



**Minutes of the
Crystal River City Council
Regular Council Meeting
Monday, August 27, 2007 @ 7:00 p.m.
Council Chamber, City Hall**

1. CALL TO ORDER

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

Present: Mayor Ronald E. Kitchen, Jr.; Vice Mayor Jim Farley; Councilmember John M. Kostelnick; Councilmember Phillip W. Price; Councilmember Maureen McNiff; City Manager Andrew Houston, City Attorney Anthony F. Perrone and City Clerk Carol Harrington

Absent: None

Department Heads/Staff Present: Steve Burch, Police Chief; John Lettow, Director of Public Works, Deanna Rowe, Director of Finance and Kurt Woerner, Director of Planning and Development

Mayor Kitchen reminded everyone of some housekeeping items. He asked that the audience members please turn their cell phones to vibrate and take conversations outside. He noted that recently the Senate passed a bill, that veterans and/or servicemen, even not in uniform, can salute the flag. Previous to this bill, they had to place their hand over their heart the same as the general public.

Mayor Kitchen offered the Invocation and led in the Pledge of Allegiance.

2. ADOPTION OF AGENDA

Motion to adopt the Agenda was made by Councilmember McNiff; seconded by Councilmember Kostelnick. Motion carried unanimously.

City Attorney asked that Item 8-C; *Report on City of Crystal River v. Jesse Dobson*, be pulled from this Agenda.

3. PRESENTATIONS

A. Status Report from "Manatee Protection Subcommittee" of the "Waterfronts Advisory Committee"

Presentation was made by Galen Clymer, *Chairman of the City of Crystal River Waterfronts' Advisory Board* and Gail Kostelnick, *Chair of Manatee Protection Sub-Committee*.

This presentation is to the Council requesting that Council forward their recommendations to Fish and Wildlife for possible inclusion in their Manatee Protection Program that they will be addressing this fall.

Mrs. Kostelnick thanked all those that have participated in this endeavor. She noted that the packet that was distributed to Council includes minutes from the Sub-committee and a list of 37 concerns. A video has been prepared for Council and audiences to view.

Mrs. Kostelnick reported that the Subcommittee met from July 12th through August 7th. During this time, 37 concerns were identified. These concerns were broken down into four (4) areas:

- 1) Boat Speed;
- 2) Public Education/Awareness, Signage;
- 3) Sanctuaries/Manatee Harassment and
- 4) Manatee Refuge.

Mrs. Kostelnick gave examples in each category, some of which they had observed. A listing of Key Points for the City Council to consider are broken down into 9 bullets and included in the packet of information. She read each one and explained, where appropriate, what was happening in that particular category.

Pictures were shown of the Bay, with boaters not in compliance with signage that is posted. A video of the 4th of July manatee death was also shown. The video showed manatee swimming in the Bay and boaters and jet skiers moving faster than they should. It showed evidence of plant growth being pulled up from the bottom and the dangers the boat speed inflicts on those kayaking. The video showed a graphic scene of a manatee that had been hit and later died.

The hope of the sub-committee is that Council will support these recommendations and that something will be done for the Bay.

The Mayor thanked the subcommittee for their hard work.

Councilmember Kostelnick asked to move his item, *Discussion of the Manatee Presentation*, forward to this time. He noted there were several people in the audience that came just for this one item. This item was moved forward.

Vice Mayor Farley asked what Council legally can do and what they can't do. Mr. Perrone explained that Pinellas County is a Charter-County; whereas Citrus County is not. Speed limits are set by the Fish and Wildlife and DEP. We are limited what we can do. The Corps of Engineers is heavily involved in these types of situations. He suggested that we send letters to these organizations.

Vice Mayor Farley asked about touching the manatee; can we pass an ordinance regarding this. Mr. Perrone replied that an ordinance regulating manatees can be challenged. Small cities typically contact the organizations that make the laws. Communication is the best action we can take.

It was discussed and asked if there is a State law prohibiting touching a manatee. Mayor Kitchen noted that our number of manatee is growing, not reducing, and that seems to him that something is working. This is a lack of good common sense. It's not the position of a town of 3500 people to enforce the Federal Governments Endangered Species Act. In years past, we were told that

businesses needed a presence on the water to look after the manatee. Now they are saying that they don't have the ability or means to do that. Mayor Kitchen noted that in past history; you had to come to Crystal River to see manatee. Now, they are in other waters; not just here.

Councilmember Kostelnick would like to see us take the forefront as we have done in the past, but if we can't do that; he understands this sub-committee is asking us to discuss their report and forward it to the U.S. Fish and Wildlife for their consideration when they do their 5-year report.

Vice Mayor Farley would like to pass a resolution listing point by point what is in the report. This would be a stronger message to them.

Mayor Kitchen noted that he is not sure how the committee members were chosen; what their view of the Bay is, etc. He doesn't want to agree to a report that may be one-sided. He can't say for sure that this report is absolutely fact or scientifically correct. He can't say that this will correct our manatee problem.

Councilmember Price stated that one of the problems is that we have manatee year around. In past we only had them in the winter. Fish & Wildlife Commission may need more resources to help them in enforcing their laws. Maybe our letters could help them obtain more resources.

Councilmember McNiff stated she thinks that is what Mr. Perrone was saying. We can write letters encouraging them to enforce the laws that they already have.

Mayor asked if it is a Federal law not to touch manatee; then why is it not illegal in Crystal River. Mr. Perrone noted that it is illegal per Florida State Statute 378, *Manatee Sanctuary Act*. Councilmember Price noted that all people on the water need to police those on the water. Remind them, report them, do something.

Vice Mayor Farley does accept the report. He stated it is very well documented. He would like us to do the maximum of whatever we can legally do. There are dangers not only to the manatee; but to the people as well.

Councilmember McNiff stated that if we pass a law that boaters have to maintain an idle speed year around; she is afraid that these same people may take their activities to the channels and it may next be a dead child instead of a dead manatee.

Councilmember Kostelnick noted the Committee is asking their report to be forwarded to U.S. Fish and Wildlife Management. Why can't we at least do that?

