



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

Meeting Date: February 6, 2018

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Appeal of the FWC Denial on Bird Sanctuary Application

Background: The City received a letter from FWC denying the City's application for a bird sanctuary. The City Council directed the City Attorney to appeal the decision. The City Attorney appealed the decision. The City Attorney will be able to explain more.

Staff Recommendation: Continue to work with FWC and also look at other ways to resolve duck hunting issues. Also continue to contact Director Sutton for updates on the issues he is to research for the City.

Suggested Motion: None Suggested

Alternatives: None

Fiscal Impact: None

Attachments: Appeal submitted by City Attorney

**STATE OF FLORIDA
FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION**

CITY OF BELLE ISLE, a
Florida municipal corporation,

Petitioner,

CASE NO.:

v.

FLORIDA FISH AND WILDLIFE
CONSERVATION COMMISSION,

Respondent.

PETITION FOR FORMAL ADMINISTRATIVE HEARING

Petitioner, City of Belle Isle ("City"), files this Petition for Formal Hearing Involving Disputed Issues of Material Fact pursuant to sections 120.569 and 120.57(1), Florida Statutes, and Florida Administrative Code Chapter 28 (Uniform Rules of Procedure) and Rule 68-1.001, to contest the Florida Fish and Wildlife Conservation Commission's ("Commission") denial of the City's request to 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. In further support, the City states as follows:

Statement of the Issues

1. Whether the City is entitled to the establishment of bird sanctuaries/restricted hunting areas for the protection of all birds and other wildlife within City designated and developed areas under the City's jurisdiction upon: a) the City's written request to the Commission seeking establishment of such bird sanctuary/restricted hunting areas; and b) the City's adoption of a lawful ordinance in which the City officially agrees to assume the

responsibility for enforcement of regulations of the Commission that apply to such areas in accordance with Florida Administrative Code Rule 68A-19.002(1).

2. Whether the Commission's determinations that the City's proposed bird sanctuary/restricted hunting areas are not so dense or sufficiently developed so as to preclude recreational hunting in the interest of safety and that the closure of such areas to recreational hunting would result in a denial of reasonable and lawful hunting opportunities are lawful, supported by competent substantial evidence, and are otherwise sustainable in accordance with Florida Administrative Code Rule 68A-19.002(2).

Agency Affected

3. The agency affected is the Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600. The Commission's file or identification numbers regarding this matter are unknown. The Commission has certain enumerated regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life as set forth in Article IV, Section 9 of the Florida Constitution, and the Commission has enacted certain administrative rules and procedures regarding the establishment and recognition of bird sanctuaries in the state as set forth in Florida Administrative Code Rule 68A-19.002.

Petitioner City's Contact Information

4. The City is a Florida municipal corporation whose address is 1600 Nela Avenue, Belle Isle, Florida 32809; Telephone No.: (407) 851-7730; Facsimile No.: (407) 240-2222. For purposes of this Petition, the City's address and contact information are that of its undersigned counsel.

Notice of Commission's Determination

5. The City received correspondence dated January 22, 2018, from the Commission's Executive Director, Eric Sutton, constituting a denial of the City's request for the Commission to establish the City, including the Conway Chain of Lakes in the City limits, as a bird sanctuary/restricted hunting area. A true and accurate copy of the denial is attached as Exhibit "A." Pursuant to Florida Administrative Code Rule 68-1.009 and its incorporation of the Delegations of Authority by the Fish and Wildlife Conservation Commission to the Executive Director adopted on February 14, 2013, it appears that the Executive Director is delegated authority to take actions or render decisions regarding municipal requests to establish bird sanctuaries under Florida Administrative Code Rule 68A-19.002. *See, e.g.*, Delegations of Authority by the Fish and Wildlife Conservation Commission to the Executive Director, Delegation #17 ("The Executive Director may grant, renew, or deny any . . . authorization as provided in Commission rule or appropriate statute. . ."). Alternatively, the Commission itself considered and rendered the determination denying establishment of the bird sanctuary as set forth in the above-referenced correspondence.

