

**REGULAR MEETING OF THE STUART CITY COMMISSION
HELD ON JUNE 11, 2007
AT 5:30 P.M. IN THE CITY COMMISSION CHAMBERS
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994**

Roll call was answered by:

**Mayor Mary L. Hutchinson
Vice Mayor Jeffrey A. Krauskopf
Commissioner Carol S. Waxler
Commissioner Michael J. Mortell
Commissioner James A. Christie, Jr.**

Also present were:

**City Manager: Dan Hudson
City Attorney :Paul J. Nicoletti
Acting City Clerk Michelle Vicat**

0:00 ~ 6/11/2007 5:29:08 PM ~ Start Recording

Mayor Hutchinson delivered the Invocation, followed by the Pledge of Allegiance led by the Commission.

COMMENTS BY CITY COMMISSIONERS

Commissioner Christie hoped the results of the special Legislative session on tax reform would not have negative impacts for the City.

Vice Mayor Krauskopf received an e-mail re: the Martin County's Evaluation & Appraisal Report and wants to be sure staff "stays on top of the ICE element as a part of that.

Mr. Hudson assured the Vice Mayor he would look at that.

Vice Mayor Krauskopf also asked Sam Amerson to look at some residential street for resurfacing. He summarized some of the items he had received regarding the survey he sent out to some residents for feedback on tax reform, the residents' suggestions for reducing costs included: cut garbage collection to once a week; use zeriscape plantings to reduce maintenance cost; cut back on lighting; stop the Fire Truck running around with the ambulance; consolidate with County services ie: Fire EMS and Parks and Recreation cut salaries; and stop growth. He also asked if the Fiscal Policy on investments would be added to the agenda as previous Commission meetings comments.

Mr. Hudson stated he would add to the list.

Commissioner Mortell had comments regarding the Joint City, County School Board meeting. He addressed concurrency issues and the interlocal agreement with School Board. He noted that JD Parker Elementary has been given Title 1 status and he would like to see City representation on the school Redistricting Board and the TAC. He did not want the interlocal agreement signed until after school enrollment figures become available sometime in September. He was also concerned that Stuart Middle School could be redistricted out of the City and did not want to move too quickly on the interlocal until the City is sure it has "some teeth" in it because we have to "protect the environment around our schools".

Commissioner Christie agreed.

Mayor Hutchinson suggested an agenda item be scheduled to discuss the issues.

Mayor Hutchinson commended the Memorial Day celebration and thanked the Veterans' groups for a job well done. She also thanked City staff for participation in Saturday's River cleanup at the Anchorage building. She thanked Mary Kindle and staff. She also addressed the County's decision to create on-street parking on Commerce Street which is located in the City, but the City had not been notified. She asked the City follow up with Martin County as to why the City was not notified.

COMMENTS BY CITY MANAGER AND REVIEW OF TENTATIVE AGENDA

Mr. Hudson noted the City has scheduled a walk thru for the Commission, of the Public Safety Building at 9 AM on June 18th. He stated a public opening has not yet been scheduled. He also noted he had received a letter from Senator Pruitt and House Leader Marco Rubio regarding the proposed structure for a tax reform plan. He stated Dottie Zaharako has put together some preliminary numbers on behalf of the City and its total impact. He stated it is estimated to be around \$1.5 million dollars. Mr. Hudson addressed a preliminary analysis of the of Impact on the City for FY08 and FY09 with the proposed constitutional amendment that has yet to be drafted. He said this appears to be a two year process. He stated he would make copies of the letter for your use. Mr. Hudson had two comments on the agenda:

Item 3 - Billboards was pulled from Consent and re-numbered as Item 14A. Item 12 – Annexation, note Ordinance Number 2111-07

Mr. Hudson briefly discussed staff reports from previous commission meetings. He said he added it right into the agenda and asked the Commission to address any items they do not see, so they can be added.

Vice Mayor Krauskopf asked if he would add the moratorium item to the list.

