Holly Bobrowski residing at 4400 Hoffner said she believes it should be allowed and be only one per slip.

Discussion on Annexation

City Manager Francis gave a brief overview of the annexation workshop held on January 21, 2018. The Council discussed four areas that could be annexed: Vicinity of Hoffner and Hansel, properties n {ie Castle Urban Center from Sand Lake Road to Hoffner, Conway Road and Daetwyler Road from Judge Road to McCoy Road, commercial properties in the Conway and Hoffner area and several properties to be determined on the north shore of Little Lake Conway. He asked for Council direction of the most favorable areas to help City Staff plan and move forward. Discussion ensued on the area on Orange Avenue towards Sand Lake and the north properties on the north side of the lake.

Comm Carugno inquired if this process would be in partnership with the City of Edgewood. Mr. Francis stated that it would be a courteous to let the Mayor know what our intent will be on the north part of the lake.

After further discussion, Council consensus was to have the City Manager start the research to annex the areas as discussed.

NEW BUSINESS

Cornerstone Charter Academy Proposal to Purchase School Property from City

City Manager Francis reported that Cornerstone Charter Academy Governing Board had a meeting on January 24, 2018 and has requested negotiating the purchase of the property for the school to acquire the property and any other assets from the City of Belle Isle. Before moving forward with their consultant services and submitting a formal request CCA is asking for City Council consensus to entertain the idea and discuss the concept of selling the property in the future. Mr. Francis provided a memo with an explanation of the proposed request dated February 6, 2018 with staff recommendation and suggested motions.

Mr. Francis suggested holding a special meeting on this subject and take public comment on the proposal to discuss the benefits of accepting the proposal.

Comm Dowlen stated many constituents shared their concerns with the proposal and asked if the City was not going to make an effort to start the necessary repairs at the school.

Gayle Owens, CCA Attorney with offices at 1802 Alafaya Trail, Orlando FL briefly said that the Board proposed a feasibility study to address some of the concerns being discussed. The report would address if the purchase would be feasible for the school; how it would impact the City; and what benefits could be had. Based on the report findings they will bring it forward to City Council for further discussion.

Taylor Smith, CCA Consultant with offices at 1819 Goodwin Street, Jacksonville, FL said the idea of the study is to provide objective data. He stated that he was the City's consultant in 2009 which led to the creation of the Charter School. He said he has been hired to engage a Community meeting with the City and set forth with the Scope of Services listed in the letter dated January 23, 2019. Taylor Smith gave a brief overview of the scope of service.

Mr. Francis stated that the City is moving forward with the repairs of the school and will introduce a Capital Facilities Plan with funding options on how the City can best accomplish the repairs. Council consensus was to allow the City Manager, City Attorney and Comm Nielsen to continue researching repairs funding options. The Council will solicit input from their constituents and the City Manager will write a letter to the school to schedule a Joint Meeting for sometime in the future.

After discussion, Comm Weinsier clarified that this was an unsolicited offer from CCA. Council is not in favor of selling the property at this time and planning on moving forward with the repairs. However, Council will be open to review any information for consideration if CCA decides to move forward with their consultant.

Letter from FWC on Bird Sanctuary Application

Mr. Francis reported that he, Mayor Pisano and Comm Carugno met with the Florida Wild Life Commission (FWC) to discuss the City's request for the Bird Sanctuary designation and several issues on duck hunting on Lake Conway in general. Mayor Pisano was presented with a letter dated January 22, 2018 stating that FWC is denying the City's request to be a designed bird sanctuary based on Rule 68A-19.002 FAC stating that the area is not "sufficiently developed". FWC also stated that the City's application will not be on the FWC Commission agenda for February. However, if the City wishes to speak they can appear under public comment.

Mr. Francis briefly spoke on the noise ordinance and baiting on the Lake. In an effort to control access to our ramps, he instructed Chief Houston to ensure that the boat dock ramps are locked in the evenings and opened during the day. For the record, Mr. Francis thanked Senator Stewart for hearing our concerns and her assistance with coordinating the meeting with the FWC Director. After discussion, Council consensus was to have the City Attorney explore appealing the administrative decision to deny the application and bring back the appeal process to Council for approval.

ATTORNEY REPORT

Attorney Ardaman gave a brief overview of the CRC Commission agenda and the Bill on Home Rule.

MAYOR'S REPORT

Legislative Update

- Mayor Pisano stated that she will be in Tallahassee and will be meeting with the State Representatives. She will testify on the Vacation Home provision. Mayor Pisano gave a brief overview on Home Rule and other Legislative Bills on the table for approval.
- Easter Egg Hunt has been scheduled for March 31, 2018 and is asking for Council approval. Mayor Pisano stated that the event will be a sponsored event. After discussion Comm Dowlen motioned to approve the date of March 31st for the Easter Egg Hunt. Comm Carugno seconded the motion which was unanimously approved. Council requested a proposed budget be presented for approval before approval of the event.

CITY MANAGER REPORT

- FDOT Inspection of Nela Bridge - Mr. Francis provided the FDOT District 5 Nela Bridge Inspection Report. The rating for the bridge set in 1990 still applies. There are a few minor repairs that need to be completed and will be budgeted for the next budget year.
- Mr. Francis reported that his \$250,000 grant request for the renovation of Gene Polk Park was submitted by Senator Stewart and was approved the Senate. The request will now be presented to the House for approval.
- Issues Log - Mr. Francis provided a copy of an updated Issues Log.
- Mr. Francis reminded all that the voting for the Nela Fountain Centerpiece is on the website until March 19th.
- Mr. Francis reported that the Conway Estates Lake lot requested a clean out of residue/debris. He went over to the area and was not able to find any deep muck or residue.

CHIEF'S REPORT

Chief Houston report on the following,

- CSO starts tomorrow and will start the training process.
- Chief Houston proudly announced that a Belle Isle Police Office has been selected to move forward with the Orlando Police Department.

Chief Houston reported that the person's charged with stealing packages from residential porches have been caught and will be prosecuted.

COUNCIL REPORTS

Comm Nielsen – District 7

- Comm Nielsen suggested that the City start scheduling a Candidate Forum. Council consensus was to have the City Manager schedule a date, extend the offer to the Candidates and selected a moderator.
- Comm Nielsen spoke briefly of resident Charles Motley and his Airbnb concern. She would like Council to discuss relaxing the rental code to allow for the use of an Airbnb.