Nature of Proceedings and City's Substantial Interests

6. On or about October 16, 2017, the City formally requested that the Commission 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 "B."

7. The Sanctuary Request outlined many of the City's concerns and public policy rationales for establishing such bird sanctuary and otherwise limiting hunting areas and activities

within the City due to public safety concerns and complaints as well as animal rights and environmental stewardship issues. *See* Exhibit “B.”

8. Previously, on or about September 19, 2017, the City unanimously approved and lawfully enacted Ordinance 17-07 to establish that “all the land and airway area embraced within the city limits of Belle Isle, Florida is hereby declared to be and shall hereafter by designated as a ‘Bird Sanctuary.’” *See* Exhibit “B,” Ordinance 17-07, § 1. 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 “B,” Ordinance 17-07, § 3. A copy of Ordinance 17-07 was included in the Sanctuary Request materials.

9. Following site inspections, meetings, and discussions between the City, Commission staff, and other interested parties, the Commission issued its denial of the City’s request on January 22, 2018. Exhibit “A.”

10. The Commission’s denial states, in relevant 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.

Exhibit "A."

11. The City, as a Florida municipality, is afforded all governmental, corporate, and proprietary powers to enable it to conduct and perform governmental functions and render municipal services, which includes the lawful and broad exercise of home rule powers granted by the Florida Constitution. *See* § 166.021(1), (4), Fla. Stat.

12. The City has substantial interests in the outcome of this proceeding as evidenced through its efforts to gain lawful Commission approval of the bird sanctuary designation/restriction of hunting areas, implementation of City Ordinance No. 17-07, and related attempts at requirements and standards regarding protection of natural resources, protection of property, and public safety. Certainly, these interests must be balanced and squared with Commission duties and responsibilities regarding the implementation of the provisions of Article IV, Section 9 of the Florida Constitution, and legislative enactments, including section 379.104, Florida Statutes, relating to the right to hunt and fish in the state of Florida.

13. The City has suffered an immediate injury in fact through the denial of the City's request. As outlined in the City's Sanctuary Request, the City has suffered several incidents of hunters firing weapons from their blinds and watercraft in the direction of and directly over various residences within the City. *See* Exhibit "B." Moreover, City Ordinance 17-07 is essentially rendered unenforceable and meaningless in light of the Commission's denial of bird sanctuary/restricted hunting area status. Indeed, enforcement of City Ordinance 17-07 would subject the public and the City to potential liability under section 379.105, Florida Statutes, relating to the harassment of hunters and the interference with or attempted prevention of the lawful taking of game or nongame animals by another on any state-owned water body.

14. The City also has substantial interests in ensuring the public safety and welfare of its residents and businesses that have desired to make a developmentally dense suburb of metropolitan Orlando their home. Additionally, as expressed in City Ordinance 17-07, the City has determined that there is an urgency and emergency for the preservation and protection of birds, wildlife, and their habitat within the City. *See* Exhibit "B." In particular, given the Commission's basis of denial (i.e., that the City "is not 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"), the issues raised herein are matters that cannot be resolved without a fact-finding proceeding.

15. The City's substantial interests are of a type or nature which an administrative proceeding is designed to protect. Relevant Commission regulations and authority as set forth in chapter 379, Florida Statutes, and as codified in Florida Administrative Code Rule 68A-19.002, attempt to strike a delicate balance between hunting rights and municipal authority to legislate in the areas of public safety and conservation relating to hunting activity occurring in densely populated and developed municipalities. Notably, the rulemaking authority for Florida Administrative Code Rule 68-19.002 is noted as Article IV, Section 9 of the Florida Constitution, which states, in relevant part:

The commission shall exercise the regulatory and executive powers of the state with respect to wild animal life The commission shall establish procedures to ensure adequate due process in the exercise of its regulatory and executive functions.

Here, the heart of this proceeding goes to the Commission's responsibility and exercise of powers relating to animal life, conservation, environmental stewardship, and public safety, which competes against and overlaps with the municipal exercise of powers that similarly relate to animal life, conservation, environmental stewardship, and public safety.