STAFF REPORT ON COMMENTS FROM PREVIOUS COMMISSION MEETING

- | | |
|---|--------------------------------------|
| • Historic Building Tax Credits | On Hold |
| • Fluoridation Referendum Ballot Language | Agenda 6/11/07 |
| • Frazier Addition Tree Planting | Purchase Order Issued |
| • Monitor County Aquatics Center | Pending |
| • Review of Advisory Boards | Agenda 6/11/07 |
| • SR 707 Haney Creek Maintenance | Pending |
| • Annexation Maps | Pending |
| • Fire Inspections | Memo Complete |
| • Osceola Place "Overhang" | Memo Complete |
| • Policy Regarding Timetable Ext. | Complete |
| • Policy Regarding Pole Signs | Zoning in Progress
Agenda 6/25/07 |
| • Comm. Provide Budget Direction | Fiscal Workshop Complete |
| • Villabella Compliance | Pending |
| • Review of Moratorium procedures/
Inventory of Developable Land | Memorandum Completed |

18:41 ~ 6/11/2007 5:47:49 PM

COMMENTS FROM THE PUBLIC (Non-Agenda Matters Only – 5 min. max)

Virginia Jones came forward and presented a 2006 letter that was written by the City Manager addressed to the Martin County Health Department regarding the cement plant along Dixie Highway. She expressed concern over the air quality coming from the plant. She requested the City look into this issue. She also was opposed to the adding of fluoride to the drinking water. She requested the City write a letter to the Health Department for refusal of treatment for her or her son.

APPROVAL OF AGENDA

MOTION: VICE MAYOR KRAUSKOPF: MOVED APPROVAL OF AGENDA AS
AMENDED

SECOND: COMMISSIONER WAXLER
MOTION APPROVED UNANIMOUSLY

25:05 ~ 6/11/2007 5:54:13 PM

CONSENT CALENDAR

1. Request to approve MINUTES FROM REGULAR COMMISSION MEETINGS of May 14 and May 21, 2007
2. Mayoral Appointment of Ms. Deborah Langston to the Stuart Housing Authority

3. **Reconsider proposal to locate two electronic billboards on City property North of the Roosevelt Bridge and at the northeast corner of SR-76 & Monterey Road**
4. **RESOLUTION 77-07 Authorization for the adoption and execution of a 401 (A) money purchase plan between ICMA-RC account number 106324 and the City of Stuart**
5. **RESOLUTION 78-07 Authorization for appropriation and expenditure of \$28,229.78 for professional services provided by East Bay Group, the City's Design and Permitting Consultant for the Stuart Waterfront projects**
6. **RESOLUTION 79-07 Execute modification number 3 to CDBG Disaster Grant agreement 06DB-3C-10-53-02-W33 dated August 23, 2005 between the Department of Community Affairs and the City of Stuart**
7. **RESOLUTION 80-07 Authorization to approve a Special Exception to A Brighter Future Montessori Preschool, 824 SE Ocean Blvd., to allow the operation of a child care at an existing building located within a R-3 zoning district (QUASI JUDICIAL)**
8. **RESOLUTION 81-07 Accept the conveyance of the Westerly portion of the SE Ruhnke Street Right-of-Way**
9. **RESOLUTION 82-07 Authorization to execute a Disaster Facility Agreement between the City of Stuart and the Martin County Chapter of the American Red Cross for use of the Flagler and/or 10th Street Recreation Centers when not in use by City Emergency Management**
10. **RESOLUTION 83-07 Authorization to execute a Transportation Service Agreement between the School Board of Martin County and the City of Stuart for the use of School Buses by the City Recreation Department**
11. **RESOLUTION 84-07 Authorizing a Budget Amendment to the 2006-2007 annual General fund Operating Budget for appropriation and expenditure of not more than \$527,000 for payoff of the outstanding City of Stuart Revenue Bond 2000, payable to the Bank of America, plus accrued interest**
- 11a. **RESOLUTION 85-07 Authorizing continuing Professional Engineering Services dated October 27, 2003 with Captec Engineering for design and services during the reconstruction of a Portion of SE 10th Street between SE Pine Castle Road and SE Parkway in an amount not to exceed \$39,500.00**

MOTION: COMMISSIONER CHRISTIE: MOVED APPROVAL OF THE CONSENT CALENDAR 1-11A REMOVING ITEM 3 AND READDRESSING IT AS 14A.