Dowlen – District 6

- Comm Dowlen asked when the Social Media position was going to be reposted.
- She received a complaint on the homeless issue in the Conway/Hoffner parking lot.
- She stated that Lake Conway East has had negative responses to Airbnb in her neighborhood and is not in favor of changing the code.

Comm Sims – District 4

- Comm Sims said apparently there is Statute where a municipality is required to have a certain amount of undeveloped wood land. At the last P&Z meeting there was discussion of available State grant dollars available to municipalities to procure. He would like to know if the City can pursue these funds to purchase the 2635 McCoy property. Mr. Francis said the City has offered the land owner to purchase the property and they were not interested in selling. After discussion, Council consensus was for the City Manager to pursue further.

Comm Readey – District 5, No report.

Comm Weinsier – District 2, No report.

Comm Carugno – District 2

- Comm Carugno asked for an update to for the Traffic Study. Mr. Francis said he is waiting for the final scope of work.

Comm Gold - District 1

- Comm Gold said he was contacted by the residents of Lake Conway Shores regarding a new Pavilion and grant funds.
- Comm Gold said he is interested in having a social media workshop.

ADJOURNMENT

There being no further business Mayor Pisano called for a motion to adjourn, unanimously approved at 9:30 p.m.

Yolanda Quiceno, CMC, City Clerk



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: March 20, 2018

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Rezone of Wallace Field

Background: The current zoning of Wallace Field is residential (R-1-AA). Opinions have been expressed by the City Council that this parcel should be added to the City's inventory as Open Space (Park or Recreational). The City Council does not have a desire to sell the property or use it for housing. The City Manager is requesting the Council file an application to change the zoning from residential to open space.

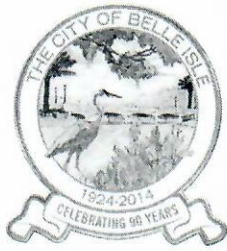
Staff Recommendation: Start the process to change the zoning of the parcel from residential to open space.

Suggested Motion: I move that we direct the City Manager to start the process to change the zoning of the Wallace Street property from residential to open space.

Alternatives: Leave the property as residential

Fiscal Impact: None to Rezone

Attachments: OS Ordinance; Application for Rezone (Will be updated prior to submission to P&Z)



CITY OF BELE ISLE, FL

1600 NELA AVENUE, BELLE ISLE, FL 32809 * TEL 407-851-7730

MEMORANDUM

From the Desk of Bob Francis, City Manager

To: Planning and Zoning Board

Date: August 21, 2017

Re: Application for Rezoning

The City of Belle Isle is applying to change the zoning of the property located at E. Wallace Street at the intersection of Wallace Street and Matchett Road. The property is currently zoned Residential (R-1-AA) and the City is applying to change the zone to PUB. The reason for the zone change is to have this area as open space. The City intends to use the area for recreational activities and city-sponsored events. The City will revise its Comprehensive Plan to show that this area is zoned public space.



CITY OF BELLE ISLE, FLORIDA

1600 Nela Avenue
Belle Isle, Florida 32809
(407) 851-7730 • FAX (407) 240-2222
www.cityofbelleislefl.org

APPLICATION FOR CHANGE IN ZONING CLASSIFICATION

** Per I.D.C. Chap. 42, Art. III, Sec. 42-61, a \$165.00 filing fee must be attached with EACH application **

Parcel ID#: 24-23-29-8977-00-021 Date of Request: 8/8/17
Applicant's Name: ROBERT FRANCIS Owner's Name: CITY OF BELLE ISLE
Applicant's Address: 1600 NELA AVE Owner's Address: 1600 NELA AVE
City, State, Zip: BELLE ISLE, FL 32809 City, State, Zip: BELLE ISLE, FL 32809
Applicant's Phone #: 407-851-7730 Owner's Phone #: 407-851-7730
Applicant's Email: BFRANCIS@BELLEISLEFL.GOV Owner's Email: BFRANCIS@BELLEISLEFL.GOV

Request is hereby made for a change in Zoning Classification from R-1-AA to PUB (OPEN SPACE)

Current Use is: PUBLIC OPEN SPACE Previous Use was: VACANT LOT

Reason for request and proposed use (required): THE CITY WOULD LIKE THIS PARCEL TO BE OPEN SPACE FOR PUBLIC EVENTS.

If Owner owns any adjacent parcels, please list Parcel ID #s: N/A

Applicant Signature: [Signature] Owner Signature: [Signature]

****A COMPLETE SURVEY MUST ACCOMPANY ALL REZONING APPLICATIONS****

FOR OFFICE USE ONLY:

Application Recd On _____ Application Recd By _____ \$165.00 Check #/Cash _____
P&Z Case # _____ P&Z Hearing Date _____ P&Z Board Approved or Denied Application? (circle one)

ADDENDUM

Borrower: The City of Belle Isle		File No.: 16-1139
Property Address: Lot 2 Wallace Street		Case No.:
City: Belle Isle	State: FL	Zip: 32809
Lender: The City of Belle Isle		

Legal Description

WALLER SUB 26/105 PART OF LOT 2 DESC AS BEG SW COR OF SAID LOT 2 TH RUN N00-07-50E 300 FT
S89-55-55E 359.92 FT S04-13-30W 300.39 FT S90-00-00W 338.47 FT TO POB



Rick Singh CFA Orange County Property Appraiser Florida (Beta version)