There was discussion on speed in the bay. Mayor Kitchen noted that those with boats usually don't like the idle speed. There are also jet skiers, etc. on the Bay.

Motion to pass and send a resolution to accompany this report to U.S. Fish and Wildlife for their review, as they address their 5-Year Plan, along with a Resolution requesting they go over point by point of recommendations and respond to us, what they will and will not be able to do. This Resolution would also include asking them to enforce the laws that are already on the books. Motion was seconded by Councilmember Kostelnick.

Mayor Kitchen stated he could support everything except for the idle speed. He could support a uniform speed.

Vice Mayor Farley noted they probably won't do that. He asked that we submit a request for them to make the speed 25 mph in the Bay.

Councilmember McNiff asked about limiting mooring in the bay. She did not see that as part of the recommendation. Isn't that impacting the manatee as well?

Galen Clymer addressed this, stating that it is a different issue. They have made arrangement to, and plan to, look into this as well. He doesn't feel this is appropriate to place the mooring fields in with this recommendation. FWC is not in control of mooring fields.

Councilmember McNiff asked about reckless behavior on the water, is it the same as on the road? Can these boaters be fined? Mr. Clymer stated they could. He added that the control needs to be updated to the current situations. We now have 100 boats with 30-40 manatees as a mix. Years past, you had much lower number of boats as well as manatee. We need to address the current need. Let FWC look at the recommendations and let them decide if a slow speed would be sufficient.

Councilmember Price asked how many manatee have died from boating accidents in the Bay over the past 5-years. Mr. Clymer stated approximately 21.

Mr. Clymer was asked if he was stating that he can live with slow speed vs. idle speed and he stated that is what we have all winter long and what we have proposed in the report for US Fish and Wildlife's consideration. Most manatees can get out of the way of a boat at that speed.

Vice Mayor Farley amended his motion to slow speed year-round. Councilmember Kostelnick agreed to his second.

Public Input:

- *Dee Atkins, 3851 N. Nokomis Pt., Crystal River, 34428*

Mrs. Atkins stated she and her husband use slow speed. One time he went a little faster, creating a froth on the prop and was cited with a ticket. She agrees with slow speed year around.

- *Mike Dunn, Boat Captain in Crystal River*

Stated Council is missing two things: 1) Tourism. We need to save the manatee. There is also a problem for snorkelers, scuba divers, and kayakers, they don't have a chance. The boats are a danger to these people as well. Other water ways obey the laws. When we get back to Crystal River, anything goes.

- *Gene Christie, 2853 W. Blackwood Drive, Beverly Hills, 34465*

Mr. Christie stated he appreciates the work of this committee. This is an area where family activities are important. We need to keep this activity for families and to socialize. We understand the manatee is being taken off the endangered list. He encouraged Council to think of the families.

- *Mike Birns, Boat Captain in Crystal River*

Mr. Birns stated he likes people as well. He is a transplant and has been here one year. He is looking from the inside and outside of this issue and he also believes people are important. He doesn't want to see a headline on "Dateline" *Snorkeler: Lost leg due to boating accident*. The main point of a year around speed zone is to protect everyone. When looking at manatee, summer is more important than winter. In winter they are huddled; in summer they are dispersed in the Bay. We need a full-time designated officer.

- *Tracy Colson, Crystal River Native*

Ms. Colson noted that it is simply not safe to go out in the Bay. We have a National Wildlife Refuge that was established specifically for the protection of the manatee. We only offer that protection in the winter, in the summer we have a 35 mph sport zone. Harassment laws are not enforced. She agrees with and supports all recommendations that have been submitted.

- *Helen Spivey, Lived in Crystal River, now resides in Homosassa*

Ms. Spivey remembers when putting an intertube and a child in the water was too dangerous. Manatee goes to the edges because that's where the food is. That's why it is channel specific. She represents the Florida Chapter of Sierra Club. The members do mostly education. Lately, they have been working to get more help. It would be helpful if Council asked for more money be placed into the enforcement section of the FWC.

- *Dianna Astract, Birds Under Water.*

Ms. Astract stated she doesn't pull her children anymore on tubes. She agrees that we are going to have more accidents; people and manatee. Dive shops have sent proposals to FWC to take action toward dive shops to obey the rules.

- *Michael Gray, Boat Captain in Crystal River – Sunshine River Tours & Manatee Tours*

Mr. Gray stated that when a town builds, speeds have to be lowered. This is the same for the water. Congestion causes danger. There are too many boats on the water. Boats don't have brakes and 35 mph is pretty fast. Harassment doesn't kill the manatee; he feels harassment is rare. He is out there everyday. There are a lot of wonderful videos that could be shown of people interacting in a positive manner with manatee. He does agree that things need to be slowed down before someone gets hurt.

- *Maryann Lynn, 7889 W Ox-Eye, Homosassa*

Ms. Lynn stated she is a non-boater and loves the manatee. She thanked everyone for their work on the subcommittee. Crystal River needs to be the leader and bring the agencies together. There is money available if all will work together. The emblem of our City is a manatee and this will be used over and over for publicity if we do have an accident.

- *Mike Seiler, Sunshine River Tours & Manatee Tours*

Mr. Seiler stated that there are some rogue boat captains. Most captains ensure their tour boat operators are responsible. He has a problem with losing his business. The "no touch rule" is unenforceable. In his opinion, slow speed v. idle speed is about the same. He believes the economics of the City would be greatly impacted if we had a reduction of tourists. He is here tonight to give the bad economic news.

- *Belinda Singh, 900 NW Snug Harbor Road, Crystal River*

It is tremendous fun to go fast on speed boats. She understands slow zones and navigable waters. She takes her children out in the water and uses it as an educational tool for the signage, etc. She suggests that we could limit the number of dive boats or number of tourist activities. Doesn't want to pay high taxes and not be able to get out on the water. She noted the Bay is not just for tourists; it is also for residents that live here and pay the taxes. She encouraged Council to keep that in mind as they deliberate. She thinks we are doing alright just the way we are.