SECOND: VICE MAYOR KRAUSKOPF

Mayor Hutchinson had a question on item 7. She noted a trailer in the plans and asked if that was always there.

Kev Freeman stated it was.

ROLL CALL

MAYOR HUTCHINSON	YES	COMMISSIONER CHRISTIE	YES
VICE MAYOR KRAUSKOPF	YES	COMMISSIONER WAXLER	YES
COMMISSIONER MORTELL	YES		

26:23 ~ 6/11/2007 5:55:31 PM

FIRST READING OF ORDINANCES

12. ORDINANCE (First Reading) to consider a voluntary annexation of 0.178 acres of low density, limited business, a small scale FLUM amendment to the City's Comprehensive Plan and B-zoning designation, 702 SE Monterey Road. Jim & Donna Goodman (QUASI JUDICIAL)

Sworn were: Mr. & Mrs. James Goodman, Kev Freeman,

Kev Freeman explained the applicants wish to annex into the City in order to allow B4 limited manufacturing to establish a small screen repair business. Martin County Growth Management has been notified but no written response has been received. This request complies with annexation law and staff recommends approval of the annexation and rezoning.

Attorney Terry McCarthy representing the applicant came forward and stated that Monterey Road is a gateway to the City and ideal for the location of this type of small business.

Applicant Mr. Goodman came forward and explained that he liked dealing with the City and would like to do business in the City and stated his company was small .

Commissioner Waxler questioned a difference in the site plan drawing and stated it appeared to be a larger building then the rendering presented tonight,

Scott Montgomery was sworn in.

Scott Montgomery came forward and explained that rendering was prepared on or about the time of original submittal. He explained the building has been reduced in depth a few feet, and a small entrance feature has been added to the front.

Commissioner Christie asked have the neighboring property owners been notified of what is proposed here.

Attorney McCarthy clarified that the owner of the small parcel to the west had been notified.

MOTION: COMMISSIONER WAXLER: MOVED APPROVAL OF THE ORDINANCE
2111-07 ON FIRST READING

SECOND: COMMISSIONER MORTELL

ROLL CALL:

MAYOR HUTCHINSON	YES	COMMISSIONER CHRISTIE	YES
VICE MAYOR KRAUSKOPF	YES	COMMISSIONER WAXLER	YES
COMMISSIONER MORTELL	YES		

Waxler said this is exactly the kind of building and business Monterey Road should have.

SECOND READING OF ORDINANCES

CONTINUE (SECOND READING) TO MEETING OF JUNE 25, 2007

13. ORDINANCE 2104-07 (Second Reading) to consider a rezoning to Commercial Planned Unit Development, NE corner of NW Federal Highway and Baker Road, Publix (QUASI-JUDICIAL)

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL TO CONTINUE
ORDINANCE 2104-07 TO JUNE 25, 2007

SECOND: COMMISSIONER CHRISTIE
MOTION APPROVED UNANIMOUSLY

42:19 ~ 6/11/2007 6:11:28 PM

COMMISSION ACTION

14. Approval of Ballot Language for the Fluoridation Issue for the November 6, 2007 General Election and direct the City Attorney to prepare the necessary document to place the matter on the ballot

City Attorney Nicoletti presented to the Commission suggestions of a Straw Ballot election. He stated it would provide the City with an indication of public support or not. Fluoridation of the water does not require an Ordinance. He stated the previous decision of the City Commission was made by Resolution, and that was to acquire a grant and to implement the grant. The City staff has done that all but providing the fluoride in the water.

He stated that if the straw ballot vote was yes for fluoride then the utilities division would simply implement that at a date the Commission directed. If the answer was no then you would direct staff through the manager to not implement the program and we would then look to see what impact that had as far as the grant funding. The second option before you is to actually put something in the code that requires fluoridation or not as the case may be. From that standpoint I again propose fairly simple language that says shall the City of Stuart adopt the following Ordinance provision. Then it would recite section 82-37 which is where we would put it.