Base map

Layers



Foreclosure

Sales

Parcel Search

Legend

Identify

OCPA Tools

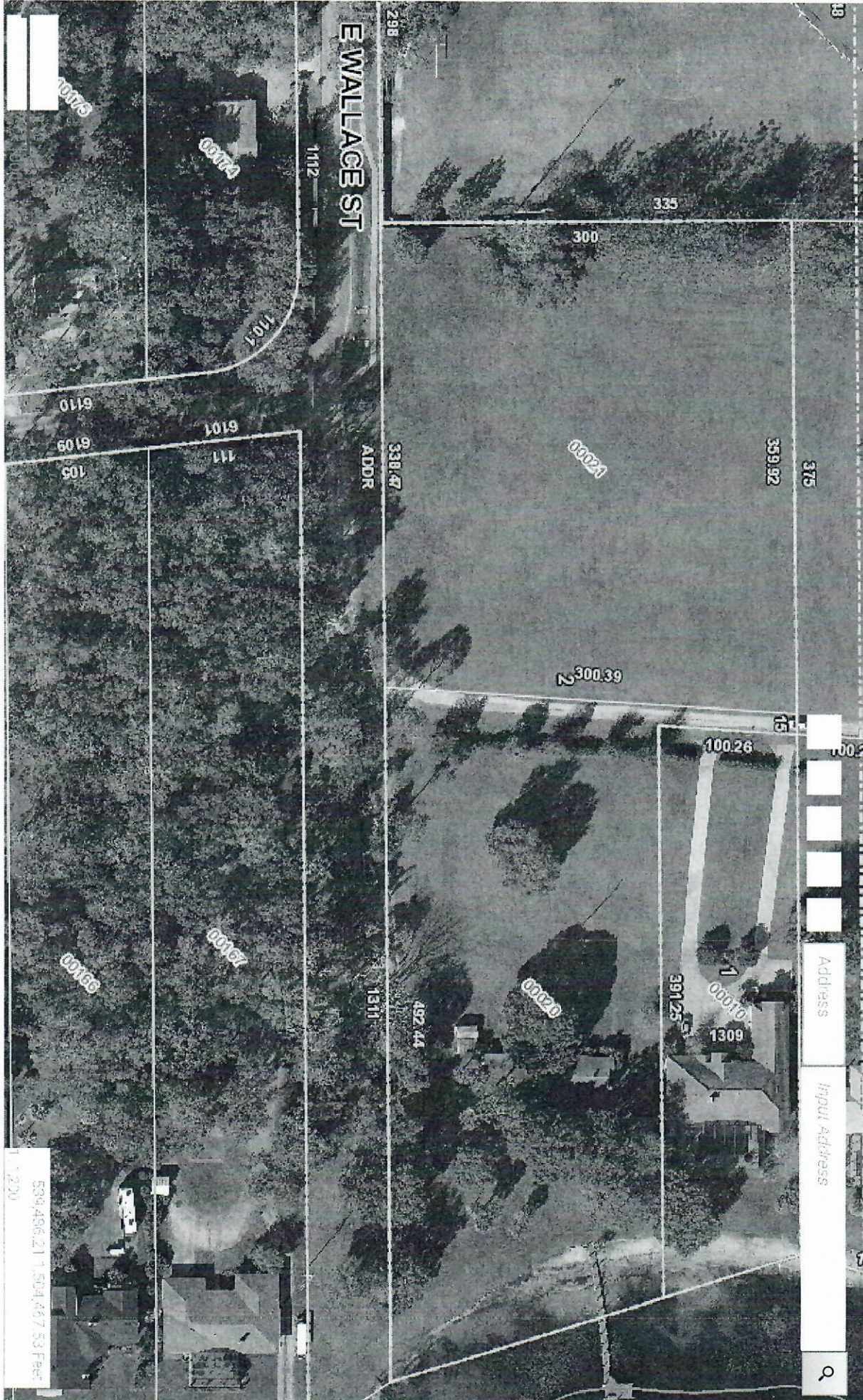


Custom Print

Trending



Feedback



**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

CITY OF BELLE ISLE, a
Florida municipal corporation,

Plaintiff,

Case No.:

v.

FLORIDA FISH AND WILDLIFE
CONSERVATION COMMISSION,
an agency of the State of Florida,

Defendant.

_____ /

COMPLAINT

The City of Belle Isle (“City”) hereby files this Complaint against the Florida Fish and Wildlife Conservation Commission (“FWC”). In support, the City states:

JURISDICTION, VENUE, AND THE PARTIES

1. This is a constitutional challenge to certain Florida Administrative Code Rules that FWC has promulgated.

2. This Court has subject matter jurisdiction as this is an action at law or in equity pursuant to sections 26.012, 86.011, and 120.73, Florida Statutes, and Article V, section 5 of the Florida Constitution, the value of which exceeds the jurisdictional limits for this Court.

3. The City is a Florida municipal corporation located in Orange County, Florida, which exercises its corporate, governmental, and proprietary powers to enable the City to conduct and perform municipal functions.

4. FWC is a Florida agency and constitutional entity created under Article IV, section 9 of the Florida Constitution, which exercises the regulatory and executive powers of the

state with respect to wild animal life and fresh water aquatic life and must establish procedures to ensure adequate due process in the exercise of its regulatory and executive functions.

5. Venue is appropriate in Leon County, Florida, as FWC is entitled to assert its common law home venue privilege and FWC maintain its principal headquarters in Tallahassee, Leon County, Florida.

6. All conditions precedent to bring this action have occurred, have been performed by the City, or have been waived. This action has been timely filed.

GENERAL ALLEGATIONS

7. The City is located within Orange County, Florida, and is only minutes from the town center of metropolitan Orlando and Orlando International Airport. The City is 5.1 square miles with a population of approximately 6,277 with approximately 2,573.3 persons per square mile. This is a greater population density than the City of Orlando. Accordingly, the City is densely populated, heavily developed, and essentially built-out.

8. The predominant hunting activities within the City occur on and about the Conway Chain of Lakes; however, there are approximately 872 lots and parcels that front on the Conway Chain of Lakes within the City, and approximately 785 of these lots and parcels have docks that are constructed onto and into the Conway Chain of Lakes. All these lots and parcels are afforded expansive and valuable littoral rights, including but not limited to, the right to utilize the lakes, rights of view and access, rights to wharf out, and rights relating to peaceful and quiet enjoyment of the Conway Chain of Lakes.

9. Public docks/boat ramps also exist on the Conway Chain of Lakes allowing enjoyment and heavy use by both non-residents and residents of the City. In fact, there are two (2) seaplane bases located on the Conway Chain of Lakes (Lake Conway North Seaplane Base,

FAA Identifier: 91FL and Lake Conway South Seaplane Base, FAA Identifier: 0FL5). Accordingly, the tracts of land under the City's jurisdiction are not vacant or expansive tracts that one would normally associate with the taking of wild game or migratory birds. There are also countless locations within a short drive from the City's jurisdictional limits that are not so densely populated, intensely developed, or heavily utilized by the general public that would ensure peaceful and safe taking of wild game or migratory birds.