16. Additionally, the nature of the City's substantial interests is revealed through the regulations set forth in Ordinance No. 17-07. Ordinance No. 17-07 makes it unlawful for any person to take any wildlife "in any bird sanctuary using a gun unless such taking is authorized by specific rule relating to such sanctuary." See Exhibit "B," Ordinance No. 17-07, § 4. This regulation is consistent with the Commission's Florida Administrative Code Rule 68A-19.004 stating: "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." Of course, such provision is unenforceable unless the Sanctuary Request is granted; however, this juxtaposition and overlap demonstrates the sufficient zone of interest or zone of protection gleaned from the Commission's substantive regulatory scheme in this area.

Disputed Issues of Material Fact

17. The disputed issues of material fact include, but are not limited to, the following:
- a. Whether the City, in whole or in part, and the City's requested bird sanctuary areas/restricted hunting areas, in whole or in part, are sufficiently developed so as to preclude recreational hunting in the interest of safety;
 - b. Whether the establishment of the City's requested bird sanctuary areas/restricted hunting areas, in whole or in part, will not result in a denial of reasonable and lawful hunting opportunity; and
 - c. Whether the Commission has granted or otherwise established bird sanctuary areas/restricted hunting areas upon the request of other Florida local governmental bodies where such areas are: 1) similar to those areas proposed by the City; 2) proximately located to the metropolitan city of Orlando; or 3) of lesser or similar size or developmental density to those areas proposed by the City.

Statement of Ultimate Facts

18. The City is located within Orange County, and City Hall is located minutes from downtown Orlando (approximately six (6) miles separates the city halls of Belle Isle and Orlando). The City is 5.1 square miles with a population of approximately 6,277 with approximately 2,573.3 persons per square mile. Notably, the city of Orlando has a population density of approximately 2,327 persons per square mile. *See* World Population Review, Orlando Population 2018, available at <http://worldpopulationreview.com/us-cities/orlando-population/> (last visited February 8, 2018). The City is densely populated, heavily developed, and is essentially “built-out.”

19. 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. Further, all of the 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 lakes. Notably, public docks/boat ramps also exist on the Conway Chain of Lakes allowing enjoyment and use by both residents and non-residents.

20. The Conway Chain of Lakes and littoral areas within the City are an integral and inseparable part of the City, and the City’s residents and business, as well as non-residents and guests, frequently utilize the Conway Chain of Lakes and littoral areas within the City for swimming, boating, view, recreational, and other purposes on a regular and intense basis. In fact, the Conway Chain of Lakes even has two seaplane bases (Lake Conway North Seaplane Base, FAA Identifier: 91FL and Lake Conway South Seaplane Base, FAA Identifier: 0FL5),

which are Federal Aviation Administration designated water runways utilized for seaplane water landings and aviation transportation.

21. As set forth briefly in the Nature of Proceedings and City's Substantial Interests section set forth above, in accordance with Florida Administrative Code Rule 68A-19.002, the City requested through its Sanctuary Request that the Commission establish a bird sanctuary/restricted hunting area to expand within the jurisdictional boundaries of the City on or about October 16, 2017.

22. Further, in accordance with Florida Administrative Code Rule 68A-19.002, the City lawfully enacted Ordinance No. 17-07, which includes the required Rule 68A-19.002(1) provisions regarding the City's official agreement to assume the responsibility for enforcement of regulations of the Commission, including but not limited to, posting signage and instructing the City's duly authorized law enforcement personnel to enforce various Commission regulations within the designated area. *See, e.g.*, Exhibit "B," Ordinance No. 17-07, §§ 3-4.

23. As stated in the Commission's denial of the Sanctuary Request, the City, Commission staff, and other interested parties conducted site inspections, meetings, and discussions regarding the Commission's consideration of the Sanctuary Request. Exhibit "A." Ultimately, the Commission's denial of the Sanctuary Request was based on bare conclusory findings that: 1) the City's proposed area was not sufficiently developed as to preclude recreational hunting in the interest of safety; and 2) the City's proposed area closure to hunting activities would result in the denial of reasonable and lawful hunting opportunity. *See* Exhibit "A."

