

City of Crystal River



Minutes from the
Regular Council Meeting held
Wednesday, August 29th, 2018
@ 7:00 p.m.



**Minutes of the
Crystal River City Council
Regular Council Meeting
Wednesday, August 29th, 2018 @ 7:00 p.m.
Council Chamber, City Hall**

1. CALL TO ORDER

Mayor Farley called the meeting to order at 7:00 p.m.

Council members Present: Mayor Farley, Vice Mayor Brown, Council member Gudis, Council member Fitzpatrick, Council member Holmes.

Council members absent: None.

Staff Present: City Manager Burnell, City Attorney Rey, City Clerk Fink, Assistant City Manager Jack Dumas, Finance Director Michelle Russell, Public Works Director Beau Keene, and Planning and Development Services Director Jackie Gorman.

Council member Gudis led the invocation and Mayor Farley led in the Pledge of Allegiance. Mayor Farley recognized City of Crystal River Mayor-Elect Joe Meek who was in attendance.

2. ADOPTION OF AGENDA

Motion to adopt the agenda was made by Council member Gudis; seconded by Vice Mayor Brown. Motion carried unanimously.

3. PRESENTATIONS

A. Residential Beautification Award.....Leslie Bollin
Special Events Coordinator Leslie Bollin presented update to Council regarding development of a Residential Beautification Award program (ATTACHMENT A). Discussion was held regarding a staff selection committee, separate business and residential categories and signage type.

4. UNFINISHED BUSINESS

5. APPROVAL OF CONSENT AGENDA

A. Motion to approve minutes from the Regular Council Meeting held August 13th, 2018

B. Departmental Monthly Reports Summary for the month of July

Motion to approve the consent agenda was made by Council member Holmes; seconded by Council member Gudis. Motion carried unanimously.

6. PUBLIC INPUT

(Time Limit of Three Minutes)

Tom Gotterup- 6083 W. Fairhope Court- Shared details regarding an Academy of Environmental Science scuba certification course, proposed by Mike Engles, Mary Morgan and himself, and accepted by school board.

***E. Request for Continuance to September 24th, 7:00 p.m.at City Hall- Motion to approve an application for Vested Rights submitted by Crystal River Village PUD

Original item listed as 7E, "Motion to approve a vested rights application for Crystal River Village PUD" was tabled by Mayor Farley.

City Manager Burnell advised that a request for continuance was received for the application for Vested Rights – Crystal River Village PUD and the hearing was continued to Monday, September 24th, 2018 at 7:00 p.m.

Cody Pearson- 1039 NE 5th Avenue- Spoke in opposition of Ordinance No. 18-O-09 (Chickens) some of the proposed provisions, and impact on ability for family to participate in 4-H activities, noting inaccuracy of prior assertions related to health risks associated with chickens.

Austin Pearson-1039 NE 5th Avenue- Discussed the benefits and positive aspects of raising chickens, and requesting consideration to remove the restriction on total number of chickens.

Vice Mayor Brown inquired about the location of their residence.

City Attorney Rey confirmed that the ordinance was drafted based on input from the Planning Commission, with restrictions based upon staff recommendation and noting current lack of prohibition on chickens.

Ray Schedivy- 754 NE 2nd Ave.- Spoke in opposition of the ordinance, expressing confusion with the proposed legislation due to lack of existing complaints, and discussing personal experience as an owner of chickens and benefits, noting greater health risks associated with squirrels.

City Attorney Rey confirmed that no complaints had been received, and clarified that the proposed ordinance resulted from a review of the code and identification of absence of regulation on chickens.

7. PUBLIC HEARING

- A. Consideration of approval of Ordinance No. 18-O-12 for a Small Scale Land Use Amendment for 1.49 Acres MOL of property owned by Centerstate Bank of Florida NA, located between NE 5th Street & NE 3rd Street and between NE 9th Avenue and NE 10th Avenue, Crystal River, FL on Final Reading **QUASI-JUDICIAL**

Motion to read by title only was made by Council member Gudis; seconded by Council member Fitzpatrick. Motion carried unanimously.

ORDINANCE 18-O-12 - AN ORDINANCE OF THE CITY OF CRYSTAL RIVER, FLORIDA, PROVIDING FOR A SMALL-SCALE AMENDMENT TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN, RECLASSIFYING 1.49 ACRES (MOL) OF PROPERTY OWNED BY CENTERSTATE BANK OF FLORIDA NA, LOCATED BETWEEN NE 5TH STREET AND NE 3RD STREET AND BETWEEN NE

9TH AVENUE AND NE 10TH AVENUE AS DESCRIBED IN THE RECORDS OF THE CITRUS COUNTY PROPERTY APPRAISER (17E18S220020 3320) , FROM HIGH DENSITY RESIDENTIAL (HDR) LAND USE TO HIGHWAY COMMERCIAL (HC) LAND USE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Background: [Agenda Sheet] staff report (also attached) demonstrates the change from residential to commercial which is compatible with properties on the east and west side even though they currently have an incorrect land use and zoning classification for the existing use. The rear portion of the lot to the east is the back side of AutoZone and a portion of the property to the west is Chuck's Car Care.

Both properties will currently remain medium density residential which is acceptable as transitional zoning for properties abutting a commercial use. We will attempt to reach out to the owners of these properties and request that they submit a land use and zoning amendment.

Property owners within 300' have been notified and a Notice was published in the Chronicle. The Planning Commission recommended approval by a vote of 7 – 0 on August 2, 2018.

Staff Recommendation: Approval

End of Agenda Sheet]

City Attorney Rey reviewed the quasi-judicial procedure and all those wishing to give testimony were sworn in by the City Clerk. Mayor Farley called for disclosure of conflicts of interest and ex parte communications.

Conflict of Interest: There were none.

Ex Parte Communications: There were none.

Staff Presentation: Ms. Gorman presented the staff report for items 7A and 7B for inclusion in the record (ATTACHMENT B).

Applicant Presentation:

Ronnie Hicks- 6758 SW County Road, Bell, FL- Confirmed plans to develop a mini-storage facility on the site if approval is granted.