10. On or about October 16, 2017, the City formally requested that FWC establish a bird sanctuary for the protection of all birds and wildlife and establish restrictive hunting areas within the City, including but not limited to, the Conway Chain of Lakes that are in the jurisdictional limits of the City (the "Sanctuary Request"). A true and accurate copy of the Sanctuary Request is attached as Exhibit "A."

11. In essence, the Sanctuary Request sought permission from FWC for the City to establish the entirety of the approximately 5.1 square miles jurisdictional limits of the City as a bird sanctuary/restricted hunting area.

12. The Sanctuary Request outlined many of the City's concerns and public policy rationales for establishing such bird sanctuary/restricted hunting area due to public safety concerns and complaints as well as animal rights and environmental stewardship issues. *See* Exhibit "A."

13. Previous to the Sanctuary Request, on or about September 19, 2017, the City Council unanimously approved and lawfully enacted Ordinance 17-07 to establish that "all land and airway area embraced within the city limits of Belle Isle, Florida is hereby declared to be and shall hereafter be designated as a 'Bird Sanctuary.'" *See* Exhibit "A," Ordinance 17-07, § 1.

14. Additionally, Ordinance 17-07 provides:

The City Public Works Department and private property owners will post the area boundary with signs bearing the words “RESTRICTED HUNTING AREA, Hunting by Special Permit Only” or “BIRD SANCTUARY, No Hunting” established by Rule 68A-19.002, F.A.C., which shall be placed at intervals of no more than 500 feet, be easily visible from any point of ingress or egress and provide other necessary notice of such area to the public.

* * *

The Belle Isle Police Department, including the Marine Patrol, shall be responsible for enforcement of regulations of the Florida Fish and Wildlife Conservation Commission and this ordinance.

Exhibit “A,” Ordinance 17-07, § 3. A copy of Ordinance 17-07 was included in the Sanctuary Request materials.

15. The Sanctuary Request and Ordinance 17-07 were submitted to FWC in accordance with FWC codified Florida Administrative Code Rules regarding the establishment of bird sanctuaries/restricted hunting areas.

16. Such FWC codified Florida Administrative Code Rules are identified as 68A-19.002 and 68A-19.004. The rules state the following:

68A-19.002 Establishment of Restricted Hunting Areas, and Bird Sanctuaries, Procedure.

(1) The Commission may establish bird sanctuaries for the protection of all birds and other wildlife and restricted hunting areas within any developed area upon the written request of the local governmental body having jurisdiction over such areas. In requesting establishment of such restricted hunting areas or bird sanctuaries, the governing body shall, by proper resolution or ordinance, officially agree to assume the responsibility for enforcement of regulations of the Commission which apply to such areas, including posting the area boundary with signs bearing the words “RESTRICTED HUNTING AREA, Hunting by Special Permit Only” or “BIRD SANCTUARY, No Hunting” established by Rule 68A-19.002, F.A.C., which shall be placed at intervals of no more than 500 feet, be easily visible from any point of ingress or egress and provide other necessary notice of such area to the public. Said governing body shall agree to instruct its duly authorized law enforcement personnel to enforce said regulations within the area.

(2) Following receipt of the request of the governing body the Commission shall, through its staff, investigate to ensure that the tract under

consideration is sufficiently developed as to preclude recreational hunting in the interest of safety and that its closure will not result in a denial of reasonable and lawful hunting opportunity.

(3) Action by the Commission for the establishment of restricted hunting areas or bird sanctuaries as recommended by its staff shall be taken at its July and January meetings.

68A-19.004 Regulations in Bird Sanctuaries.

No person shall take any wildlife in any bird sanctuary using a gun unless such taking is authorized by specific rule relating to such sanctuary.

(emphasis in original).

17. The FWC’s rulemaking authority for the above-referenced rules is expressly set forth as Article IV, section 9 of the Florida Constitution. This constitutional provision accords the FWC exercise of the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, and the Florida Constitution requires the FWC “establish procedures to ensure adequate due process in the exercise of its regulatory and executive functions.” *See* Art. IV, § 9, Fla. Const.

18. Florida Administrative Code Rule 68A-19.002—enacted under the FWC’s constitutional powers—is subject to challenge in this judicial forum. This process is codified and provided by FWC in the FWC’s Due Process Procedures (the “Due Process Procedures”), which are set forth in Florida Administrative Code Rule 68-1.008. In recognition of the constitutional (*see* Art. IV, § 9 Fla. Const.) and statutory requirements (*see* § 20.331(9)(a), Fla. Stat.) that the FWC establish adequate due process procedures in its exercise of the FWC’s regulatory and executive functions, Florida Administrative Code Rule 68-1.008(5)(b) and (c)1.a. provides the following:

(b) Procedural Due Process: Procedural due process, in a broad sense, encompasses the procedural requirements that must be observed in the course of a legal proceeding to ensure the protection of private rights and property. Procedural due process, in an administrative setting, consists of requirements for notice, a

meaningful opportunity to be heard and a fair, impartial decision-making authority.

* * *

(c) Substantive Due Process: Substantive due process refers to

1. The FWC rules derived from constitutional authority are not to be subject to administrative rule challenges under Section 120.56, F.S. *See, Airboat Association of Florida, Inc. v. Florida Game and Fresh Water Fish Commission*, 498 So. 2d 629 (Fla. 3rd DCA 1986). Under the APA, The FWC is not defined as an agency except when it is acting pursuant to statutory authority derived from the Legislature. *See*, Section 120.52(1)(b), F.S. However, **rules derived from constitutional authority can be challenged in a number of ways:**

a. **The FWC rules**, and possible proposed rules, **derived from constitutional authority may be challenged directly before the circuit court by declaratory action, injunctive action** or, in appropriate circumstances, under the Bert J. Harris Private Property Rights Protection Act (Section 70.001, F.S.). Decisions of the circuit court can be appealed to the appropriate District Court of Appeal, and potentially to the Supreme Court of Florida.

(emphasis added).

19. On or about January 22, 2018, the City received correspondence from Executive Director of the FWC, Eric Sutton, which copied the FWC Commissioners, and stated in part:

As you are aware, Rule 68A-19.002, Florida Administrative Code, sets forth the procedures for establishing bird sanctuaries/restricted hunting areas. Per this rule, an area under consideration must be sufficiently developed as to preclude recreational hunting in the interest of safety and that its closure will not result in a denial of reasonable and lawful hunting opportunity. Based on our staff's assessment, specifically the Conway Chain of Lakes . . . , we have found it not to be sufficiently developed as to preclude recreational hunting in the interest of safety and its closure would result in the denial of reasonable and lawful hunting opportunity. Your request is hereby denied based on this assessment.