24. As set forth herein, the City's proposed bird sanctuary/restricted hunting area is "sufficiently developed" so as to preclude recreational hunting in the interests of the public

safety. This developmental density is evidenced through the City's population density and multiple other factors. The population density of the City is greater than the population density of the proximate urban city of Orlando. The developed lots and parcels with homes and businesses within the City, the hundreds of docks, and the intense use of the Conway Chain of Lakes for innumerable activities, including seaplane landings, reflect significant and substantial development at a magnitude far greater than the Commission's threshold requirement here. Examination of publicly available aerial maps plainly demonstrates the preceding. The density, nature, and intensity of use and development that is concentrated throughout the City meet and exceed the Commission's threshold to establish a bird sanctuary/restricted hunting area.

25. Further, the City's developmental density and significant population abutting the Conway Chain of Lakes within the City's jurisdictional limits results in significant issues relating to baiting and unlawful hunting issues in violation of Commission and federal regulations regarding same. For instance, numerous citizens lawfully feed migratory bird species throughout the year and approximately two hundred (200) migratory duck homes have been constructed on the Conway Chain of Lakes. Pursuant to Florida Administrative Code Rule 68A-16.001, the Commission has adopted many federal standards regarding proper and sportsmanlike hunting practices, including the Migratory Bird Treaty Act (the "Treaty Act"). The Treaty Act, as set forth in 16 U.S.C. § 704(b), states: "It shall be unlawful for any person to -- (1) take any migratory game bird by the aid of baiting, or on or over any baited area, if the person knows or reasonably should know that the area is a baited area." Notably, 50 C.F.R. § 20.11(j) defines "baiting" as:

[T]he direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could serve as a lure or attraction for migratory game birds to, on, or over any areas where hunters are attempting to take them.

These areas remain “baited areas” for “ten days following the complete removal of all such salt, grain, or other feed.” *Id.* at (i). Accordingly, the City and its residents are faced with hunters populating the waters of various bodies of the Conway Chain of Lakes who are able to—in an unsportsmanlike and unlawful manner—engage in a migratory bird turkey shoot premised upon the bird feeding activities of citizens residing proximate to such littoral zones.

26. Additionally, the City’s proposed bird sanctuary/restricted hunting area does not result in the “denial of reasonable and lawful hunting opportunity.” Section 379.104, Florida Statutes, recognizes a right to hunt and fish; however, such right only extends to the “right to hunt, fish, and take game, subject to the regulations and restrictions prescribed by general law and by s. 9, Art. IV of the State Constitution.” It is difficult to envision that limitations and regulations on hunting and taking game within the entirety of a 5.1 mile municipal limit unlawfully abridge section 379.104, Florida Statutes. Indeed, the Sanctuary Request does not run afoul of other regulatory attempts that do not “affect alike all persons similarly situated” or are “unjustly discriminatory or merely arbitrary.” *See State ex rel. Spence v. Bryan*, 99 So. 327, 329 (Fla. 1924). Notably, reasonable hunting accommodations and locations are found outside the jurisdictional limits of the City—such alternative accommodations and access would maximize public safety and further quell the above-referenced migratory bird turkey shoot.

27. Finally, the Commission has granted or otherwise established bird sanctuary areas/restricted hunting areas upon the request of other Florida local governmental bodies having jurisdiction over such areas that are of similar or smaller size, lesser density, and from more remote locations than the City. Accordingly, denial of the City’s request is unlawful, arbitrary and capricious, and not supported by substantial competent evidence.

28. The ultimate facts asserted here—separately and cumulatively—warrant reversal or modification of the Commission’s denial of the Sanctuary Request.