- *Chip Cunningham, Resident of Citrus County*

Mr. Cunningham liked the comment Mr. Kostelnick made concerning the City helping with law enforcement. Law enforcement has been reduced in the respective agencies. He doesn't know if there is any jurisdiction for the City in the Bay. Mr. Houston stated that a small portion is in the City limits. If not idle speed all year; what would be wrong with a 10 or 15, mph speed. The slower the speed the better the manatee can get out of the way.

- *Steve Kingery, Crystal River*

We all like recreation, not all recreation is created equal. There are destructive aspects to some recreation. Human safety is a huge concern as well as manatee safety. We are assuming interaction rules are what are used worldwide. He suggested the City and the County get together and work with FWC, State and local, and find a way to work toward something that will work for all.

- *Chris Ensing, 3625 N Suwannee Pt, Crystal River 34428,*

Mr. Ensing sees both sides of this issue. He doesn't think the entire Bay should be at idle speed; however, he also understands that we don't have enough enforcement. He feels the key is enforcement. Mr. Ensing suggested contacting the Coast Guard Auxiliary and they can help with education.

- *Stacy Dunn, 1223 North Circle Drive, Crystal River*

Ms. Dunn has read a lot of books and has done her homework. From 1997 through 2006, in the State of Florida, there has been an increase of boats of 273,222. From "Save the Manatee" website, manatee has increased during this same time frame by 875. There is a much bigger increase in boats than manatee. She hopes Council will consider these changes. It is a much different world now.

- *Cheryl Phillips, Crystal River*

Ms. Phillips noted she also worked with this Subcommittee. Gail Kostelnick showed great leadership skills. Ms. Phillips also works with Citrus 20/20. One of the focus groups was eco-tourism. She noted that EDC and eco-tourism work hand and hand. It was identified that the No. 1 tourist attraction is the manatee, the 2nd is bird watching. In a 1983 *Southern Living* publication, a picture of the water of our Bay was clear and pristine. Man is harming our environment. The manatee falls under our stewardship. The TDC's logo also has a manatee on it. Tourists must now have to ask, why pay to go into Kings Bay. She encouraged Council to get some backbone and take action.

- *Charles Schirmer, 1640 NW 19 Street, Crystal River*

Mr. Schirmer wanted to dispel a misconception that has been in the press. It isn't true that the propellers of boats are the factor in the deaths of manatee. There have been 15 manatees killed from 2000 through 2005. The autopsies showed that these manatee died from impact. Impact at 24 miles per hour is actually 64 times that speed. As the speed goes up, the impact goes up. At 24 mph; you could easily kill a human. Human being is not as well padded as manatee and cannot take the impact. The speed will kill our people.

- *Bob Froehling, 1360 NW 19th Court, Crystal River, 34428*

Mr. Froehling came forward to correct the Mayor. You neglected to mention, that when you came into the waterway to get to Twin Waters [Sanibel and Captiva area] you were 380 feet from shore and it said "Idle". It takes about 30 minutes from the inter-coastal to get to the Marina due to the manatee. He invited Council to observe from his front porch, the zoo that will show up on this holiday weekend. He will only take a large boat out, because small boats are not safe. It's incredible. It's getting worse as lakes are drying up. He doesn't understand why we have 30 mph on streets for cars with brakes; and allow 35 mph on the water, with no brakes. The speed around the Plantation is 25 mph because of the golf carts. We protect golf carts, but not people or manatee.

- *Gail Jannarone, 1405 SE 5th Ave., Crystal River, 34429*

Mrs. Jannarone noted that this is a delicate subject. Everyone cares about the manatee. People moved here for the recreation. She doesn't think there should be idle speed throughout the Bay. She reported that Kings Bay Assoc. broached this subject months ago. Jim Krause stated that you can put in as many rules as you want; but we can't enforce them. His suggestion was to get in touch with some of our Representatives and hold a Town Hall meeting, to see if we can obtain some financing from the State and Federal government. She has contacted Ginny Brown-Waite and Mike Fasano and they are both willing to conduct the whole, or part of a meeting.

- *Carlene Darnell, 808 SW Kings Bay Drive, Crystal River.*

Ms. Darnell noted you could see her house in the video that was shown earlier. She can see the water from her home. When she moved here in the 80's, there were not a lot of boats on the river. In the 20 years they have been here, the area has become a zoo. Everyone is going in every direction. Manatee aside; we are a heartbeat from a large tragedy. She encouraged Council to work with the County, and other agencies. She appreciates all the perspectives and opinions. We live with idle speed in the winter; she doesn't see why we can't live with it all year.

This was the close of the Public Hearing portion.

Councilmember McNiff commented that as she started out today, she had the fear that if idle speed was placed on the Bay, it would send boaters down the canals and create a greater danger. However, it is her responsibility to vote for the majority of the citizens. As she kept count, it was 5 – 1 to lower the speed.

Mayor Kitchen summed up some of the comments stating that Ms. Spivey ideas were good. He suggested that maybe we can include in our recommendation some of the recommendations from Mrs. Spivey. Based on what we are hearing, he can support this report.

Councilmember Kostelnick thanked the Subcommittee members; Ann Watson, Cheryl Phillips, Gail Kostelnick, and Charles Schirmer. These are the members of the Manatee Protection Committee that prepared this report. He estimated that they had spent hundreds of hours in meetings that were held every week. He also thanked everyone that showed up tonight and spoke. He also thanked Ms. Lesley Graham for letting him sit on her front porch and watch the boat traffic. In a three-hour period they counted 63 boats that came out that canal.

Mayor Kitchen encouraged citizens when they see boaters speeding, etc., to write boat numbers and names down and call FWC. He thinks this is good action from citizens and could be the most effective.

Councilmember Kostelnick requested that one of the first things we do this evening is to remove from our website, "*Where Man and Manatee Play.*" Mayor Kitchen stated he was not going to ask the people that do the website to do that.

Councilmember Price asked that the motion be clarified if it is for slow speed or idle speed. He stated that he feels it is all going to come back to enforcement. Response was that the Motion supports slow speed.