Motion to adopt Ordinance No. 18-O-12 for a Small Scale Land Use Amendment for 1.49 Acres MOL of property owned by Centerstate Bank of Florida NA, located between NE 5th Street & NE 3rd Street and between NE 9th Avenue and NE 10th Avenue, Crystal River, FL on Final Reading was made by Vice Mayor Brown; seconded by Council member Gudis.

Public Input: There was none.

Motion carried 5-0 on a roll call vote.

- B. Consideration of approval of Ordinance No. 18-O-13 for an amendment to the City of Crystal River Zoning Map for 1.49 Acres MOL of property owned by Centerstate Bank of Florida NA, located between NE 5th Street & NE 3rd Street and between NE 9th Avenue and NE 10th Avenue, Crystal River, FL on Final Reading **QUASI-JUDICIAL**

Motion to read by title only was made by Council member Holmes; seconded by Council member Fitzpatrick. Motion carried unanimously.

ORDINANCE 18-O-13 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CRYSTAL RIVER, FLORIDA, CHANGING THE ZONING ON 1.49 ACRES (MOL) ON PROPERTIES OWNED BY CENTERSTATE BANK OF FLORIDA NA, LOCATED BETWEEN NE 5TH STREET AND NE 3RD STREET AND BETWEEN NE 9TH AVENUE AND NE 10TH AVENUE AS DESCRIBED IN THE RECORDS OF THE CITRUS COUNTY PROPERTY APPRAISER (17E18S220020 3320), FROM R-2 (RESIDENTIAL) TO HIGH INTENSITY COMMERCIAL (CH); PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Background: [Agenda Sheet Requested Motion: Motion to approve Ordinance No. 18-O-13 for an amendment to the City of Crystal River Zoning Map for 1.49 Acres MOL of property owned by Centerstate Bank of Florida NA, located between NE 5th Street & NE 3rd Street and between NE 9th Avenue and NE 10th Avenue, Crystal River, FL on Final Reading.

Summary: Attached you will find Ordinance #18-O-13 to amend the City's Zoning Map for 1.49 acres MOL of property owned by Centerstate Bank of Florida NA.

As previously explained during the land use amendment, the staff report (also attached) demonstrates the change from residential to commercial which is compatible with properties on the east and west side even though they currently have an incorrect land use and zoning classification for the existing use. The rear portion of the lot to the east is the back side of AutoZone and a portion of the property to the west is Chuck's Car Care.

Both properties will currently remain residential with the land use being acceptable as transitional zoning for properties abutting a commercial use. We will attempt to reach out to the owners of these properties and request that they submit a land use and zoning amendment.

Property owners within 300' have been notified and a Notice was published in the Chronicle. The Planning Commission recommended approval by a vote of 7 – 0 on August 2, 2018.

Staff Recommendation: Approval

End of Agenda Sheet

Staff Presentation: Ms. Gorman referred to staff report (ATTACHMENT C), noting zoning change from R-2 to High Intensity.

Applicant presentation: There was none.

Mayor Farley called for conflict of interest and ex parte communications disclosure.

Conflict of Interest: There were none.

Ex parte communications: There were none.

Motion to adopt Ordinance No. 18-O-13 for an amendment to the City of Crystal River Zoning Map for 1.49 Acres MOL of property owned by Centerstate Bank of Florida NA, located between NE 5th

Street & NE 3rd Street and between NE 9th Avenue and NE 10th Avenue, Crystal River, FL on Final Reading was made by Council member Gudis; seconded by Council member Fitzpatrick.

Public Input: There was none.

Motion carried 5-0 on a roll call vote.

- C. Consideration of approval of Ordinance No. 18-O-09 amending the Code of Ordinances, City of Crystal River, specifically Chapter 4, Article 1, by Creating Section 4-16 to allow Chickens on single family residential properties on Final Reading

Motion to read by title only was made by Council member Fitzpatrick; seconded by Vice Mayor Brown. Motion carried unanimously.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CRYSTAL RIVER, FLORIDA; AMENDING CHAPTER 4, ARTICLE I, BY CREATING SECTION 4-16 TO ALLOW CHICKENS ON DETACHED SINGLE-FAMILY RESIDENTIAL PROPERTIES WITHIN CERTAIN ZONING DISTRICTS AND CREATING TERMS AND CONDITIONS CONCERNING THE KEEPING OF CHICKENS; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Background: [Agenda Sheet Requested Motion: Motion to adopt Ordinance No. 18-O-09 Amending the Code of Ordinances, City of Crystal River, Chapter 4, Article 1, by creating Section 4-16 allowing chickens on single family residential properties on Final Reading.

Summary: Attached you will find proposed Ordinance 18-O-09 of the City's Code concerning Animals and Fowl. If you will recall, staff brought the proposed Ordinance to Council on June 11, 2018 and it was recommended that a more simplified Ordinance be taken back to the Planning Commission for discussion and recommendation. Afterwards, Council requested that staff confirm that the language would not prohibit the sales of chickens in retail, so we included language that allows the retail sale of chickens in CH zoning districts.

Attached you will find Ordinance 18-O-09 that has been revised to reflect the minimum requirements for having chickens as pets in residential zoning districts as follows:

Section 4-16. -Keeping or Harboring of Chickens

The keeping or harboring of chickens as pets on improved single family residential lots with a single family residential dwelling upon the lot; and expressly prohibits coops on commercial, multi-family units, apartments, condominiums or unimproved properties/vacant lots within the City of Crystal River is as follows:

- a) Residents shall be allowed to keep one (1) backyard hen (*Gallus domesticus*) per one-thousand six-hundred fifty square feet (1,650) total lot area on single family residential use lots not less than a minimum of 5,000 square feet not to exceed a total 6 hens, only, if all other requirements in this section are met.