Statement of Specific Statutes and/or Rules that Require Reversal

29. The specific Florida Administrative Code Rule that requires reversal of the Commission’s denial of the Sanctuary Request, includes but is not limited to, Florida Administrative Code Rule 68A-19.002 as well as other Florida Administrative Code Rules or Florida statutory provisions cited herein. In particular, the City posits that the Commission’s denial was based upon incorrect, unlawful, and unsupportable determinations that the proposed bird sanctuary area/restricted hunting area is not sufficiently developed so as to preclude recreational hunting in the interest of safety and that the area’s closure would result in a denial of reasonable and lawful hunting opportunity.

Statement of Relief Sought by City

30. City requests that this matter be set for a formal hearing before the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct a formal hearing on the issues raised above, that the Commission grant the City’s request to establish a bird sanctuary/restricted hunting area expanding throughout the entire jurisdictional limits of the City in accordance with Florida Administrative Code Rule 68A-19.002, and that the Commission render a Final Order granting the City’s request to establish a bird sanctuary/restricted hunting area expanding throughout the entire jurisdictional limits of the City in accordance with Florida Administrative Code Rule 68A-19.002.

Respectfully submitted this 9th day of February, 2018.



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Attorneys for Petitioner, City of Belle Isle



January 22, 2018

Florida Fish and Wildlife Conservation Commission

Lydia Pisano, Mayor
City of Belle Isle
1600 Nela Avenue
Belle Isle, FL 32809

Dear Mayor Pisano:

Commissioners

Bo Rivard
Chairman
Panama City

Robert A. Spottswood
Vice Chairman
Key West

Gary Lester
Oxford

Gary Nicklaus
Jupiter

Sonya Rood
St. Augustine

Michael W. Sole
Tampa

I am responding to your October 16, 2017, letter requesting the Florida Fish and Wildlife Conservation Commission (FWC) establish the City of Belle Isle, including the Conway Chain of Lakes in the city limits of the City of Belle Isle, as a bird sanctuary/restricted hunting area.

We have carefully reviewed the concerns and situation on the Conway Chain of Lakes concerning waterfowl hunting, including a site inspection in 2016 with you, 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. We have offered suggestions and avenues to help address any potentially illegal or unsafe activity that may occur, and we have prepared outreach information to help you inform Belle Isle residents of these things.

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 in the city limits of the City of Belle Isle, 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.

Although your request is not approved, we remain ready to discuss other ideas you may have and will continue to provide enforcement of FWC rules on the Conway Chain of Lakes. Shannon Wright, our Northeast Regional Director, will continue to be your contact person, so please feel free to work with her on this or other issues where we may be able to assist. We thank you for your interest in conservation of Florida's wildlife and your citizens' ability to safely enjoy being outdoors.

Office of the
Executive Director
Eric Sutton
Executive Director

Thomas H. Eason, Ph.D.
Assistant Executive Director

Jennifer Fitzwater
Chief of Staff

850-487-3796
850-921-5786 FAX

Managing fish and wildlife
resources for their long-term
well-being and the benefit
of people.

620 South Meridian Street
Tallahassee, Florida
32399-1600
Voice: 850-488-4676

Hearing/speech-impaired:
800-955-8771 (T)
800-955-8770 (V)

MyFWC.com

Respectfully,

Eric Sutton
Executive Director

cc: FWC Commissioners





CITY OF BELLE ISLE, FLORIDA

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

October 16, 2017

Florida Fish and Wildlife Conservation Commission
620 South Meridian Street
Tallahassee, FL 32399-1600

RE: Request for Bird Sanctuary

Dear Commissioners:

The City of Belle Isle is requesting the Commission establish a bird sanctuary for the protection of all birds and wildlife and establish restrictive hunting areas within the City of Belle Isle including the Conway Chain of Lakes that are in the city limits of the City of Belle Isle.

This request is based on several incidents of hunters firing weapons from their blinds and watercraft in the direction of, and directly over, residences on Lake Conway in Belle Isle. There have been several instances of bird shot raining down on rooftops. In many areas of Belle Isle, hunters are less than 100 feet from docks and backyards.