A citizen questioned who is responsible for enforcing the speed on the water and Mayor Kitchen replied Citrus County.

Motion passed unanimously.

4. UNFINISHED BUSINESS

5. ADOPTION OF CONSENT AGENDA

- A. Approve Minutes of Budget Workshop held August 13, 2007.*
- B. Approve Minutes of Regular Council Meeting held August 13, 2007*
- C. Approve Posting of Notice referencing the "Unsafe Housing Ordinance" at 547 NW 9th*
- D. Approve Monthly Departmental Reports*

Motion to adopt the Consent Agenda was made by Councilmember Price; seconded by Councilmember McNiff. Motion carried unanimously.

Councilmember Kostelnick noted one correction to minutes of the Budget Workshop. On page 8, last paragraph, 1.2 Million is the correct amount that should have been stated.

6. PUBLIC INPUT

(Time Limit of Three Minutes)

- *Richard Marion, 1601 SE 8th Ave., Crystal River, 34429*

Mr. Marion stated that it is a joy to come to the meetings. Thanked Council for making it easy for him to attend.

7. PUBLIC HEARINGS

A. *Consideration of Ordinance No. 07-O-38, Prohibiting Spouses of City Officers from serving on City Boards, Committees, and Commissions*

Motion to read Ordinance No. 07-O-38, Prohibiting Spouses of City Officers from serving on City Boards, Committees, and Commissions by title only was made by Councilmember McNiff; seconded by Councilmember Price. Motion carried on a 3/2 vote. Vice Mayor Farley and Councilmember Kostelnick voting in opposition.

AN ORDINANCE OF THE CITY OF CRYSTAL RIVER, FLORIDA, CREATING A CHAPTER 22 OF THE ORDINANCE CODE OF THE CITY OF CRYSTAL RIVER, PROHIBITING SPOUSES OF CITY OFFICES FROM SERVING ON CITY BOARDS, COMMITTEES AND COMMISSIONS

Background:

The City Council requested this Ordinance. It originated as a suggestion by the Mayor. Ordinance passed on First Reading at the August 13th meeting on a vote of 3 to 2.

Public Input:

- *Helen Spivey*

She is speaking in opposition. Her husband was a big help during the time she was on Council. Mrs. Kostelnick has done an excellent job on the Manatee Protection Committee. She hasn't seen anyone work so hard in a very long time. We would lose some of our talent by eliminating spouses.

- *Dee Atkins, 3851 N. Nokomis Pt., Crystal River, 34428*

Mrs. Atkins stated she thinks everyone should have the opportunity to serve on boards. Doesn't think there should be people left on the roster for spouses to be chosen first. We should continue to use the rule of first in; first out.

- *Belinda Singh, 900 NW Snug Harbor Road*

She is totally in agreement with eliminating spouses from serving on committees. This is a question of exception. She agrees that there are spouses that can and would contribute; it is the appearance of correctness that must be upheld.

- *Crystal Ryan, Kings Bay, Crystal River*

She believes we need to get the talent wherever you can get it. Quite often those that are willing to volunteer and have a sense of service are those that live in the same households.

- *Sue Schirmer, 1640 NW 19th St., Crystal River*

Ms. Schirmer is opposed to this Ordinance. It is a form of discrimination. You may lose good volunteers, but it is wrong. Council does have the final say and should stick to the first in /first out philosophy.

- *Phil Jannarone, 1405 SE 5th Ave., Crystal River, 34429*

Mr. Jannarone stated that it is a shame this issue has ever had to come about. It has been abused and that is why it is facing us now.

- *Carlene Darnell, 808 SW Kings Bay Drive, Crystal River*

She attended one of the Subcommittee meetings. She would be opposed to lose someone like Gail Kostelnick. We are a small community and can't afford to lose talent in anyway. She stated this was a foolish idea. There are enough members of Council to vote the right way rather it is a spouse presenting something or serving on a board or committee.

- *Gail Jannarone, 1405 SE 5th Ave., Crystal River, 34429*

Mrs. Jannarone stated that if this was two years ago, she would agree with what most of the people are saying tonight. The Charter Review was a travesty. There were a lot of other qualified people that had submitted applications. She noted that each Board member appoints one person. To stop something like that from happening again, she would have to support this Ordinance.

Public Hearing was closed after the third and final call.

Mayor Kitchen noted that there are a lot of times people are disqualified from events. Contests eliminate family members. It's not because of corruption; it's because of the perception of favoritism.

Councilmember Kostelnick stated that he would like to see all family members included. He asked the Mayor once again to include partners, significant others, and all immediate family.

Councilmember McNiff stated that there would probably be nothing wrong with what Mr. Kostelnick just said except for that the administration of this would be difficult. Who determines what a significant other is? She stated she agreed with the women that stated that volunteering usually tends to run in families. She also agrees that in passing this, there is a possibility that we would be excluding some very bright people with a lot of good ideas. The flip side is, appearance. She noted that she takes the appearance personally from some past experiences. She suggested that perhaps there is another way to deal with this. FLC didn't have any statistics, but what they found problematic is that each Councilmember chose one member. She suggested that instead of that practice; that the Charter Review members would be handled as other boards or voted on by Council.

Vice Mayor Farley asked Ms. McNiff if she would be willing to vote this Ordinance down, if Council agrees to make the provisions she is suggesting. Ms. McNiff replied in the affirmative. Vice Mayor Farley and Councilmember Kostelnick both agreed they could live with the suggestion that Ms. McNiff just made.

There was discussion regarding how the Charter currently states members are appointed.

Mayor Kitchen noted that if she makes this motion; he will not support it. He felt it was only fair that he let her know. This is the second reading and she had voted for this ordinance at the first

reading. He had promised the citizens that he would bring this forward. If this does not pass; he will not bring it back and will not vote for any altered motion regarding this topic.

Councilmember McNiff stated she apologized for appearing to change her mind. It occurred to her that there is another way to resolve this problem. She would suggest that something as important as the Charter review, that it not be from the list but from the agreement of Council. There are a number of talented people and as someone pointed out tonight; there is a tendency for couples and families to get involved in volunteering.