- b) Roosters (defined as a male chicken of any age and generally characterized by an ability to crow) and any other crowing chickens are prohibited in the city limits of the City of Crystal River and are subject to the nuisance provision set forth in Chapter 12, Article 1, Section 12-10(2) of the City Ordinance
- c) No backyard hens or male chickens shall be slaughtered on-site.
- d) The backyard coop must provide for no less than two (2) square feet per chicken.
- e) The backyard coop and chicken run area must be impermeable to rodents, snakes, wild birds and including dogs and bears and adequately contain the backyard hens.
- f) Chickens shall at all times be kept in the rear yard in either a fenced area or covered enclosure. Covered enclosures shall meet the setback requirements for an accessory structure.
- g) Backyard coops and covered enclosures may not be located in the front yard, or seen from the right-of-way.
- h) Backyard coops shall provide for protection from the elements such as shelter from rain or extreme hot/cold temperatures, provide for access to food and water and provide for the good health and prevent unnecessary or unjustified suffering.
- i) No backyard coop shall be built onto any fence.
- j) Odors from chickens, their manure, or any related substances shall not be detectable at the property boundaries.
- k) Backyard coops and enclosures shall be kept in a neat and sanitary condition including provision of clean, dry bedding materials and regular removal of waste materials. All manure not used for composting or fertilizing must be removed promptly.
- l) All feed or other items associated with the keeping of chickens shall be kept in secure containers or otherwise protected to prevent rodents, bears and other pests from gaining access.
- m) Code Enforcement staff shall be permitted the right of entry to the property to inspect the backyard coop or its conditions in the rear yard of a home.

Staff took the most relevant information from the former draft ordinance for your consideration. The Planning Commission met on August 2, 2018 and voted 4-3 recommending approval to the City Council.

Please let us know if you need further information.

Staff Recommendation: Approval

End of Agenda Sheet]

Public Hearing:

Cody Pearson-1039 NE 5th Avenue- Spoke in opposition of the ordinance, requesting consideration to eliminate or reconsider provisions, noting several issues with the language, including the number allowed per household, and inconsistency with the way in which they are sold and noting a general lack of need for such an ordinance.

Mayor Farley inquired about exemptions included and staff confirmed inclusion of an exception for businesses in commercial zoning districts.

Nancy Schedivy- 754 NE 2nd Avenue Spoke in opposition of the proposed ordinance and concurrence with previous points made by Mr. Pearson, noting the benefits of chickens.

Keith Raym-1290 NE 19th Court- Discussed the exemption for businesses suggested during the previous hearing, and expressed concerns with various provisions with in the ordinance, including ability for code enforcement staff to enter properties for inspections, noting a conflicting A.G. opinion. (ATTACHMENT D & E).

Mary Morgan-124 N. Citrus Avenue- Spoke in opposition to the ordinance due to interference with 4-H activities.

Valerie Bryant- Crystal River- Spoke in opposition of the ordinance due to conflict with children's 4-H activities and limitation on number of chickens.

Jessica Pearson-1039 NE 5th Avenue- Spoke in concurrence with Mr. Pearson's comments, and expressed concerns with limitation on number, and ability for city staff to enter private property.

Council discussion was held regarding previous concerns with chicken keeping, validity of points and concerns raised throughout the hearing and public comment, including lack of existing chicken related complaints, staff ability to enter private property and benefits of chickens keeping.

Motion to deny Ordinance No. 18-O-09 Amending the Code of Ordinances, City of Crystal River, Chapter 4, Article 1, by creating Section 4-16 allowing chickens on single family residential properties on Final Reading was made by Council member Fitzpatrick; seconded by Vice Mayor Brown.

Vice Mayor Brown noted the benefits of due process.

Motion carried unanimously.

- D. Consideration of approval of Ordinance No. 18-O-01 amending the City of Crystal River Land Development Code, specifically Chapter 5, Accessory Temporary and Special Use Situations, Section 5.01.02 Accessory Buildings and Structures in all Residential Districts and Section 5.01.11 Fences, Hedges and Walls allowing fences on vacant properties on Final Reading

Motion to read by title only was made by Council member Fitzpatrick; seconded by Council member Gudis. Motion carried unanimously.

AN ORDINANCE OF THE CITY OF CRYSTAL RIVER, FLORIDA, AMENDING THE CITY OF CRYSTAL RIVER LAND DEVELOPMENT CODE, CHAPTER 5 - ACCESSORY TEMPORARY, AND SPECIAL USE SITUATIONS, SECTION 5.01.02 ACCESSORY BUILDINGS AND STRUCTURES IN ALL RESIDENTIAL DISTRICTS BY ADDING FOOTNOTE 2 EXCLUDING FENCES FROM THE LIST OF ACCESSORY STRUCTURES REQUIRING A MAIN STRUCTURE WITH CONDITIONS; AND SECTION 5.01.11 FENCES, HEDGES AND WALLS BY REMOVING 5.01.11(I) IN ITS ENTIRETY AND REPLACING THIS SECTION WITH LANGUAGE FOR INDUSTRIAL FENCING AND COMMERCIAL FENCING WITH PROPER APPROVAL; AND ADDING SECTION (L) LISTING CONDITIONS FOR ALLOWING A FENCE ON A VACANT PROPERTY(S); PROVIDING FOR REPEAL

OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Background: [Agenda Sheet **Requested Motion: Motion to approve Ordinance No. 18-O-01 amending the City of Crystal River Land Development Code, specifically, Chapter 5 Accessory Temporary and Special Use Situations, Section 5.01.02 Accessory Buildings and Structures in all Residential Districts and Section 5.01.11 Fences, Hedges and Walls allowing fences on vacant properties on Final Reading.**

Summary: On March 1, 2018 the Planning Commission recommended approval of Ordinance 18-O-01 amending the City’s Land Development Code to allow fences to be placed on the property with the condition that it be removed if the lot is sold.

This was the result of a request by Clark Stillwell who is representing a resident that received a Code violation for constructing a fence without a permit. In this case the owner had two (2) separate lots and did not want to combine these lots for the fence.

The proposed text would have protected the City by requiring documents to be filed in the public records, (1) affidavit of joint use; and (2) termination of use and removal of accessory structures at sale or termination. With having these documents recorded, buyers are on notice by such filings.

As a result of the Council meeting dated March 12, 2018, staff was asked to revise the proposed Ordinance clarifying specifically what accessory structures would be prohibited on the adjacent lot. A Revised Ordinance was prepared reflecting these changes.