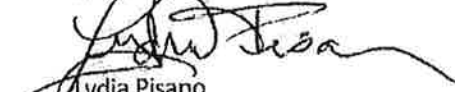
We are not seeking a bird sanctuary for this reason only. Although safety to our residents and protection of their property is one factor, the other reason for this request is to protect the birds from unnecessary cruelty under Florida Statute 828.12, Cruelty to Animals. Many times, duck hunters only wound their prey and therefore, the hunters end up clubbing ducks they wound, or later ducks are found washed up on shore because they die later or ducks who recover from wounds incurred and then suffer some disability as a result of the wound. There has been instances of hunters "training" their retrieval dogs and untrained dogs have mutilated wounded ducks before the hunters could control the dogs. Also these ducks are considered tame and there have been instances of hunters coming close to shore to spook resting ducks and then shoot them as they take flight. We are also concerned about the safety and protection of the multitude of other species of birds that inhabit the area around the lakes. Eagles, osprey, owls, and red shoulder hawks make their homes in this area and we need to look out for their protection as well. Belle Isle has a very unique ecosystem with some of the best water quality in Florida which is the reason for these species of birds being here. They all need to be protected.

**Exhibit
"B"**

Please know that there are plenty of sportsmen living in Belle Isle but they do not hunt waterfowl here. One only has to look at the enclosed Facebook post to know demonstrate the insensitivity of non-resident hunters to Belle Isle residents and waterfowl that call Lake Conway home.

As you read the ordinance adopted by the City of Belle Isle, you will see that the City fully intends to comply with all of the requirements outlined in Rule 68A-19.002, F.A.C. The residents of Belle Isle have consistently proven to be good stewards of the Lake and the wildlife that inhabit the Conway Chain of Lakes and we believe that having this area designated as a bird sanctuary will enhance that stewardship. Thank you.

Sincerely,



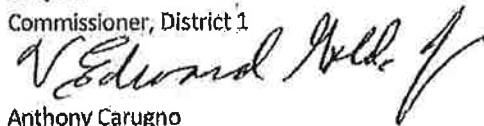
Lydia Pisano

Mayor



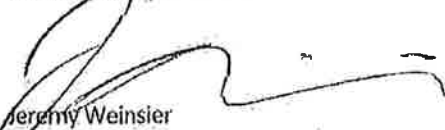
Ed Gold

Commissioner, District 1



Anthony Carugno

Commissioner, District 2



Jeremy Weinsier

Commissioner, District 3



Bobby Lance

Commissioner, District 4



Harvey Readey

Commissioner, District 5



Sue Nielsen

Commissioner, District 7

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ORDINANCE 17-07

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA. DESIGNATING THE CITY OF BELLE ISLE AS A BIRD SANCTUARY; SPECIFYING UNLAWFUL ACTS; AMENDING CHAPTER 4, SECTION 4-1 OF THE BELLE ISLE MUNICIPAL CODE PROVIDING FOR PRESERVATION OF WETLANDS AND THE CONWAY CHAIN OF LAKES WITHIN THE CITY; ESTABLISHING RESPONSIBILITIES OF CERTAIN CITY DEPARTMENTS; PROHIBITIVE ACTIVITY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Belle Isle is an environmentally concerned city, sensitive and dedicated to the preservation of birds and wildlife; and

WHEREAS, habitat destruction is the greatest threat to birds and wildlife, and the City of Belle Isle is dedicated and committed to the protection of such habitat wherever reasonably possible; and

WHEREAS, the Orange County Audubon Society recognizes and accredits the City of Belle Isle's efforts to preserve and enhance bird and wildlife sanctuary programs, and the Society is prepared to assist in making the program successful; and

WHEREAS, the Cornerstone Charter Academy School believes that the key to understanding environmental concerns is education. Cornerstone Charter Academy commits to providing learning experiences for students to enhance their awareness of the environment and the role played by birds and wildlife in that environment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA:

SECTION 1. That all the 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".

SECTION 2. That all City owned property shall be managed in such a manner as to promote both human enjoyment and the development of bird and wildlife habitat.