Mayor Kitchen stated that Ms. McNiff was perfectly within her rights and he understands what she is saying. He is afraid that we will wind up with nothing and be right back where we started with this.

Vice Mayor Farley noted there has been a lot of talk at the last meeting and this meeting regarding perception. He thinks that there is a perception that this is illegal and it is discriminatory. He thinks that Ms. McNiff is offering something that is a reasonable alternative to it and he will support it.

Councilmember Price noted that he thinks one thing we need to be careful about, is that a lot of times people come out for a particular topic on the agenda. He cautioned Council that they represent all the citizens, even those that do not come to meetings and have a strong opinion on a particular subject.

Ordinance died from lack of motion on second reading.

B. Consideration of Ordinance No. 07-O-39, Zoning change from R-3 High Density Residential to General Commercial (CG) for Bayview Homes Co./ Waddington – Surber Property (RZ#07-008) Quasi-judicial hearing

Motion to read Ordinance No. 07-O- 39, Zoning change from R-3 High Density Residential to General Commercial (CG) for Bayview Homes Co./ Waddington – Surber Property by title only was made by Vice Mayor Farley; seconded by Councilmember Kostelnick. Motion carried unanimously.

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CRYSTAL RIVER, FLORIDA, REDESIGNATING ZONING OF CERTAIN PROPERTY, FROM RESIDENTIAL (R-3) TO GENERAL COMMERCIAL (CG), AS DESCRIBED IN SECTION 1; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Mayor Kitchen called for disclosure of exparte communications:
There was nothing to report.

The City Clerk swore in the following person(s) who wished to testify to this matter:
Stephanie Price, Mr. Waddington and Kurt Woerner were sworn in at this time.

Background:

The subject property is located at the northwest corner of N.E. 3rd Avenue and N.E. 7th Street. It has been used commercially for many years, most recently as a beauty shop. The application was reviewed by the Planning Commission on July 12, 2007. The petition was reviewed by the RA and approved unanimously. The Planning Commission also voted unanimously to recommend approval.

Councilmember Price abstained from the vote due to a conflict of interest.

Motion to approve Ordinance No. 07-O- 39, Zoning change from R-3 High Density Residential to General Commercial (CG) for Bayview Homes Co./ Waddington – Surber Property was made by Vice Mayor Farley; seconded by Councilmember Kostelnick. Motion carried 4/0 on a Roll Call Vote.

C. Consideration of Ordinance No. 07-O-40 Zoning change from Medium Density Residential to High Density Residential for Crystal River Park, LLC property (RZ#07-009) Quasi-judicial hearing

Motion to read Ordinance No. 07-O- 40 Zoning change from Medium Density Residential to High Density Residential for Crystal River Park, LLC property by title only was made by Councilmember Price; seconded by Councilmember McNiff. Motion carried unanimously.

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CRYSTAL RIVER, FLORIDA, REDESIGNATING ZONING OF CERTAIN PROPERTY, FROM RESIDENTIAL (R-2) TO RESIDENTIAL (R-3), AS DESCRIBED IN SECTION 1; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Mayor Kitchen called for disclosure of exparte communications:
There was no disclosures to report.

The City Clerk swore in the following person(s) who wished to testify to this matter:
Chris Ensing was sworn in. It was noted that Mr. Woerner was still under oath.

Background:

The subject property is located at the northeast corner of N.E. 1st Avenue and Crystal Street. It is immediately east of the Depot. The property was utilized for many years as a greenhouse which has been demolished. The property to the north and east is currently zoned R-3. The three (3) subject lots are currently zoned R-2 Residential. The entire block is under single ownership and is expected to be a unified project.

The rezone request was reviewed and recommended for approval by the CRA. The Planning Commission heard the request on July 12, 2007, and likewise recommended in favor.

Motion to approve Ordinance No. 07-O- 40 Zoning change from Medium Density Residential to High Density Residential for Crystal River Park, LLC property was made by Councilmember McNiff; seconded by Vice Mayor Farley. Motion carried unanimously on a Roll Call Vote

D. Consideration of Ordinance No. 07-O-41, Right-of-Way Maintenance

Motion to read Ordinance No. 07-O- 41, *Right-of-Way Maintenance* by title only was made by Vice Mayor Farley; seconded by Councilmember McNiff. Motion carried unanimously.

AN ORDINANCE AMENDING CHAPTER 14 OF THE CITY OF CRYSTAL RIVER CODE OF ORDINANCES; PROVIDING FOR RIGHT OF WAY MAINTENANCE; PROVIDING FOR PENALTIES FOR NONCOMPLIANCE; PROVIDING AN EFFECTIVE DATE.

Background:

At the July 23, 2007, Council meeting, consensus was reached directing staff to develop an ordinance for discussion purposes which requires maintenance of rights-of-way to be the responsibility of the adjoining property owners. This ordinance is in response to that direction. It is modeled after similar ordinances in Cocoa Beach, West Palm Beach, and Ormond Beach. Intent is to cover sidewalk to curb.

Motion to approve Ordinance No. 07-O- 41, *Right-of-Way Maintenance* was made by Councilmember McNiff; seconded by Vice Mayor Farley.

Council Discussion:

Council discussed and consensus was obtained to modify this ordinance by striking the requirement to plant or sod in the right-of-way area.

Public Input:

- *Belinda Singh, 900 NW Snug Harbor Road*

Ms. Singh was in support of the Ordinance before the modification. She stated it is imperative that you plant grass, mow and trim to beautify. It is a benefit to business owners. She doesn't feel this is a large thing to do.

- *Charles Schirmer, 1640 NW 19th St., Crystal River*

Charles Schirmer stated he too was opposed to dropping the seeding/sodding requirement. He doesn't find a problem with that. He has seen this in ordinances in other cities.

Mr. Woerner was asked if there any requirement for ground covering. Mr. Woerner stated it does not have to be grass. It can be gravel, mulch etc.

Motion carried on a 4-1 vote with Councilman Price voting in opposition.