During the April 5, 2018 Planning Commission meeting staff was directed to revisit the Fence Ordinance and bring back a recommendation allowing fences on vacant properties that would be less difficult to manage than what was proposed by Mr. Stillwell and Council. The Planning Commission, after lengthy discussion, recommended approval during the August 2, 2018 meeting.

Attached please find Ordinance 18-O-01 that has been modified to allow fences on vacant properties as follows:

Purpose Statement:

The City of Crystal River and its residents take pride in the prestigious appearance presentation, and safety of our community. Vacant lots can create a safety hazard which can be mitigated through proper maintenance and the construction of a fence that will protect the property owner from unauthorized uses.

SECTION 5.01.11 – Fences, hedges and walls

I. No barbed wire or electric fences in any form shall be permitted in any Zoning District. However, a security fence in an Industrial Zoning District may use barbed wire, provided that the fence shall not exceed eight (8) feet in height and the barbed wire on top of the fence shall not exceed an additional (1) foot. A Commercial Zoning District may apply for the same type fencing with approval by the City Manager.

L. Classification of Fences on Vacant Properties (Properties within the CRA District must comply with Chapter 4 of the Land Development Code for appearance.)

A. On lots with a main structure that has a vacant adjacent lot under the same ownership, the fence must meet all applicable codes. No accessory structure other than a fence may be constructed on an adjacent vacant property. The maximum height in the front cannot exceed 4' from grade, must be a minimum of 50% transparent and the fence must be constructed along the entire vacant lot (all sides). Adjacent vacant lot must be maintained at all times.

B. Vacant lots (stand-alone): 4' maximum height measured from grade. Materials must meet fencing criteria for 50% transparency. No accessory structure or use other than a fence is allowed on stand-alone vacant properties. The property must be maintained at all times.

Staff recommends moving forward with these revisions which will provide a mechanism for our citizens to protect their properties from illegal uses by others (i.e. boat trailer parking, trespassing, etc.).

Staff Recommendation: Approval

End of Agenda Sheet]

Public Hearing: No one spoke for or against the ordinance.

Motion to adopt Ordinance No. 18-O-01 amending the City of Crystal River Land Development Code, specifically, Chapter 5 Accessory Temporary and Special Use Situations, Section 5.01.02 Accessory Buildings and Structures in all Residential Districts and Section 5.01.11 Fences, Hedges and Walls allowing fences on vacant properties on Final Reading was made by Council member Fitzpatrick; seconded by Council member Holmes. Motion carried unanimously.

8. CITY ATTORNEY

A. Parking Ordinance –Ticketing

City Attorney Rey provided a status update on review of existing city parking code, currently specific to curbs or ends of ROW, and review of draft ordinance to implement interim solutions, which includes enforcement mechanism and requesting feedback on any further changes. She also addressed Council questions regarding fee schedule, repeated violations, and effected areas (city-wide vs. neighborhood specific). City Manager Burnell discussed specific methods being utilized to address “Michigan Town” parking issues, and long term solutions, included targeted zones for parking enforcement and permitted parking.

B. Noise Ordinance Conflict

City Attorney Rey provided an update on the status of code review pertaining to noise ordinances, identifying specific inconsistencies, and suggesting consolidation of provisions with clear definitions to provide a consistent framework moving forward. Brief discussion was also held regarding noise enforcement from the water.

9. CITY MANAGER

A. Motion to issue a Notice to Proceed to Pave-Rite for Miscellaneous Paving related services for FY 18

Background: [Agenda Sheet Requested Motion: Motion to issue a Notice to Proceed to Pave-Rite, Inc. under “Continuing Contract for Paving and Related Services, Solicitation 18-B-01” in an amount not to exceed \$95,000.00 for FY18 work and approve an allowance of \$15,000.00 for DPW to handle the associated drainage, landscaping, and striping improvements.

Summary: On May 14, 2018 Council awarded a continuing contract for paving services to Pave-Rite, Inc. The contract establishes unit prices for a variety of tasks which are based on quantity thresholds. Staff seeks approval to issue a Notice to Proceed for FY18 paving-related projects which include:

Copeland Park ~ Pave parking area on NE 3rd St; allow for three landscape islands; provide pervious drainage strip (complete with under drain) to include landscape beautification; seal basketball courts and existing parking lot

Hunter Springs Park ~ Pave parallel parking (or alternate golf cart parking) on NE 2nd St.; provide pervious strip with under drain; pave existing grass parking near dumpster; pave four additional parking spaces

Seal Three Sisters Center at City Hall

Legrone Park ~ Seal basketball and portions of existing parking lot; overlay portion parking lot; pave existing gravel lot in front of DAV building

Mill/Overlay NE 5th St/NE 2nd Ave tee intersection

Overlay City lot across from Train Depot

Attachment: Scope of Work dated 8/22/18; the contract documents are available upon request.

Staff Recommendation: Approve the requested motion.

End of Agenda Sheet]

City Manager Burnell provided a brief overview of the item.

Motion to issue a Notice to Proceed to Pave-Rite, Inc. under “Continuing Contract for Paving and Related Services, Solicitation 18-B-01” in an amount not to exceed \$95,000.00 for FY18 work and approve an allowance of \$15,000.00 for DPW to handle the associated drainage, landscaping, and striping improvements was made by Council member Holmes; seconded by Council member Fitzpatrick. Motion carried unanimously.

B. Riverwalk Update

Background: [Agenda Sheet **Requested Motion: None- Update regarding the status of Phase II of the Riverwalk project.**

Summary: City Manager wishes to provide a brief verbal update to Council on the status of Phase II of the Riverwalk Project. This update will include information regarding grant funding, and recent attendance to a training offered by Department of Treasury to eligible RESTORE Act funding recipients on Post Federal Award Requirements, Procurement Standards and Sub-recipient Monitoring, and Management for Federal Awards.

Staff Recommendation: Information only.