1 SECTION 3. That wherever possible the City will leave the environment in its natural state. The City,
2 through its Public Works Department, will attempt to mitigate the effect of development of
3 roads, parking facilities, utilities and other necessary improvements through seasonal plantings
4 and feeding stations. Enhancement programs, such as bird houses for birds and private
5 preserves will be encouraged. The City will also provide relief from drought stress. The City
6 Public Works Department and private property owners will post the area boundary with signs
7 bearing the words "RESTRICTED HUNTING AREA, Hunting by Special Permit Only" or "BIRD
8 SANCTUARY, No Hunting" established by Rule 68A-19.002, F.A.C., which shall be placed at
9 intervals of no more than 500 feet, be easily visible from any point of ingress or egress and
10 provide other necessary notice of such area to the public. In addition, the City may protect
11 "wetlands" as they exist in the City. Wetlands which are prime habitat of birds and other
12 wildlife, may not be drained, filled, or destroyed in such a manner as to render them
13 unacceptable to birds and wildlife as temporary or permanent habitat.

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

17 SECTION 4. That it shall be unlawful to trap, hunt, shoot, or attempt to shoot or molest in any manner any
18 bird or wild fowl, or to rob bird nests or wild fowl nests within the City. No person shall take
19 any wildlife in any bird sanctuary using a gun unless such taking is authorized by specific rule
20 relating to such sanctuary. Provided; the sanctuary established by this section shall not include
21 protection of (Columbia livia) feral pigeon populations or other invasive and/or non-native
22 species such as Starlings, House Wrens, which are not protected by state or federal law and
23 which may threaten native bird species. In the event that other invasive and/or non-native
24 species are found congregating in numbers in a particular locality within the city limits, as to
25

1 constitute a public nuisance or menace to the public health or to private or public property,
2 then in that event or any of them, the congregated birds or wild fowl may be destroyed as is
3 deemed advisable by and under the supervision and control of the Police Department of the
4 city.

5 SECTION 5. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be
6 invalid or unconstitutional the remaining provisions of this ordinance shall remain in full force
7 and effect.

8 SECTION 6. That any person, firm, or corporation violating any of the provisions or terms of this ordinance
9 shall be deemed to be guilty of a Misdemeanor of the First Degree and upon conviction in the
10 District Court shall be punished by a fine not to exceed One Thousand (\$1,000.00) Dollars for
11 each offense.

12 SECTION 7. That the present ordinances of the City of Belle Isle are inadequate to properly protect birds,
13 wildlife and their habitat within the City of Belle Isle, creates an urgency and an emergency for
14 the preservation of the public health, safety, and welfare and requires that this ordinance shall
15 take effect immediately from and after its passage and publication of said ordinance, as the law
16 in such cases provides.

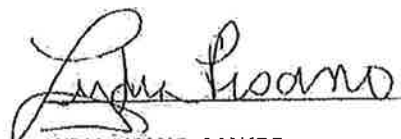
17 SECTION 8: Severability: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is
18 for any reason held invalid or unconstitutional by any court of competent jurisdiction, such
19 portion shall be deemed a separate, distinct, and independent provision and such holding shall
20 not affect the validity of the remaining portion hereto.


21 SECTION 9: Effective Date: This Ordinance shall take effect upon its passage and as provided by law.
22 First Reading held this 5th day of September, 2017
23 Second Reading held this 19th day of September, 2017
24 Advertised for Second Reading on the 9th day of September, 2017.


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	YES	NO	ABSENT
Ed Gold	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Carugno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jeremy Weinsier	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bobby Lance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Harvey Readey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lenny Mosse	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sue Nielsen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

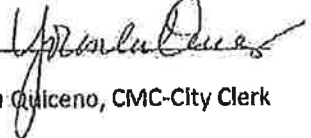

 LYDIA PISANO, MAYOR

ATTEST: 
 Yolanda Quiceno, CMC-City Clerk


 Approved as to form and legality City Attorney

STATE OF FLORIDA
 COUNTY OF ORANGE

I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing document
 ORDINANCE 17-07 was duly and legally passed by the Belle Isle City Council, in session assembled on the
 19th day of September, 2017, at which session a quorum of its members were present.


 Yolanda Quiceno, CMC-City Clerk