A true and accurate copy of the correspondence is attached as Exhibit "B," and is referred to herein as the "FWC Denial."

20. Aside from the FWC Denial's conclusory determination, the FWC Denial states:

We have carefully reviewed the concerns and situation on the Conway Chain of Lakes concerning waterfowl hunting, including a site inspection in 2016 with [City Mayor Pisano], some of Belle Isle's officials and staff, several other

interested parties, and our staff. Since then, we have met several times with you and with concerned residents to discuss the issue.

See Exhibit “B.”

21. Otherwise, the City has neither been notified of nor provided any understanding of the criteria, evaluation utilized, methodology, or any quantification of what actually constitutes a situation where or FWC determination that:

(a) a municipal designated tract of land desired to be a bird sanctuary/restricted hunting area “is sufficiently developed as to preclude recreational hunting in the interest of safety”; or

(b) a closure of the municipal designated tract of land desired to be a bird sanctuary/restricted hunting area would “result in a denial of a reasonable and lawful hunting opportunity.”

See Fla. Admin. Code R. 68A-19.002(2).

22. Upon information and belief, neither FWC nor its employees conducted the investigation required under Florida Administrative Code Rule 68A-19.002(2) relating to the development, public safety, and hunting opportunity criteria set forth therein.

23. The FWC Denial fails to provide any detailed or meaningful findings of fact and does not contain any competent substantial evidentiary findings that support same. Indeed, the City was not provided notice of the FWC Denial or the FWC Commission’s consideration of the City’s Request, and the City was not afforded an opportunity to present its own evidence prior to the FWC Denial.

24. Moreover, FWC expressly requires in Florida Administrative Code Rule 68A-19.002(3) that any and all “action” must be taken “at its July and January meetings.” Upon information and belief, FWC did not comply with this provision in evaluation of the City’s Request as the City’s Request was denied based on the arbitrary and capricious determination of the FWC Executive Director and/or FWC staff—not a decision rendered by the entire FWC

Commission. Further, the FWC denial is dated January 22, 2018; however, no FWC Commission meeting was held in January while neither the December 2017 nor February 2018 FWC Commission agendas contain any reference to the City's Request. *See* Exhibit "B."

25. In other terms, the FWC Denial was made in a manner that ignores the criteria and processes set forth in Florida Administrative Code Rule 68A-19.002(2)-(3), and, to the extent any criteria or processes were followed, the FWC Denial was based upon arbitrary and capricious application of Florida Administrative Code Rule 68A-19.002(2).

26. It is axiomatic that Florida agencies must not act with unbridled or unfettered discretion in the enactment or application of their administrative rules. In *Barrow v. Holland*, 125 So. 2d 749 (Fla. 1960), the Florida Supreme Court analyzed a permit rule enacted by the Game and Fresh Water Fish Commission of Florida. The court observed the established Florida law that:

Even granting the Commission the power to require a permit for the display of Florida wildlife on exhibit, the quoted rule falls far short of meeting constitutional requirements that it establish standards for the guidance of those members of the public who are affected by it, as well as to govern the agents of the Commission who are required to enforce. . . . It is a well-established rule of constitutional law that an enactment delegating administrative power to an agency of government should define the limits of the power by including in the enactment reasonable standards which enable the affected public to meet the requirements of the enactment. These standards at the same time preclude the exercise of arbitrary power by the enforcement agencies of the government. . . .

An agency of the government having the power to regulate is not permitted to arrogate to itself or to delegate to its employees the arbitrary power to determine private rights with an unbridled discretion.

Id. at 752 (citations omitted); *see also Lewis v. Fla. State Bd. of Health*, 143 So. 2d 867, 869 (Fla. 1st DCA 1962) (providing analysis of the *Barrow* decision).

27. Additionally, administrative rules are subject to vagueness challenges where they are subject to inconsistent application or "require the performance of an act in terms that are so

vague that persons of common intelligence must guess at its meaning and differ as to its application.” See *State v. Peter R. Brown Constr., Inc.*, 108 So. 3d 723, 728 (Fla. 1st DCA 2013). Apposite here are licensure or permitting decisions invalidated on vagueness grounds due to the significant risk of capricious, whimsical, and arbitrary selections. See, e.g., *Harrington & Co., Inc. v. Tampa Port Auth.*, 358 So. 2d 168, 169-70 (Fla. 1978) (no clear and specific guidelines to ensure that those licensed to perform such functions were not arbitrarily selected); see also *Effe, Inc. v. Ocala*, 438 So. 2d 506, 509 (Fla. 5th DCA 1983) (“The granting or withholding of a permit to engage in a legitimate business should not depend on the whim or caprice of the permitting authority.”).

28. Moreover, the Florida legislature has recognized a fundamental right to hunt and fish in Florida. Section 379.104, Florida Statutes, contains recognition that “hunting, fishing, and the taking of game are a valued part of the cultural heritage of Florida and should be forever preserved for Floridians.” However, the general right to hunt, fish, and take game is “subject to the regulations and restrictions prescribed by general law and by s. 9, Art. IV of the State Constitution.” Accordingly, Florida Administrative Rule 68A-19.002 and its application and enactment touches upon issues of fundamental rights of Florida citizens and the expansive home rule powers of Florida municipalities.

29. As mentioned above, Florida Rule of Administrative Procedure 68A-19.002(2) provides the criteria FWC utilizes for its decision on a bird sanctuary/restricted hunting area. The FWC Commission, through its staff, makes a two-pronged inquiry: 1) whether the tract under consideration is sufficiently developed as to preclude recreational hunting in the interest of safety; and 2) whether the closure of such tract under consideration would not result in a denial of reasonable and lawful hunting opportunity.