End of Agenda Sheet]

City Manager Burnell provided a brief update on the Riverwalk project, including a recent meeting with engineers this week, dock relocation, multi-phased environmental permitting and status of easement agreements. He also discussed a recent training attended by staff for entities eligible for

RESTORE Act funding recipients, specific to Federal Procurement Standards and new CFR guidelines for federally funded projects.

Brief Council discussion was held regarding the application process, and ramp relocation. City Manager Burnell also introduced the new Three Sisters Springs Manager Beth Perez.

C. FDEP Excavation Project Status Update

Background: [Agenda Sheet **Requested Motion:** None- Update regarding status of Florida Department of Environmental Protection (FDEP) excavation project.

Summary: City Manager wishes to provide a brief verbal update to Council regarding the status of an FDEP excavation project located on Highway 19 near the Crosstown Trail.

Staff Recommendation: Information only.

End of Agenda Sheet]

City Manager Burnell provided a brief status update on the project and steps being taken to ensure no turbidity will be caused in local waters.

He also confirmed that the grass would be mowed at a vacant eatery on Highway 19 and cause of delay.

10. CITY COUNCIL

11. COMMITTEE REPORTS

A. Mayor Farley

- *Waterfronts Advisory Board*

B. Vice Mayor Brown

- *Withlacoochee Regional Water Supply Authority*
- *Crystal River Main Street*

C. Council member Fitzpatrick

- *Metropolitan Planning Organization*
- *Three Sisters Springs Coordination Committee*- Reported on discussion of grant for paving road, pending restroom facility quote and utility connection.

D. Council member Gudis

- *Tourist Development Council* – Confirmed approval of use of TDC funding for engineering for the connector trail.
- *Library Governing Advisory Board*
- *Florida League of Cities*
- *Citrus County Community Charitable Foundation Board*- Reported on FY 19 budget and grant funding flexibility discussions.

E. Council member Holmes

- *Keep Citrus County Beautiful*- Reported on SOWW activities and upcoming Three Sisters Springs tour, noting surveys of shoreline that have been completed.
- *Springs Coast Steering Committee*- Reported on discussion of new septic system ordinance, and funding application to address water quality in areas throughout Kings Bay.

12. COMMUNICATIONS

Requested update cemetery wall repair.

13. COUNCIL MEMBER REPORTS

- A. Mayor Farley
- B. Vice Mayor Brown- Expressed concerns regarding muddy ROW in front of Hunter Springs Park.
- C. Council member Fitzpatrick
- D. Council member Gudis- Reported on recent meeting at United Way regarding development of a mental health crisis facility.
- E. Council member Holmes

14. PUBLIC INPUT

(Five Minute Time Limit)

Pete Langolis- 3rd Ave SE-Crystal River- Confirmed existing code addresses roosters, and discussed inconsistencies with existing code related to noise.

Christie Croteau-3rd Ave SE-Crystal River- Expressed concerns with noise levels and partying and lack of recourse.

Mary Morgan- Crystal River- Commented on recent paving in “Michigan Town” area and issues related to parking in the area, requesting no parking established on Citrus Avenue.

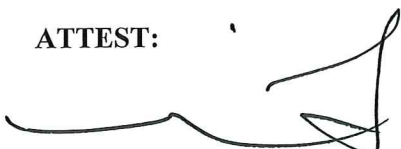
Keith Raym- 1290 NW 19th Ct- Discussed noise ordinance and other enforcement related issues, including lack of weekend code enforcement. Brief discussion was held regarding Sheriff’s Office role in enforcement of local ordinances.

15. ADJOURNMENT

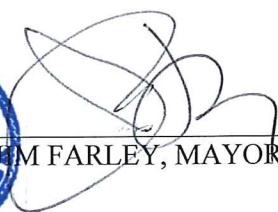
Mayor Farley adjourned the meeting at 9:07 p.m.

CITY OF CRYSTAL RIVER

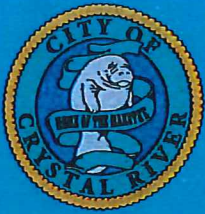
ATTEST:



MIA FINK, CITY CLERK

JIM FARLEY, MAYOR



City Beautification Award

The City of Crystal River is proud to announce the first phase of its City-wide beautification initiative, the City Beautification Award. With this award, the Council wants to reward and recognize those businesses and residents that have done an outstanding job of beautifying and improving their homes and buildings for themselves and the community. The award will be given quarterly and showcase those properties that show great curb appeal and improvements that our whole city can be proud to see. They will also publicly acknowledge property owners who have invested to make Crystal River a more beautiful place to live!

Nominations

Nominees may be a business or resident that has made a significant improvement to their property and enhanced the overall appearance and improved the quality of life for the residents of the city. These improvements may include: complete remodels, property clean-ups, landscaping, painting, etc.

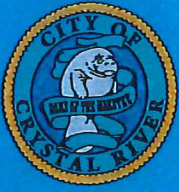
Nominations may be submitted by any individual, including self-nomination, group or organization; however, the property nominated must be located within the City of Crystal River limits.

Applications are available on the city website at www.crystalriverfl.org and can be picked up at City Hall. All submitted applications must also include pictures of the property that showcase the reason for the nomination.

Recognition

The winners will be presented their award at a designated City Council meeting. Presentation will include a slide show of images of the property and improvements that were made.

Awards winners will also receive a City designed sign to display in the front of their property that designates them a "City Beautification Award Winner."



City Beautification Award Application

Residential Nomination

Commercial Nomination

Nominee Information

Address

Contact Name
(If available)

Email Address
(If available)

Phone Number
(If available)

Reason for Nomination

Submitted by

Phone Number

Email Address

Submissions must be accompanied by pictures of the property that showcase the reason for the nomination. Applications may be submitted in person or via mail with printed pictures to:

City of Crystal River
City Beautification Award
123 NW Highway 19
Crystal River, FL 34428

Or emailed to lbollin@crystalriverfl.org with pictures attached.