- E. *Consideration of Ordinance No. 07-O-42, Requiring Council to include a Requirement that the Development of the Annual Operating Budget shall start on the Basis of an Assumption that Ad Valorem Revenues will be set at the "Roll Back" Rate, as defined by State Statute*

Motion to read Ordinance No. 07-O- 42, *Requiring Council to include a Requirement that the Development of the Annual Operating Budget shall start on the Basis of an Assumption that Ad Valorem Revenues will be set at the "Roll Back" Rate, as defined by State Statute* by title only was made by Councilmember McNiff; seconded by Vice Mayor Farley. Motion carried unanimously.

AN ORDINANCE OF THE CITY OF CRYSTAL RIVER, FLORIDA, REQUIRING THE CITY COUNCIL AMEND CHAPTER TWO, ARTICLE TWO OF THE ORDINANCE CODE TO INCLUDE A REQUIREMENT THAT THE DEVELOPMENT OF THE ANNUAL OPERATING BUDGET SHALL START ON THE BASIS OF AN ASSUMPTION THAT AD VALOREM REVENUES WILL BE SET AT THE “ROLL BACK” RATE, AS DEFINED BY STATE STATUTE

Background:

This proposed ordinance establishes that all future tentative operating budgets will be initially developed on the assumption that the “rolled-back rate” as defined by State Statute, will be utilized for the basis of determining ad valorem revenue. This proposed ordinance sets a somewhat more restrictive policy than that established by recent State legislation, which provides for the rolled-back rate to be utilized, as adjusted for any growth in per capita Florida personal income.

Motion to approve 07-O-42, *Requiring Council to include a Requirement that the Development of the Annual Operating Budget shall start on the Basis of an Assumption that Ad Valorem Revenues will be set at the “Roll Back” Rate, as defined by State Statute* was made by Mayor Kitchen seconded by Councilmember McNiff.

Motion carried on a 4/1 vote with Councilmember Kostelnick voting in opposition.

F. Consideration of Approval for Ordinance No. 07-O-43, Setting Water and Sewer Expansion Fees based upon a Rate Study Utilizing Localized Data

Motion to read Ordinance No. 07-O- 43, *Setting Water and Sewer Expansion Fees based upon a Rate Study Utilizing Localized Data* by title only was made by Councilmember Price; seconded by Vice Mayor Farley. Motion carried unanimously.

AN ORDINANCE OF THE CITY OF CRYSTAL RIVER, FLORIDA, AMENDING CHAPTER 16, SECTION 3 OF THE ORDINANCE CODE, SETTING WATER AND SEWER EXPANSION FEES BASED UPON A RATE STUDY UTILIZING LOCALIZED DATA, PROVIDES FOR ACCOUNTING OF THE REVENUES AND EXPENDITURES OF EXPANSION FEES INTO A SEPARATE ACCOUNTING FUND AND SETTING AN EFFECTIVE DATE NINETY DAYS FROM THE DATE OF ADOPTION PURSUANT TO FLORIDA STATE 163.31801

Background:

The City initiated a utility rate study in December 2006. The recommendations, including a proposed increase in the expansion (impact) fees for water and sewer service, arising from that study were presented to Council in a workshop on May 7th, and then subsequently presented to Council for formal approval. Subsequent to that action being taken, it was discovered that statutory changes enacted last year required that a ninety (90) day period be provided between adoption of an increased impact fee and the effective date of the new fee. This item is being brought forward for action again to address the procedural mistake. It is being recommended that the expansion fees for water and sewer service be increased from \$860 and \$1,700 to \$2,170 and \$2,740 respectively. Staff has taken the necessary action to refund expansion (impact) fees collected at the higher rate since the date of prior approval.

As Council has previously been advised, it will also be necessary for action to be taken again on the water and sewer rate increases that were incorporated within the rate study inasmuch as the City did not follow the correct public notice requirements set forth in State Statute. It is expected that those items will be brought to Council for consideration/action in September.

Motion to approve Ordinance No. 07-O-43, *Setting Water and Sewer Expansion Fees based upon a Rate Study Utilizing Localized Data* was made by Vice Mayor Farley; seconded by Councilmember Kostelnick.

Public Input:

- *Joannie Milligan – 900 NW 6th Ave., Crystal River*

Ms. Milligan noted that being a part time resident; this impacts her tremendously. She asked where she could find the localized data that was utilized. Mr. Houston explained that the City had a Utility Rate Study completed earlier in the year. They looked at actual cost to provide new service, they looked at what other entities charged and this was a recommendation made by the consultant. The data is available in the office of the City Manager.

Motion carried unanimously.

Vice Mayor Farley moved to extend the meeting for the optional half hour time; seconded by Councilmember Kostelnick. Motion carried unanimously.

8. CITY ATTORNEY

- A. Request for Shade Meeting: Dawson v: Crystal River*

Mr. Perrone noted this is the taxpayer case. He requested a Shade Meeting be scheduled prior to for the meeting of September 24th at 6:30 p.m. prior to the Council meeting.

Council consensus was to schedule the meeting as suggested by Mr. Perrone; September 24th at 6:30 p.m.

- B. Report on Sandra Everett vs. Thomas Crowe*

Mr. Perrone reported that a motion has been filed to dismiss this case. Mr. Crowe has offered to make a good faith payment on his citations.

- C. Report on City of Crystal River vs. Jesse Dobson* **Pulled**

9. CITY MANAGER

- A. Consideration of Resolution No. 07-R-26, Setting the Public Hearing Date for the Assessment District of NW 6th Avenue for Area 103*

Background:

The City of Crystal River has received a grant of approximately \$10.5 million to finance the construction of sanitary sewer to portions of Crystal River and adjacent areas where sanitary

sewer is not currently available. Eighty-Five percent (85%) of the project costs is provided through the DEP Grant. It is the intention of the City of Crystal River to finance the remaining fifteen percent (15%) through a special assessment recorded with the Clerk of Courts on the affected properties. The Public hearing for this Resolution was scheduled for October 8, 2007.

Motion to approve Resolution No. 07-R-26, *Setting the Public Hearing Date for the Assessment District of NW 6th Avenue for Area 103* was made by Councilmember Kostelnick; seconded by Vice Mayor Farley. Motion carried unanimously.