30. As to the first prong, the term “sufficiently developed as to preclude recreational hunting” is vague, ambiguous, undefined, and susceptible to arbitrary and whimsical determination. Apposite is *U.S. ex rel. Crenshaw v. Degayner*, 622 F.Supp.2d 1258, slip op. at **39 (M.D. Fla. 2008), where the court examined a loan agreement requiring approval from a “sufficient majority” of homeowners. The court found the term “sufficient” to be vague and left undefined while the utilization of the adjective “‘sufficient’ implies that the ‘majority’ obtained must satisfy some other applicable requirement such as the community bylaws or state law.” *Id.*

31. Here, use of the term “sufficiently developed” is vague, provides no guidelines or standards, and is subject to the whims and fancies of the FWC and its investigatory staff. The City continues to search for what other criteria, standard, or proof it must present given the fact that the City is intensely developed. There are significant public safety issues and concerns relating to the taking of game and the hunting of migratory birds on lakes within the City’s jurisdictional limits given the intense use and development of the entirety of the City as referenced herein.

32. The second prong is also susceptible to the same constitutional infirmities. The term “reasonable and lawful hunting opportunity” is vague, ambiguous, undefined, and susceptible to arbitrary and whimsical determination. This language is analogous to the court’s reversal of a summary judgment entered in favor of a city based upon the posited violation of an ordinance prohibiting loitering in a high drug activity area and, upon questioning by police, the target could not “give a lawful and reasonable explanation for his presence there.” *Crews v. City of Chester*, 35 A.3d 1267, 1273-74 (Pa. Commw. Ct. 2012). The *Crews* court held that such ordinance “offers no guidance as to what constitutes ‘a lawful and reasonable explanation,’” and

the ordinance “affords too much discretion to the police and too little notice to citizens who wish to use the public streets.” *Id.* at 1273.

33. The above-referenced lack of meaningful and predictable standards also results in impermissible unbridled or unfettered discretion in the FWC’s determination as to bird sanctuaries/restricted hunting areas. Determinations relating to “sufficient development” and “reasonable and lawful opportunity” inherently ensure that applicants under the rule are unable to determine their legal rights or duties, and the standards are subject to unequal application and differential treatment. This the Florida Constitution and prevailing Florida law do not allow.

34. Indeed, the two-pronged inquiry does not provide any weight or any objective criteria other than the caprice of the FWC—particular decisions of the FWC are left to the discretion of the FWC on a case by case and unequal basis.

35. Established Florida law also provides that a Florida agency, “[w]ithout question, . . . must follow its own rules.” *Cleveland Clinic Fla. Hosp. v. Agency for Health Care Admin.*, 679 So. 2d 1237, 1242 (Fla. 1st DCA 1996); *see also Boca Raton Artificial Kidney Ctr. v. Dep’t of Health & Rehab. Servs.*, 439 So. 2d 1055, 1057 (Fla. 1st DCA 1986) (finding impractical agency rules may be amended pursuant to established rulemaking procedures, but absent such an amendment, expedience cannot be permitted to dictate the application of the rules).

36. FWC’s failure to follow its own procedures as outlined in Florida Administrative Code Rule 68A-19.002(2)-(3) results in arbitrary and capricious application of the rule to the City’s Request and particularized circumstances, and this neglect also implicates due process concerns. *See, e.g., L.P.M. v. Sch. Bd. of Seminole County*, 753 So. 2d 130, 133 (Fla. 5th DCA 2000) (finding that due process is accorded only where adopted investigatory procedures were “substantially complied with”).

Count I – Declaratory Judgment

37. The City re-alleges paragraphs one (1) through thirty-six (36) as though fully set forth herein.

38. Pursuant to section 86.011, Florida Statutes, this Court may render declaratory judgments on the existence of any privilege or right or of any fact upon which the existence of any privilege or right may depend.

39. FWC and the City have competing interpretations regarding the application, lawfulness, and constitutionality of Florida Administrative Code Rule 68A-19.002, which includes but is not limited to the constitutional infirmities and deficiencies set forth herein.

40. There is a *bona fide*, actual, present and practical need for a declaration as the City is in doubt about whether Florida Administrative Code Rule 68A-19.002 is valid and sustainable pursuant to Florida law as it contravenes established and controlling Florida law relating to unbridled discretion, indefiniteness/vagueness, and unlawful delegation of legislative authority.

41. The declaration sought herein concerns a present, ascertained, or ascertainable state of facts or present controversy as to a state of facts.

42. The rights, obligations, privileges, or powers of the City that may be conferred by Florida Administrative Code Rule 68A-19.002 are dependent upon the facts or the law applicable to the facts as set forth herein.

43. The antagonistic and adverse interests relating to this proceeding are all before this Court by proper process.

44. The relief sought herein is not merely the giving of legal advice or the answer to questions propounded for curiosity.

WHEREFORE, the City of Belle Isle respectfully requests this Court issue a declaratory judgment finding and declaring: that Florida Administrative Code Rule 68A-19.002 is an unlawful delegation of legislative authority, unlawfully vests unbridled discretion in the FWC and its employees, is unconstitutional for indefiniteness and vagueness, is unconstitutional due to FWC's arbitrary and capricious application of such rule to the City's Request, and is unenforceable; or, alternatively, that FWC violated principles of due process and fundamental fairness in failing to substantially comply with the provisions of Florida Administrative Code Rule 68A-19.002; that the City of Belle Isle is entitled to approval of its request for a bird sanctuary/restricted hunting area; and that the City is entitled to such other and further relief as is equitable and just.

Count II – Permanent Injunction

45. Plaintiffs re-allege paragraphs one (1) through thirty-six (36) as though fully set forth herein.

46. The City has a substantial likelihood of success on the merits as Florida Administrative Code Rule 68A-19.002 is an unlawful and unconstitutional delegation of legislative authority, vests unbridled discretion in the FWC and its employees, and is otherwise unlawful as unconstitutionally vague and indefinite.

47. Alternatively, the City has a substantial likelihood of success on the merits as the FWC failed to comply or substantially comply with the procedures set forth in Florida Administrative Code Rule 68A-19.002 in violation of the City's due process rights and fundamental fairness.

48. The City will suffer irreparable harm absent the entry of an injunction to prevent the enforcement of and application of Florida Administrative Code Rule 68A-19.002. The

injuries and public safety and welfare concerns that has or will be suffered by the City and its residents and guests cannot be adequately compensated by a monetary award or money damages.

49. As set forth herein, the City has clear legal rights to the injunctive relief sought herein pursuant to established Florida law regarding vagueness, unbridled discretion, and unconstitutional delegations of legislative authority.