ATTACHMENT "B"



City of Crystal River

123 Northwest Highway 19
Crystal River, Florida 34428
Telephone: (352) 795-4216
Facsimile: (352) 795-6351

August 29, 2018

City of Crystal River Council

Re: Crystal River Village Vested Rights Hearing for August 29, 2018

Dear, Crystal River Elected Officials

In discussions with Crystal River Development Services related to a planned hearing tonight, August 29, 2018 for Crystal River Village, staff learned a request from R. Clay Mathews, Esq. for an extension of the Vested Rights Hearing attained in 1987 via a PUD agreement. The ordinance requires the City Manager to approve such a delay of a hearing once a date is agreed upon and posted. This request for delay normally requires a seven days advance notice but due to viable circumstances staff is requesting the hearing to be moved to September 24, 2018 to better serve all parties related this transaction.

Sincerely,

A handwritten signature in black ink, appearing to read "David Burnell", written over a horizontal line.

David Burnell

R. Clay Mathews, Esq.

Jennifer Rey, Esq.

Jackie Gorman, Development Services

Jack Brown, Assistant City Manager



Centerstate Bank, Owner/Hicks, Agent
Proposed Land Use Change & Zoning Change
PZ18-0032 (Land Use)
PZ18-0026 (Zoning)
Staff Report and Recommendation
August 13, 2018



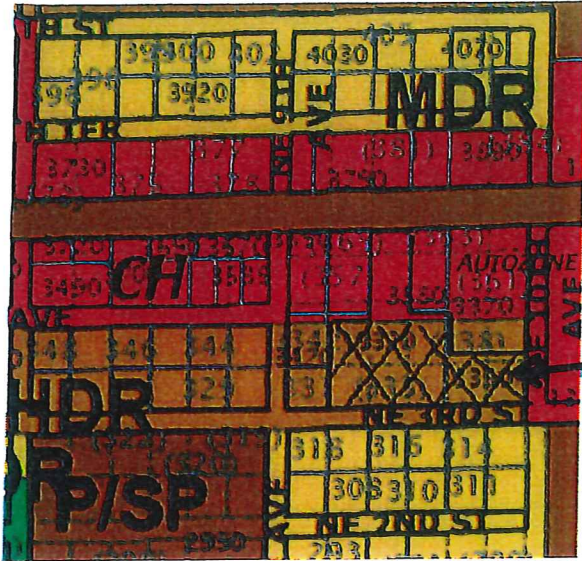
I. Project Description:

1.49 Acres (MOL)

Petitioner & Property Owner:
Ronald and/or Shelly Hicks (buyers) & Agent for
CenterState Bank, owner

Request:

Land Use: To amend the Future Land Use Map reclassifying 1.49 acres (MOL) from *High Density Residential (HDR – 12 du/acre)* to *Highway Commercial (HC)*



Zoning: To amend the Zoning Map for 1.49 acres (MOL) from R-2 to *High Intensity Commercial (CH)*.



II. Site Data:

Existing Use:

Vacant

Proposed Use:

RV/Boat Storage

Parcel Alt Key: 1080347 & 2961333

Parcel Size - 1.49 acres (MOL)

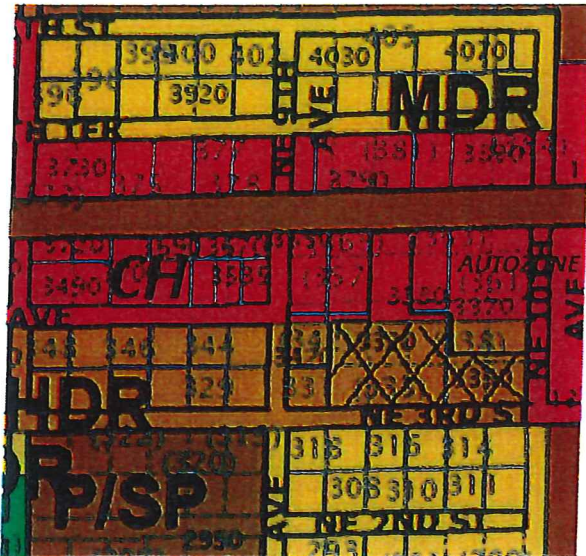
For Surrounding Land Uses

North – Existing Commercial

South – Residential

East – Commercial/Residential split zoning for AutoZone

West - High Density Residential with existing legal non-conforming commercial auto repair shop (Chuck's Car Care).



Proposed Use: RV/Boat Mini-Storage

III. Applicable Comprehensive Plan Provisions:

GOAL 2: Crystal River will be a balanced and well planned community.

Future land Use Element: OBJECTIVE 2.1 Provide for reasonable use of property while protecting, conserving, and maintaining the natural resources and systems identified in this and other elements of this Plan.

Staff Analysis:

Currently this property has split zoning with the property along SR 44 currently zoned Commercial and the back of the property is High Density Residential which is a transitional zone. Property to the south is residential. Although a road exists between the proposed commercial and the existing residential to the south, staff recommends buffering against the residential neighborhood with fencing and landscaping for noise. It is also recommended that traffic have ingress/egress off of SR 44 and NE 10th Avenue and no ingress/egress be allowed at NE 3rd Street.

Florida Attorney General Advisory Legal Opinion

Number: AGO 2002-27

Date: April 4, 2002

Subject: Code enforcement, search of private property

A.G.
Robert Burrenworth

Mr. Mark F. Carpanini
Polk County Attorney
Drawer AT01
Post Office Box 9005
Bartow, Florida 33831-9005

RE: LOCAL GOVERNMENT CODE ENFORCEMENT BOARDS-COUNTIES- ORDINANCES--
INSPECTIONS-WARRANTS-authority of code enforcement officers to
search private property. U.S. Const. amend. IV; Fla. Const. Art. 12,
s. 12; Ch. 162, Fla. Stat.

Dear Mr. Carpanini:

You have asked for my opinion on substantially the following
question:

Is a local government code inspector authorized by law to enter onto
private premises to conduct inspections or assure compliance with
local technical codes without the consent of the owner or occupant,
or having first procured a warrant?

In sum:

A local government code inspector is not authorized to enter onto
any private, commercial or residential property to assure compliance
with or to enforce the various technical codes or to conduct any
administrative inspections or searches without the consent of the
owner or the operator or occupant of such premises, or without a
duly issued search or administrative inspection warrant.