B. Consideration of Resolution No. 07-R-27, Setting the Public Hearing Date for the Assessment District of Brewer Addition for Area 104

Background:

The City of Crystal River has received a grant of approximately \$10.5 million to finance the construction of sanitary sewer to portions of Crystal River and adjacent areas where sanitary sewer is not currently available. Eighty-Five percent (85%) of the project costs is provided through the DEP Grant. It is the intention of the City of Crystal River to finance the remaining fifteen percent (15%) through a special assessment recorded with the Clerk of Courts on the affected properties. The Public hearing for this Resolution was scheduled for October 8, 2007.

Motion to approve Resolution No. 07-R-27, *Setting the Public Hearing Date for the Assessment District of Brewer Addition for Area 104* was made by Vice Mayor Farley; seconded by Councilmember Price. Motion carried unanimously.

C. Consideration of Resolution No. 07-R-28, Setting the Public Hearing Date for the Assessment District of Townsite of Crystal Park for Area 105

Background:

The City of Crystal River has received a grant of approximately \$10.5 million to finance the construction of sanitary sewer to portions of Crystal River and adjacent areas where sanitary sewer is not currently available. Eighty-Five percent (85%) of the project costs is provided through the DEP Grant. It is the intention of the City of Crystal River to finance the remaining fifteen percent (15%) through a special assessment recorded with the Clerk of Courts on the affected properties. The Public hearing for this Resolution was scheduled for October 8, 2007.

Motion to approve Resolution No. 07-R-28, *Setting the Public Hearing Date for the Assessment District of Townsite of Crystal Park for Area 105* was made by Councilmember McNiff; seconded by Vice Mayor Farley. Motion carried unanimously.

D. Consideration of Resolution No. 07-R-29, Setting the Public Hearing Date for the Assessment District of NE Crystal Street for Area 109

Background:

The City of Crystal River has received a grant of approximately \$10.5 million to finance the construction of sanitary sewer to portions of Crystal River and adjacent areas where sanitary

sewer is not currently available. Eighty-Five percent (85%) of the project costs is provided through the DEP Grant. It is the intention of the City of Crystal River to finance the remaining fifteen percent (15%) through a special assessment recorded with the Clerk of Courts on the affected properties. The Public hearing for this Resolution was scheduled for October 8, 2007.

Motion to approve Resolution No. 07-R-29, *Setting the Public Hearing Date for the Assessment District of NE Crystal Street for Area 109*, was made by Councilmember McNiff; seconded by Vice Mayor Farley. Motion carried unanimously.

E. Consideration of Resolution No 07-R-31, Budget Amendment to the FY 2006-2007 Budget

Background:

Council has previously approved application for a State Revolving Loan as the funding source for expansion of the Wastewater Treatment Plant. The City has received \$167,340 in loan proceeds to be used toward the design of the plant expansion and related activities. This action accepts that funding and appropriates it to the applicable project.

Motion to approve Resolution No 07-R-31, *Budget Amendment to the FY 2006-2007 Budget*, was made by Councilmember Kostelnick; seconded by Councilmember McNiff. Motion carried unanimously.

F. Consideration of Change Order for DRMP, Increasing total cost by \$10,342.73 for design of the Waste Water Treatment Plan

Background:

In may 2006, City council authorized Administration to contract with DRMP for engineering services related to the future expansion of the wastewater treatment plant. At that time, DRMP has directed to plan for a 2.MGD (million gallons/day) expansion. City staff subsequently determined that it might be more appropriate to consider less expansion options and tasked DRMP with projecting costs for other capacity scenarios. This information was later presented to Council in conjunction with a recommendation to pursue a 1MGD expansion instead of the 2 MGD expansion originally envisioned. The ultimate decision to pursue a 1 MGD expansion instead of a 2 MGD expansion also required a revision to the plant master plan, and future costs related to the permit application, capacity analysis report, and engineering design report are anticipated.

In February 2007, City Council approved Resolution No. 07-R-04 to authorize the City manager to proceed with applying for a State Revolving Fund (SRF) Loan from the Department of Environmental Protection (DEP). Additional technical services from DRMP wee required in completing the requirements for this loan application.

Administration recommends approval of these additional expenses related to the exploration of alternative capacity options and the SRF loan application.

Motion to approve Change Order for DRMP, Increasing total cost by \$10,342.73 for design of the Waste Water Treatment Plan was made by Vice Mayor Farley; seconded by Councilmember Kostelnick. Motion carried unanimously.

G. *Consideration of Awarding Bid No. 07-B-08, Crystal Street Culvert Replacement, to H & B Industries, Inc. for a cost of \$19,752.00.*

Background:

A depression was found at the edge of pavement on NE Crystal Street between NE 7th Ave. and NE 8th Ave. The existing culvert is deteriorating and this street is heavily traveled, including school-related traffic. City Council approved the design and engineering services on March 12, 2007. The project was advertised and six (6) responses were received.

It was hoped that this work could be accomplished before school started inasmuch as it will disrupt school traffic. The time required to design and bid the project did not allow that to happen. The condition of the culvert requires that we move forward at this time without further delay. The funds for this project are being taken from other drainage projects in the current budget year.

Motion to Award Bid No. 07-B-08, Crystal Street Culvert Replacement, to H & B Industries, Inc. for a cost of \$19,752.00 was made by Vice Mayor Farley seconded by Councilmember Price. Motion carried unanimously.

H. *Consideration of Authorizing the Mayor to Execute an Agreement with SWFWMD Related to Cooperative Funding of a Stormwater Utility Study*

Background:

SWFWMD supports a cooperative funding program wherein it will match funding for eligible projects related to water quality, water conservation, and related areas of concern. The City made two applications for this program for the upcoming funding cycle, one of which was to conduct a feasibility study for the creation of a Stormwater utility (the other was to install a Stormwater treatment device behind the Kings Bay Plaza-we have been advised that project is also likely to be approved). The City has budgeted up to \$25,000 for this study, which SWFWMD will match.