50. The City has no other adequate legal remedy to challenge Florida Administrative Code Rule 68A-19.002 or the unlawful criteria contained therein. Moreover, there is no plain, certain, prompt, speedy, sufficient, complete, practical, and efficient means for the City to attain the ends of justice in this matter short of this Court's issuance of an injunction. The City's damages and injuries are estimable only by conjecture and not by any accurate standard.

51. The injunctive relief sought will serve the public interest by ensuring fair opportunities for the City and its residents and guests to enjoy their littoral rights and safety while also ensuring the health and well-being of migratory birds and other fauna that seek refuge in the City's jurisdiction.

WHEREFORE, the City of Belle Isle respectfully requests this Court: hold a *de novo* trial on this matter and find that the Florida Fish and Wildlife Conservation Commission be permanently enjoined from enforcement of Florida Administrative Code Rule 68A-19.002; find that Florida Administrative Code Rule 68A-19.002 is unconstitutional and unenforceable as an unlawful delegation of legislative authority, unlawfully vests unbridled discretion in the FWC and its employees, is unconstitutional as vague and indefinite, and is unconstitutional due to FWC's arbitrary and capricious application of such rule to the City's Request; compel the FWC to approve the City's bird sanctuary/restricted hunting area request; or, alternatively, find that the FWC failed to comply or substantially comply with the processes and procedures set forth in

Florida Administrative Code Rule 68A-19.002, and require that FWC consider the City's Request in accordance with such rule; and grant such other and further relief as is equitable and just.

Respectfully submitted this ____ day of _____, 2018.

A. Kurt Ardaman
Florida Bar No.: 434094
ardaman@fishbacklaw.com
Daniel W. Langley
Florida Bar No.: 637610
dlangley@fishbacklaw.com
Christopher R. Conley
Florida Bar No.: 43589
crconley@fishbacklaw.com
Fishback, Dominick, Bennett, Ardaman,
Ahlers, Langley & Geller LLP
1947 Lee Road
Winter Park, Florida 32789
Telephone No.: (407) 262-8400
Facsimile No.: (407) 262-8402
Attorneys for Petitioner, City of Belle Isle

**Belle Isle Issues Log
3/20/2018**

<u>Issue</u>	<u>Description</u>	<u>Start Date</u>	<u>POC</u>	<u>Expected Completion Date</u>	<u>Completed Action</u>	<u>Next steps</u>
NPDES Reporting	Prepare NPDES TMDL Plan and MS4 Reporting to State	10/1/2016	CM	31-Dec-17 Completed 11/9/17	City Manager and Engineer made corrections to the plan. State Accepted MS4 Plan. Now yearly plan update	NPDES Audit by Florida DEP scheduled for March 28, 2018
Cornerstone Charter Academy Stormwater Discharge issue	In November, Orange County made City aware of turbidity issue with storm water discharge from CCA Property to OC Storm pipe. OC may fine City is not corrected.	1/11/2016	CM/CE	4/30/2018	Water sampling revealed that there are high levels of nitrogen causing algae blooms. OCEPD reviewing fertilizer put on the field. Harris Engineering to use GPR to find any unrecorded pipes.	SJWMD approved city request to divert water from OC culvert to Wallace Field. City will divert water from drainage ditch to Wallace Field
Gene Polk Park (Delia Beach)	Drainage issue at Gene Polk Park caused erosion problems and makes the park unattractive. At least 3 plans have been developed for the drainage and Council allocated \$180,000 to correct the problem.	4/3/2017	CM/CE	9/30/2018	CM met with neighbors to go over plan. Neighbors will review plan as a group and then present their comments to City.	Construction plans are complete. Contract documents are being prepared for bid.
Street Paving	Council approved project for paving several streets in the City. Middlesex Paving is the contractor	8/12/2017	PW/CM	9/30/2017 Completed	Paving of Windsor Place, Lake Conway East, Venetian, Peninsula, and McCawley completed.	Projects complete for 2016-17 Budget. Start to look at paving other streets for FY2017-18 Budget.
Storm Drainage	Several individual projects are being looked at to complete. St. Partens, McCawley Ct., Swann Beach, 3101 Trentwood.	4/3/2017	PW/ENG	5/31/2018	City Manager determined areas that need to have a priority of work for stormwater fixes. Working with the Engineer to address these areas	Construction plans being developed for St. Partins, Wind Drift, Nela Ave, and area near St. Moritz , and Dorian Ave. FEMA Funding requested
Nela/Hoffner Bridges	Work on Nela/Hoffner Bridges include new lights and painting. Work under Nela Bridge	5/1/2017	PW/CM	7/31/2018	City Manger working with Orange County on Hoffner painting. Reviewing FDOT inspection report on Nela Bridge. Request to OC to remove graffiti from Hoffner Bridge	Nela Bridge recently inspected by FDOT Engineers. City will plan required work for next budget year.
Traffic Studies	Council allocated funds for traffic study at Trentwood/Daetwyler Rd. Council directed city-wide traffic study to improve traffic flow.	4/3/2017	CM/Eng.	12/31/2018	Trentwood Study completed. CM, Police Chief, Traffic Engineer and Comm. Lance met with HOA Board on November 15 with results. Engineer to do additional speed study on Flowertree. CM and Traffic Engineer working on a scope of work for city-wide study.	Mattamy Homes will not fund traffic changes. Temporary Speed Humps are installed on Flowertree and Trentwood. RFP for Traffic Management Plan is out. Due March 21