Part I of Chapter 162, Florida Statutes, was adopted to

"promote, protect, and improve the health, safety, and welfare of the citizens of the counties and municipalities of this state by authorizing the creation of administrative boards with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective, and inexpensive method of enforcing any codes and ordinances in force in counties and municipalities, where a pending or repeated violation continues to exist." [1]

Local code inspectors are the authorized agents or employees of the county or municipality responsible for assuring code compliance, [2] whose duty it is to initiate enforcement proceedings of the various codes. [3] No member of the code enforcement board has the power to initiate enforcement proceedings. [4] Code compliance and enforcement proceedings may be initiated against any building or premises, commercial or residential, subject to the technical codes referred to in section 162.02, Florida Statutes.

The Fourth Amendment to the United States Constitution, made applicable to the states through the due process clause of the Fourteenth Amendment, [5] guarantees to all persons the right to be secure from unreasonable governmental intrusion. Further, the Florida Constitution provides protection from unreasonable searches and seizures in Article I, section 12:

"The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated. No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. This right shall be construed in conformity with the 4th Amendment to the United States Constitution, as interpreted by the United States Supreme Court. Articles or information obtained in violation of this right shall not be admissible in evidence if such articles or information would be inadmissible under decisions of the United States Supreme Court construing the 4th Amendment to the United States Constitution." [6]

Administrative searches or inspections conducted outside the judicial process without consent and without prior approval (as

evidenced by an administrative search warrant) are not reasonable, unless it can be shown that the administrative search or inspection falls within one of the well-established exceptions to this rule.[7] The protection from unreasonable searches provided by section 12, Article I, Florida Constitution, and the Fourth Amendment to the U.S. Constitution, are extended to both business or commercial premises and to private residences.[8]

The United States Supreme Court has established a limited exception to the administrative warrant requirement. This line of cases holds that, even in the absence of consent, an administrative inspection may be made without a warrant if the business searched is one in which there is a legitimate public interest in close regulation and if the search is conducted under the authority of a statute meeting certain specificity requirements.[9] Among those enterprises for which the courts have recognized such an exception are those in which government regulation is pervasive such as liquor sales, firearms sales, and sales of secondhand goods.[10]

The Florida Legislature has made provision for the issuance of limited administrative search warrants in sections 933.20- 933.30, Florida Statutes. These written orders, designated "inspection warrant(s)," must be signed by a judge or committing magistrate and directed to a state or local official to conduct an inspection of any building, place, or structure as authorized or required by state or local law or rule relating to municipal or county building, fire, safety, environmental, animal control, land use, plumbing, electrical, health, minimum housing, or zoning standards.[11] Owner-occupied family residences are specifically exempted from the provisions of this act.[12]

In sum, it is my opinion that a municipal code inspector is without authority to enter onto any private, commercial, or residential property to assure compliance with or to enforce the various technical codes of the county or to conduct any administrative inspections or searches without the consent of the owner or the operator or occupant of such premises, or without a duly issued search or administrative inspection warrant. The procurement and issuance of administrative inspection warrants is governed by the provisions of sections 933.20-933.30, Florida Statutes. However, owner-occupied family residences are exempt from the provisions of sections 933.20-933.30, and a search warrant or prior consent and approval of the owner is required for a search of these premises.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgh

[1] Section 162.02, Fla. Stat.

[2] Section 162.04(2), Fla. Stat.

[3] Section 162.06(1), Fla. Stat.

[4] *Id.*

[5] *Mapp v. Ohio*, 367 U.S. 643, reh. den., 368 U.S. 871 (1961).

[6] Article I, s. 12, Fla. Const., was amended in 1982 by H.J.R. No. 31-H, adopted by the electorate at the November 1982 general election, which provides that the right to be free from unreasonable searches and seizures shall be construed in conformity with the 4th Amendment to the United States Constitution and provides that illegally seized articles or information are inadmissible if decisions of the United States Supreme court make such evidence inadmissible.

[7] See, e.g., *See v. City of Seattle*, 387 U.S. 541 (1967); *Peterman v. Coleman*, 764 F.2d 1416 (11th Cir., [Fla.] 1985); *Jones v. City of Longwood*, 404 So. 2d 1083 (Fla. 5th DCA 1981), pet. for rev. den., 412 So. 2d 467 (Fla. 1982); Ops. Att'y Gen. Fla. 84-32 (1984), 82-07 (1982). In addition, exigent circumstances may exist which justify a warrantless entry onto the premises. As an example, a burning building creates an exigency which justifies a warrantless entry by fire officials to fight the fire. See *Michigan v. Clifford*, 464 U.S. 287 (1984). And see *J.A.R. v. State*, 689 So. 2d 1242 at 1244 (Fla. 2d DCA 1997), "[t]he danger created by students carrying guns, knives, and other weapons is now apparently sufficient to warrant random suspicionless administrative searches in some schools in this state."

[8] See *See v. City of Seattle*, supra n. 7, in which the U.S. Supreme Court held that administrative inspections of commercial structures as well as private residences are forbidden by the Fourth Amendment when conducted without a warrant; and *Jones v. City of Longwood, Florida*, supra n. 7, in which the court, in a wrongful death action, stated that an ordinance requiring the building inspector and fire chief to periodically inspect all buildings and structures within the city was qualified by the Fourth Amendment and could not authorize inspections of private property without a warrant.

[9] *United States v. Biswell*, 406 U.S. 311 (1972). See also *Colonnade Catering Corp. v. United States*, 397 U.S. 72 (1970); *Donovan v. Dewey*, 452 U.S. 594 (1981).

[10] See, *Colonnade Catering Corp., v. United States*, id. (sale of alcoholic beverages); *United States v. Biswell*, id. (sale of firearms); *Peterman v. Coleman*, 764 F.2d 1416 (C.A. 11 [Fla.] 1985) (pawnbrokers).

[11] See ss. 933.20-933.30, Fla. Stat.

[12] Section 933.21, Fla. Stat.

