

**REGULAR MEETING OF THE STUART CITY COMMISSION
HELD ON FEBRUARY 11, 2008
AT 5:30 P.M. IN THE CITY COMMISSION CHAMBERS
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994**

Roll call was answered by:

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

Also present were:

City Manager: Dan Hudson
City Attorney: Paul J. Nicoletti
City Clerk: Cherie White

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

PRESENTATIONS

A. PROCLAMATION: 2-1-1 Awareness Week February 11-17, 2008

Tara Martin, Community Relations Specialist for 2-1-1 Treasure Coast came forward and graciously accepted the Proclamation and thanked the City.

B. PROCLAMATION: National Engineers Week February 17-23, 2008

Jonatham Murray came forward and graciously accepted the proclamation and thanked the City.

COMMENTS BY CITY COMMISSIONERS

Commissioner Waxler mentioned the wonderful events that happened in Stuart over the past weekend.

Commissioner Hutchinson asked if the Alternative Compliance discussion was still in the works.

Kevin Freeman, Development Director stated that it was and would be heard at a special workshop of the LPA in February or March.

Mayor Krauskopf mentioned that he had received an email from Julie Priest regarding the noise coming from Wahoo's. He asked if the City would look into this issue. He also stated he received a letter from Mayor Thomas White of Vero Beach requesting the City of Stuart

attend the Treasure Coast League of Cities meetings, that will be held the 3rd Wednesday of every month.

Mayor Krauskopf stated he would respond to Mayor White that if there is a specific issue outside of what is already discussed at the Local Council of Governments meeting then the City of Stuart would like to be notified.

Mayor Krauskopf also mentioned receipt of the Green River Parkway alignment, and thought that the City had expressed concerns some time ago regarding protective fencing for wildlife. He requested the City follow-up on that issue.

Mr. Hudson stated he would send a letter over.

Mayor Krauskopf requested a status report for the Carolina Canal Dredging project as well as the Carolina Sewer project.

Mr. Hudson said he would provide a memo.

Mayor Krauskopf also mentioned a letter he received from Ann Knoff regarding the disconnection of City Water Supply. He asked the City Attorney to look at the City's rules as well as the Health Departments regarding this issue.

Mr. Hudson stated he would put together a reply within a week.

Commissioner Mortell expressed concern over the various charges associated with water service and felt the answer should be no to any customer who wishes to disconnect from City Water.

Commissioner Waxler stated the City needs to look at the legal matters associated with that issue.

Attorney Nicoletti stated he would draft something and send it out.

Mayor Krauskopf also requested an update on when the certification will come to us from the Supervisor of Elections for the official results.

Attorney Nicoletti stated the City Clerk would be notified with the official results no later than Tuesday February 19, 2007 of the certified official results. He explained the Ordinance was already in place, and it just had to be approved by the voters, it was so as a consequence its active law within the City, but you have to certify the election results.

Mayor Krauskopf also asked for a memo on the status of the A1A and MLK intersection improvements.

COMMENTS BY CITY MANAGER AND REVIEW OF TENTATIVE AGENDA

Mr. Hudson reminded the City Commission and public of the strategic planning retreat to be held Friday February 15, 2008 beginning at 9:00 am, at Timer Powers Park in Indiantown.

He also mentioned the approval of an MOU with Martin County for the sharing of water from the County to the City and Waste Water Services would be heard tomorrow at 9:30 am.

STAFF REPORT ON COMMENTS FROM PREVIOUS COMMISSION MEETING

- | | |
|--------------------------------|-------------------------|
| • Vilabella Compliance | Magistrate Order 8/9/07 |
| • Fiscal Policy on Investments | Pending |
| • Road Closure of Lake Street | Letter to School Board |

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

Mr. Tom Gill came forward and expressed concern over the city regulating “non-live aboard vessels, and the ordinance is un-enforceable. He also said the definition of “in navigation” is a vessels ability to travel. The City has an ordinance on the books that Mr. Gill would like to see action on. He said with the City mooring being closed down it will be costly for people to move to a marina with costs of \$17 per foot and higher. Mr. Gill offered to assist the City in the control of live aboard vessels.

APPROVAL OF AGENDA

MOTION: COMMISSIONER WAXLER; MOVED APPROVAL OF THE TENTATIVE AGENDA
SECOND: COMMISSIONER CHRISTIE
MOTION APPROVED UNANIMOUSLY

CONSENT CALENDAR

- 1. Request to approve the Minutes from the Regular Commission Meeting of January 28, 2008**
- 2. Request to approve the reappointment of Ms. Martha Mosley and Ms. Deborah Langston to the Stuart Housing Authority**
- 3. *CONTINUE TO THE MEETING OF FEBRUARY 25, 2008* RESOLUTION 161-07 to consider a Major Site Plan, Key’s of Stuart Professional Center (Redo from the September 24, 2007 Commission Meeting)**
- 4. RESOLUTION 07-08 Authorization to execute an agreement between the City of Stuart and Cotleur & Hearing, Inc. to provide Professional Landscape Architectural Services as needed by the City per the hourly rates in the agreement**