**Belle Isle Issues Log
3/20/2018**

Fountain at Nela/Overlook	Council approved funding to convert the planter at Nela/Overlook to a fountain.	4/3/2017	CM	8/31/2018	Contacting fountain installers for quotes. Art work to be contest for residents. Initial Quotes received were for \$75K and \$51K without art work. CM to receive new quote based on new Scope of Work	G'Werks to do fountain. Centerpiece ordered (12-14 weeks). Should see demo of roundabout soon.
Standardize Park Signage	Council held a workshop on June 14 to discuss park issues. Standardize signage was one of the issues. Council reviewed proposed signs and directed to move forward.	6/14/2017	CM	9/30/2018	New signs will be made and replace the current signs for parks. Meeting with sign maker on August 1st. New signs in for design	Should have budget for signs for Regal Park, Gene Polk Park, Cross Lake Beach, Swann Beach. Lesser Park, Holloway Park, Trimble Park by next meeting. Possible next year budget item.
Standardize Boat Ramp Signs	Council held a workshop on June 14 to discuss boat ramp issues. Standardize signage was one of the issues. Council reviewed proposed signs and directed to move forward.	6/14/2017	CM	6/30/2018	New signs will be made and replace the current signs for ramps. Perkins and Venetian ramps will have same rules. Lake level closure decided. New signs in for design. Sign Maker making new Perkins Ramp Sign. Venetian being designed. Fence at Venetian installed.	Venetian sign is in for proofing at sign maker. Perkins sign done and waiting installation.
Wallace/Matchett Area	City purchased large area at Wallace/Matchett for open space. Issues with Wallace Street Plat in this area with people trespassing on private property. District 2 Comm. And CM met with residents to discuss solutions. Council met on June 14 and issues was discussed. Council directed that a fence would be erected around property. Dist. 2 Comm. and CM to meet with residents to discuss options for Wallace Street plat. Area is still zoned R-2.	6/14/2017	Dist.2 Comm and CM	9/30/2018	Fence quotes received. Zoning change in progress. Agreement for CCA use of the field being sent to school (waiting school response)	Dist. 2 Comm. to reschedule meeting with area residents. New Open Space designation to be given. CCA reviewing agreement for the school to use the field.
Perkins Boat Ramps	Council discussed issues at June 14 meeting for Perkins ramp . Rules need to be put in place according to Ordinance 18-20. Perkins also needs to be upgrade with new fencing, ramp construction and road and dock construction. New drainage also needs to be installed. Council allocated \$38,000 to drainage.	4/3/2017	CM	12/31/2017	Closure level agreed upon. New sign is at sign maker. Fencing is delayed due to lack of materials (wood). Starting the process to complete other issues (drainage, fill in the void at end of the ramp, wheel stops on ramp, trailer parking). New fence at Perkins Ramp.	New sign to be installed and parking reconfigured. Dock is close to completion. Working to surveyor to place gauge. Cost to place stone on driveway - \$26,000. Void at end of ramp to be filled and wheel blocks to be put in place.

**Belle Isle Issues Log
3/20/2018**

Charter School (CCA)	There has been infrastructure issues at Cornerstone for some time. The City owns the property and leases it to CCA. The City is responsible for replacing major systems at CCA according to the lease.	4/3/2017	CM	Ongoing	Engineers inspected CCA facilities. Report received by City and is under review. A Capital Facility Plan will be developed for funding infrastructure. Meeting was held with City and CCA to determine who is responsible for costs of facility maintenance. Once CFP is developed, then a joint agreement will be developed outlining which entity is responsible for maintenance costs.	CIP complete except for funding questions. CM and Finance Director to discuss funding with trustee. CCA considering purchase of property. CFP should be on April 3 Agenda.
Strategic Plan	The City currently has no Strategic Plan. Strategic planning is the process to develop a vision of what the City would like in 10, 15, or 20 years, based on forecasted needs and conditions. It defines goals and objectives to achieve those goals. It is not the same as the Comp Plan.	4/3/2017	Council/CM	Ongoing	Council to decide if it wants a Strategic Plan and then to set up a process for developing the plan. If Council moves forward, an outside consultant should be hired to contact the meetings, gather the information, conduct the surveys and develop the draft plan.	Need guidance from council on when they want to do planning.
Bird Sanctuary Designation	The City has an ordinance designating Belle Isle as a Bird Sanctuary; however it is not recognized by the state (FWC). In speaking with the FWC Regional Director, the city has not applied for the designation IAW Florida Statutes. The Council would like to have BI recognized as a bird sanctuary hoping that it will protect many of the birds that call Lake Conway home.	4/3/2017	CM	12/31/2017	Application completed per Florida Statutes and sent to FWC for consideration at FWC January Meeting. New ordinance adopted IAW FWC guidelines and FAL 68a-19.002	Appeal in progress. Update from Attoreny at Meeting
Social Media Policy	City Council expressed concerns that there were postings to social media sites that were not representative of the City government views. The Council requested a social media policy be developed.	4/3/2017	CM	Completed 7/18/2017	Policy drafted. Council review on 7/18/17. Council adopted policy on 7/18/17 Applications received for social media Specialist. CM to review applications and schedule interviews.	Received resumes. Will interview 2 candidates on March 27.
Municipal Code Update	The City Council contracted with a planner to update the municipal code. This process was not completed and needs to be completed. There have been significant code changes in the past few years that need to be in the code.	4/3/2017	CM/CC	Ongoing	Meet with consultant to determine what was done and what is left to do.	It was determined that no code revisions have been completed. In progress

**Belle Isle Issues Log
3/20/2018**

Charter Review	The City Council started the process of reviewing the charter for changes. The Council held two workshops and needs to finish the changes in time to be placed on the next ballot.	12/1/2016	Council/CM	3/31/2018	Set another workshop to review changes made and to finish the Charter review. Revisions completed by CA.	In progress
Comp Plan Updates	The comp plan is reviewed every 7 years to see if it needs to be updated. The City Council contracted with a planner to update the comprehensive plan. In March, the consultant told the Council that the plan is up to date and no changes are necessary. CM believes that changes are needed. They could be made anytime.	3/1/2017	Council Planner CM	Ongoing	Meet with consultant to determine what was done and what is left to do.	Any changes should go to P&Z Board for recommendation to Council. No changes were made. Comp Plan review started by CM
Annexation	Council discussed the desire to annex contiguous property in order to build the tax base and possibly provide more commercial development in Belle Isle.	4/3/2017	Council CM	12/31/2017	Council to determine the priority to annex especially with the establishment of the Pine Castle Urban Center on S. Orange Ave. CA provided information to Council on annexation. Workshop should be scheduled to discuss	Workshop held on 1/11/18. Council discussion at February meeting. Staff reviewing documents.
Sustainability	Council discussed sustainability and energy initiatives.	4/3/2017	CM	12/31/2107	Look at LED lighting and Solar power for city facilities. Look at Community Garden (possibly at Wallace/Matchett)	Due to hurricane installation is delayed until March 1.
Tree Issues	There have been several issues regarding trees, tree care, and concerns on landscaping requirements to save trees. The City recently created a Tree Advisory Board that will review the standards of tree care and the processes involved in tree care, removal, and protection.	11/21/2017	CM Tree Board	3/31/2018	Tree Advisory Board to review current tree ordinances and processes for tree care, removal and protection.	Tree ordinance back to Tree Board for further changes.