Commissioner Mortell was under the impression that the straw ballot would be for the City Commission. He stated that if it went to referendum and the public voted yes, that it would still have to come back to the City Commission for an alternate vote because the City Commission pulled the plug on the last thing.

Attorney Nicoletti said a straw ballot would be an indication from voters. It is not binding on the City Commission.

Commissioner Mortell stated that if this was important enough to go before the voters then their answer should be binding.

Mayor Hutchinson agreed with Commissioner Mortell.

Vice Mayor Krauskopf felt strongly that the City Commission is here to make a decision and whatever the language is it should include what were putting in and how much of it we are putting in. He also asked how would the City deal with interconnects, and stated this needs to be given serious consideration. He also noted that the Supervisor of Elections had voiced her preference of putting the issue on the Presidential Primary ballot in January 29th, which would also save the citizens some money.

Waxler said we are not here to rehash this issue and she would abide by the results of the election. She felt a straw ballot would defeat what we are trying to do here and the question should be put to the City voters.

Commissioner Mortell asked if the City Commission voted to rescind the original vote to put fluoride in the water. He

Commissioner Waxler said staff was instructed not to proceed. After much discussion about procedure and implementation, Christie said he did not want to deliberate and did want to move forward. Mortell proposed to change the language in the ordinance to meet the level of US Public Health Service recommendations.

Vice Mayor Krauskopf wanted to know if there is letter from the Florida Public Health Service with a "chain of recommended amounts of fluoride".

Attorney Nicoletti wanted to clarify that the decision has been made to put the issue on the ballot.

Commissioner Mortell suggested the following Ordinance language to:
"The City's potable water system shall be fluoridated at the level determined by the United States Public Health service." Realistically we don't have to say it is hydroflorsilicacid because we are getting that from the United States Public Health Service. We will follow whatever recommendations the US Public Health Service has at any given time, and if they change it next month then we can automatically adjust without having to go through the process.

Attorney Nicoletti stated it was the Florida Department of Health that is recommending 1.2.

Commissioner Mortell I am happy to say the Florida Department of Health. Whatever we are going to hang our hat on, we don't have someone that is going to be doing Fluoride testing and writing reports on fluoride. We are going to be relying on the US or Florida Department of Health.

Attorney Nicoletti clarified the City would indeed be testing constantly to determine the amount. It is the City's intent to be at a lower value.

Mayor Hutchinson suggested the language read the City would not exceed the recommended amount she also stated she did not want the Ordinance written in such a way that it ties the City's hands.

Vice Mayor Krauskopf asked if there was a letter from the Florida Department of Health telling us they have jurisdiction over this matter.

Dave Peters stated the Florida Department of Health has a recommended dosage rate in Florida because of the temperatures, of .8 ml per liter parts per million, that is what they are recommending as a dosage rate.

Pat Arena, Jensen Beach came forward and challenged some of the statements made in the Stuart News and proceeded to reiterate most of the arguments he has previously made to both the City Commission and the County Commission.

Dr. Bowden came forward liked the language suggested by Mortell. He said research is constantly being done and recommended leaving out special mention of the chemical to be used in order to adopt "less confusing language".

Dr. Inga Ford, Health Department Dental Director, agreed with Commissioner Mortell's language and listed the reasons why she strongly supports fluoridation for both children and senior citizens.

Dr. Julie Bjornson was opposed to fluoridation said she would like to participate in writing the language to comply with "product safety and comply with the NFs 60 laws in our state for product certification."

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL THAT WE USE SPECIFIC ORDINANCE LANGUAGE RATHER THEN A STRAW BALLOT AND THAT THAT SPECIFIC ORDINANCE LANGUAGE STATE "THE CITY'S POTABLE WATER SYSTEM SHALL BE FLUORIDATED AT THE OPTIMAL OR LEVEL DETERMINED BY FLORIDA DEPARTMENT HEALTH AT THE SOURCE OF FLUORIDATION.