ATTACHMENT "E"

Florida Attorney General
Advisory Legal Opinion

A.G. Jim Smith

Number: AGO 84-32

Date: April 2, 1984

Subject: Inspectors entering private property

Mr. Maynard A. Gross
Town of Medley Attorney
Town Suite 200, Dadeland West
10651 North Kendall Drive
Miami, Florida 33176

RE: LOCAL GOVERNMENT CODE ENFORCEMENT BOARDS ACT--Entry on certain premises by local code inspector without consent or inspection or search warrant unauthorized

Dear Mr. Gross:

This is in response to your request for an Attorney General's Opinion on substantially the following question:

Is a municipal code inspector authorized by law to enter onto private premises to conduct inspections or assure compliance with local technical codes without the consent of the owner or occupant or having first procured a warrant?

This request has been submitted on behalf of the Mayor and Town Council of the Town of Medley. According to your letter the Town of Medley enacted an ordinance in 1981 pursuant to former Ch. 166, F.S. (now Ch. 162, F.S.) which created a code enforcement board. Concern has been expressed recently regarding the authority of a municipal code inspector to inspect private premises to which the officer was denied access or, once on such premises, the officer was requested to leave. Your inquiry generally refers to "premises" without distinction between business premises and private residential premises.

The intent of the "Local Government Code Enforcement Boards Act," ss. 162.01-162.13, F.S., is to protect and improve the health, safety and welfare of county or municipal citizens by authorizing the creation of administrative boards to provide an equitable, expeditious, effective and inexpensive method of enforcing county or municipal technical codes. Section 162.02, F.S. The local code inspectors are the authorized agents or employees of the county or municipality responsible for assuring code compliance (s. 162.04[2], F.S.), whose duty it is to initiate enforcement proceedings of the various codes (s. 162.06, F.S.). No member of the code enforcement board has the power to initiate such enforcement proceedings. Section 162.06(1), F.S. Such assurance of code compliance and enforcement proceedings apply or pertain to any building or premises, commercial or residential, subject to the technical codes described in s. 162.02, F.S.

The Fourth Amendment to the United States Constitution, made applicable to the states through the due process clause of the Fourteenth Amendment, Mapp v. Ohio, 367 U.S. 643, *rehearing denied*, 368 U.S. 871 (1961), guarantees to all persons the right of privacy free from unreasonable state intrusion. In addition, s. 12, Art. I, State Const., provides protection from unreasonable searches and seizures:

"The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated. No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. This right shall be construed in conformity with the 4th Amendment to the United States Constitution, as interpreted by the United States Supreme Court. . . ."

Administrative searches or inspections such as those under consideration in the instant inquiry, which are conducted outside the judicial process without consent and without prior approval (as evidenced by an administrative search warrant) are not reasonable, unless a showing can be made that the administrative search or inspection falls within one of the well-established exceptions to this rule. See, e.g., *See v. City of Seattle*, 387 U.S. 541 (1967); *United States v. Sokolow*, 450 F.2d 324 (5th Cir. 1971); *Benton v.*

State, 329 So.2d 385 (1 D.C.A. Fla., 1976); Parsons v. State, 334 So.2d 308 (1 D.C.A. Fla., 1976); and AGO 82-7. Cf. Colonnade Catering Corp. v. United States, 397 U.S. 72 (1970), and Michigan v. Tyler, 436 U.S. 499 (1978).

Both business or commercial premises and private residences are afforded protection from unreasonable searches by s. 12, Art. I, State Const., and the Fourth Amendment to the U.S. Constitution. See See v. City of Seattle, supra, in which the U.S. Supreme Court held that administrative inspections of commercial structures as well as private residences are forbidden by the Fourth Amendment when conducted without a warrant; and Jones v. City of Longwood, Florida, 404 So.2d 1083 (5 D.C.A. Fla., 1981), in which the court, in a wrongful death action, stated that an ordinance requiring the building inspector and fire chief to periodically inspect all buildings and structures within the city was qualified by the Fourth Amendment and could not authorize inspection of private property without a warrant.

A limited exception to the "administrative warrant" requirement has been established by the United States Supreme Court, holding that, even in the absence of consent, an administrative inspection may be made without a warrant if the business searched is one in which there is a legitimate public interest in close regulation and if the search is conducted under the authority of a statute meeting certain specificity requirements. United States v. Biswell, 406 U.S. 311 (1972). See also Colonnade Catering Corp. v. United States, supra; Donovan v. Dewey, 452 U.S. 594 (1981). Compare, e.g., ss. 455.243, 465.017, F.S.; Olson v. State, 287 So.2d 313 (Fla. 1973). No such statutory authority for warrantless searches appears to exist with regard to local code enforcement boards or code inspectors. Therefore, the administrative searches or inspections under consideration may not be constitutionally conducted without the consent of the owner or the operator or occupant of the affected premises or without a duly issued search or administrative inspection warrant.

The Florida Statutes, however, now make provisions for the procurement and issuance of "inspection warrant(s)" which authorize a state or local official to conduct an inspection of any building, place or structure, other than an owner-occupied family residence, as authorized or required by state or local law or rule relating to municipal or county building, fire, safety, plumbing, electrical,

health, minimum housing, or zoning standards. See ss. 933.20-933.30, F.S. Section 933.21, F.S., specifically provides that "[o]wner-occupied family residences are exempt from the provisions of (ss. 933.20-933.30, F.S.)." As related to municipal or county building, fire, safety, plumbing, electrical, health, minimum housing or zoning standards, all other places, dwellings, structures or premises are subject to the provisions of ss. 933.20-933.30, F.S.

Therefore, it is my opinion that a municipal code inspector is without authority to enter onto any private, commercial or residential property to assure compliance with or to enforce the various technical codes of the municipality or to conduct any administrative inspections or searches without the consent of the owner or the operator or occupant of such premises or without a duly issued search or administrative inspection warrant. The procurement and issuance of administrative inspection warrants is governed by the provisions of ss. 933.20-933.30, F.S. However, owner-occupied family residences are exempt from the provisions of ss. 933.20-933.30, F.S., and as to those residences a search warrant or the prior consent and approval of the owner is required.

Sincerely,

Jim Smith
Attorney General

Prepared by:

Gerry Hammond
Assistant Attorney General