The study is intended to document flood-prone areas and to review potential treatment options, to include updating estimated costs; to evaluate the total amount of impervious area contributing to Stormwater runoff and to identify the number of potential customers that would be subject to assessment under a stormwater utility; to determine multi-year maintenance requirements for the Stormwater system; and to develop a tentative rate structure and billing process. The study is further intended to develop ordinance changes as necessary to implement a Stormwater utility.

A Stormwater utility is one option to provide ongoing funding for the construction and related maintenance of a comprehensive stormwater management system. The purpose of this study is to determine if the establishment of such utility is in the best interest of the City of Crystal River.

Motion to Authorize the Mayor to Execute an Agreement with SWFWMD Related to Cooperative Funding of a Stormwater Utility Study was made by Councilmember Kostelnick; seconded by Vice Mayor Farley.

Council Discussion:

Councilmember Price asked about the continuing source of funding. Mr. Houston responded by stating that they will determine what an appropriate amount will be to charge households as a utility based on impervious surface.

Mayor Kitchen noted that this topic was discussed in the past at a Rotary Club and the businesses were in favor of this concept.

Councilmember McNiff abstained from appearance of conflict.

Motion carried 4/0.

- I. *Consideration of Change Order for Lyric Services, in the amount of \$6,320.00 for three additional sewer laterals in Area 105 and to elevate well in Area 109*

Background:

Lyric Services, Inc. has been awarded the contract for the Small Disadvantaged Communities Grant areas 103, 104, 105 and 109 for the extension of sanitary sewer service. This Change order requires added three (3) sewer laterals to service vacant properties in Area 105. The installation of the sewer laterals will provide available sewer to the vacant lots when developed.

The additional height to the wet well in Area 109 required elevating the top of an elevation equal to or higher than the existing roadway in order to lessen the potential for flooding of the wet well and valve box.

Motion to approve Change Order for Lyric Services, in the amount of \$6,320.00 for three additional sewer laterals in Area 105 and to elevate well in Area 109 was made by Councilmember Kostelnick; seconded by Councilmember McNiff.

Council Discussion:

Councilmember Price asked if Lyric Services is doing the same thing as H & B. Mr. Houston explained that H & B extended the sewer service onto Nokomis. It is similar in nature; a different bid process was used.

Motion carried unanimously.

10. CITY COUNCIL

11. COMMITTEE REPORTS

- None

12. COMMUNICATIONS

- Mayor Kitchen noted that the City Manager did follow-up on direction regarding *Reduction in Force Policy*. He noted that Council did receive that memo.

13. COUNCIL MEMBER REPORTS

A. Mayor Kitchen

1. Thanked the *Chronicle* for allowing him to write a monthly article in the *Current*. He is amazed at the response. He will make copies of the responses to other Councilmembers
2. Attended the Back to School Even held at Crystal River Mall. The *Church Without Walls* gave out backpacks to children.
3. Sweet Bay in Crystal River has scheduled a grand opening for Wednesday at 11:00 a.m. This is the final acquisition, final transition in changing Kash N Karry to Sweet Bay in the State of Florida.

B. Councilmember Price

1. Fire Department

Mr. Price noted that he would like to speed up the process of transferring our liability to the County. Mr. Houston reported that he will be meeting with the County regarding the Fire Department next week.

2. Police Department

Mr. Price would also like to schedule a date for the Sheriff to come and make his presentation. Council consensus was to invite the Sheriff to attend our October 22nd Council Meeting. Mr. Houston will check with the Sheriff for his availability.

C. Vice Mayor Farley

1. Mr. Farley reported the Police Department won 2nd place in the Florida Law Enforcement Challenge Program for their pro-active traffic enforcement and education programs. They won \$10,000 worth of traffic safety equipment.

D. Councilmember McNiff

1. Attended the FLC on the 16th and 17th of August. She was glad that she went. She attended a pre-conference session, "Designing Better Places." She has a lot of information and will be scheduling time with Mr. Houston to discuss what she has learned.

E. Councilmember Kostelnick

1. Discussion of "Manatee Protection Subcommittee" Report – Was moved to the beginning of the meeting.
2. At the last meeting, Council discussed "Day of Caring," and he was asked to check with KCCB. He reported that they will be participating in this event.
3. Inmate Labor / Community Service. He reported that Citrus County has the lowest number of hours of inmate labor in the State. We can even request inmates from other counties. This could be a way to do some of the clean up work. Something to think about.

14. PUBLIC INPUT

(Five Minute Time Limit)

- *Dee Atkins, 3851 N. Nokomis Pt., Crystal River, 34428*

Save Our Waters Week is coming up. It is sponsored by 20/20 and other active groups in the area. She has placed brochures in the lobby. A lot of good activities are planned. She encouraged everyone to participate in the festivities.

- *Ann Watson, 825 NW 6th Avenue, Crystal River, 34428*

Ms. Watson thanked Mrs. McNiff for speaking up on nepotism. She suggested that Inmate Labor could be used for cleaning canals.

- *Gail Kostelnick, 2021 NW 13th Street, Crystal River, 34428*

Ms. Kostelnick thanked Council for listening to the Manatee Presentation. She also thanked everyone for having an open mind and reconsidering the ordinance regarding spouses on committees.

- *Joannie Milligan – 900 NW 6th Ave., Crystal Rive*

Ms. Milligan stated she lives in Sarasota and here part-time. She enjoyed tonight’s meeting. She suggested contacting the Coast Guard and noted that they talk to boaters in Sarasota. She too feels education is the key. We need a happy medium in speed. She stated she had learned a lot tonight and thanked Council.

Ms. McNiff presented a Frisbee that was made from recycled products by Waste Management to Mr. Kostelnick.

15. ADJOURNMENT

(Possible 30 minute extension by majority vote of Council)

After the third and final call for Public Input, Mayor Kitchen adjourned the meeting at 10:28 p.m.

CITY OF CRYSTAL RIVER

ATTEST:

RONALD E. KITCHEN, JR., MAYOR

CAROL HARRINGTON, CITY CLERK