Attorney Nicoletti stated the following: "THE CITY POTABLE WATER SYSTEM SHALL BE FLUORIDATED AT NOT GREATER THEN THE AMOUNT APPROVED BY THE FLORIDA DEPARTMENT OF HEALTH"

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL OF THE LANGUAGE STATED BY THE CITY ATTORNEY.

Vice Mayor Krauskopf stated that if we are going to put a chemical in there we should let them know specifically what the chemical is.

SECOND: COMMISSIONER WAXLER
ROLL CALL

MAYOR HUTCHINSON	YES	COMMISSIONER CHRISTIE	YES
VICE MAYOR KRAUSKOPF	NO	COMMISSIONER WAXLER	YES
COMMISSIONER MORTELL	YES		

ADDED ITEM 14A:

To consider a proposal to locate two electric billboards on City property North of the Roosevelt Bridge at the Northeast corner of State Road 76 and Monterey Road.

Terry O'Neil came forward and gave a brief presentation regarding the settlement agreement.

Jim Maskas, Vice President, General Manager, Lamar Advertising, came forward and presented a video presentation on Lamar Billboards as well as the benefit to the City and residents.

MOTION: VICE MAYOR KRAUSKOPF: MOVED APPROVAL TO MOVE FORWARD.

Gerald Mehlich, 1937 NW Pinelake Drive came forward and expressed concern over Lamar Advertising's lawsuit pattern within small cities. He quoted statistics regarding these types of billboards and traffic accidents. He urged the City to deny the electronic signs and if they cannot do that he would like for the signs to be placed near the City Commissioners homes and not his.

Molly Mehlich came forward and strongly opposed the electronic billboards. She quoted statistics regarding driving safety from the Department of Motor Vehicles Safety. She asked if Lamar would assume all liability for any accidents and or suits brought against you the City of Stuart that stems from their product. She also asked if they would add the City to their policy and include a hold harmless waiver of segregation agreement for the City. She also entered into the record a letter from Mr. Paul Bullwinkle opposing the billboards.

Francis DuCoin, DMD came forward and expressed concern over the proposal made by Lamar Billboards regarding driving safety and stated that it would be a public hazard.

Clark Gibson came forward on behalf of David Earl representing himself. He requested the City consider a couple of issues that need to be addressed before the City moves forward. He expressed concern over the City's taking of the Billboards from his property and putting it on City's property. He did state that Lamar has agreed to place an electronic billboard on his property.

Commissioner Waxler stated it would be in the best interest of the City not to engage in litigation, not to spend money we don't have in legal fees, and try to reach some sort of compromise. She stated she would rather live with 13 billboards and work on a phase out over a period of time.

Mayor Hutchinson stated she agrees with Commissioner Waxler and feels the City can live with the 13 existing billboards as opposed to the ones proposed.

Vice Mayor Krauskopf felt the agreement brought more good than bad and feels the City could add the proper protection to the agreement. He was not willing to support a vote to encourage a lawsuit after we have already reached an agreement. He supports the billboards on City Property.

Mayor Hutchinson expressed concern over the potential lawsuit by Lamar.

Mayor Hutchinson asked if it would be feasibly possible to redo the settlement agreement.

Attorney Nicoletti stated the City will have to speak with Lamar and their attorneys as to where we are from an agreement standpoint.

MOTION: COMMISSIONER WAXLER: MOVED APPROVAL TO DIRECT THE CITY
ATTORNEY TO ENGAGE IN DISCUSSIONS
WITH LAMAR WITH REGARDS TO AMENDING
THE SETTLEMENT AGREEMENT.

SECOND: COMMISSIONER MORTELL

Mr. Clark Gibson came forward again and asked if the City was going to re negotiate the settlement agreement and stated since he was a party to that suit he asked that his Attorney be contacted so that he can be a part of those negotiations.

Attorney Nicoletti stated the City was never a party to any lawsuit with Lamar and referred Mr. Gibson to Martin County.

Mr. Gibson was a party to the Code violation that resulted in the settlement agreement with Lamar, should have included him as a property owner.

Attorney Nicoletti stated he would look into the notice requirements.

ROLL CALL

MAYOR HUTCHINSON	YES	COMMISSIONER CHRISTIE	YES
VICE MAYOR KRAUSKOPF	NO	COMMISSIONER WAXLER	YES
COMMISSIONER MORTELL	YES		

DISCUSSION & DELIBERATION

15. Follow up discussion of Advisory Boards

Mr. Hudson gave a brief summary of what direction the City Commission suggested moving in regards to the future of all City Advisory Boards.

Commissioner Mortell suggested an appreciation luncheon on the Boat docked behind City Hall upon its return to Stuart.

City Manager Hudson stated it should be returning late October or Early November.

Mayor Hutchinson asked Commissioner Waxler for her comments.

Commissioner Waxler stated she met with the City Manager and expressed appreciation to all the City's Boards and the volunteers. She agrees with Mr. Hudson recommendations. She did suggest that as a Board member resigns the City should have a rotation of Commissions at the pleasure of that Commissioner to appoint that new person. If that Commissioner chooses not to appoint, then it would roll to the next Commissioner.

Commissioner Mortell stated that it might be better to assign Groups 1 through 5 but he expressed concern about how the rotation goes.

Mayor Hutchinson said there is nothing on the books that prohibits commissioners going out to recruit new advisory board members.

Commissioner Waxler would like to have a liaison to keep her appraised.

Commissioner Mortell did not feel detached from the advisory boards.

Vice Mayor Krauskopf wanted to know the objective of this discussion.

Commissioner Waxler stated she felt the City Commission should have a better relationship with the boards.

Vice Mayor Krauskopf said this all came about because of so many Board of Adjustment re-hearings, and the LPA does not have a quorum.

Commissioner Christie would like to see different disciplines represented on the boards.

Attorney Nicoletti addressed ex-parte communication.

Commissioner Mortell stated that we do not have consistent policies or procedures.

Mayor Hutchinson said board members need to know procedures.

Commissioner Waxler said she saw three Commissioners who would like to appoint.

It was agreed there would be no term limits on how long a person could serve on a volunteer board.

Mayor Hutchinson said at some point in time we might look at combining some boards. It was agreed in the case of a 7 member board, 5 members would be appointees and the other 2 would be members at large.

2:31:54 ~ 6/11/2007 8:01:02 PM

16. Review of Public Safety Building Construction Status

Terry Iverson gave a brief presentation to the City Commission regarding the status of the Public Safety Building. He stated the Police & Fire, Fire Rescue staff has been completed. The temporary trailers as well as the existing building have been removed. The phase II site work has begun. Items yet to be addressed are; phase II lighting, irrigation, landscaping, monuments sign and flagpole.

He stated that phase II work should be completed the end of August with irrigation done in September.

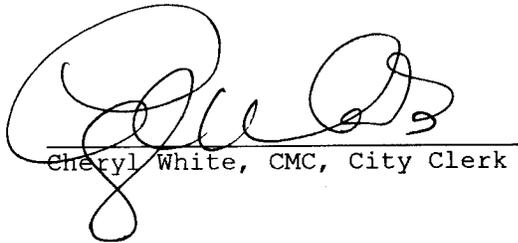
The City Commission walk through is scheduled for 9 a.m. on June 18th 2007.

Commissioner Krauskopf wanted to know how the Commissioners will see the budget with regards to the proposed tax reform issue.

Manager Hudson said the budget hearings are scheduled for July 25 and the review process will not be changed.

2:37:58 ~ 6/11/2007 8:07:04 PM ~ Stop Recording

ADJOURNMENT 8:07 p.m.

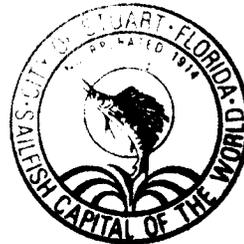


Cheryl White, CMC, City Clerk



Mary L. Hutchinson, Mayor

Minutes approved at the Regular Commission
Meeting this 23rd Day July 2007



Cheryl A. White
City Clerk