5. **RESOLUTION 08-08 Authorization to execute an agreement between the City of Stuart and Natural Balance Design Studio, Inc. to provide Professional Landscape Architectural Services as needed by the City per the hourly rates in the agreement**

6. **RESOLUTION 09-08 Authorizing a budget amendment to the 2007-2008 annual general fund operating budget to appropriate an expenditure of \$35,505.85 to fund the payment of delinquent invoices due to Martin County School District for bus transportation services rendered in prior years**

7. **RESOLUTION 10-08 Requesting the members of the Florida Legislature to support a list of Legislation issues during the 2008 Legislative Session**

8. **RESOLUTION 11-08 Authorization to execute an agreement between the Florida Department of Law Enforcement (FDLE) and the City in conjunction with the voluntary cooperation mutual aid agreement among the member agencies of the child abduction response team**

9. **RESOLUTION 12-08 Authorizing for an amendment and Restatement of principal amortization schedules attached to both its tax increment redevelopment revenue bond, series 2003A and its tax increment redevelopment revenue bond, series 2003B Taxable**

10. **RESOLUTION 13-08 Authorization to execute modification number 5 to CDBG Disaster Grant Agreement between the Department of Community Affairs and City of Stuart**

MOTION: COMMISSIONER WAXLER: MOVED APPROVAL OF THE CONSENT AGENDA
 SECOND: COMMISSIONER HUTCHINSON

ROLL CALL

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

END OF CONSENT CALENDAR

ORDINANCES FIRST READING

11. **ORDINANCE No. 2149-08 (First Reading) Approving a Major Amendment to the Commercial Planned Unit Development to establish the "Pointe at Jensen Beach" Commercial Planned Unit Development a retail commercial development, property located on the SE corner of N. Federal Hwy. and NW Windemere Drive (Quasi-Judicial)**

The Commission disclosed ex party communications with the applicant and their representatives.

Sworn :

Mark Mathes

Matt Yates

Barbara Lander

Alan Sakowitz

Robert Sherman

Milton Blankenship

Howard DeCosta

Steve Marquart

Susan O'Rourke

Kevin Freeman gave a brief presentation regarding the proposed project. He stated there have been a number of meetings with the applicant and staff. He explained that a number of issues were resolved and a number of issues also were raised. He stated the applicant has now mitigated onsite and the upland preserve is now onsite.

Mark Mathes of Lucido & Associates said the full development team and the developers were in attendance to answer any questions from the Commission. Mr. Mathes explained that the Pineapple Plantation, HOA, has not yet signed the agreement with the applicant because the HOA wants the new signal installed at the entrance to Windemere and US 1 prior to CO of the proposed project. The applicant expressed concern over this requirement because he did not want to be delayed on his CO due to delays out of his control by the State.

Steve Marquart Captec Engineering came forward and stated that the time needed for the traffic signal is 6-12 Months for the engineering of the traffic signal, then 6-12 months for the facility to be in place. Total of 18 months is needed for the signal project.

Milton Blankenship homeowner in Pineapple Plantation
Howard De Costa came forward and expressed concern

Robert Sherman came forward and explained the proposed project and their cooperation with the request of the adjacent neighbors.

Deborah Ross Pineapple Plantation POA Representative came forward and an agreement was signed between both parties stating the signal would be operational prior to final CO. She requested that a condition be added to require safety at that intersection if the shopping center opens before the signal is operational.

Milton Blankenship came forward and expressed concern over the proposed project and its issuance of a final CO prior to the installation of a signal at that intersection.

Howard DeCosta also expressed the same concern as Mr. Blankenship. He requested the condition as to the time frame for the installation of the signal, be added back in. He also requested that a condition be added that if one condition is violated then the permit would be pulled. "In addition, we have incurred legal fees above and beyond what we are budget for and we would like to see some reimbursement for this. We are struggling now with a legacy from a former developer."

Commissioner Mortell stated that there could be some delays by FDOT.

Mark Mathes explained that the language in the 18 -month condition, is that we have the right to request one extension due to items that are not under our control. So if something that would come up not under our control we would request an extension. He further explained that the applicant has moved the bus stop for the children three block in and could see no concerns with the safety of the children with people accessing US 1 and Windemere without the signal. He stated the applicant will commit to the moving of the bus stop prior to the opening of the shopping center.

Barbara Lander, Attorney for the Developer stated that they feel the signal and the development would move concurrently but the applicant felt that it was unfair to hold up any issuance of a CO to the applicant for something that is not in his control.

Commissioner Hutchinson mentioned a letter in the file from Cheryl Miller dated September 14th regarding the use of the name "Pointe at Jensen Beach" and requested the applicant address that issue. .

Mark Mathes stated he would go on the record with an alternative name of " Northpoint at Stuart". The issue was the use of another jurisdictions name within the City of Stuart.

Attorney Nicoletti also requested that the PUD name be amended to read Northpoint at Stuart prior to adoption.

Commissioner Hutchinson noted some of the conditions reference the agreement, but there is no condition

Commissioner Mortell said terms of the agreement should be included in the development order.

Mark Mathes requested approval with the Commission consider a phasing installation or a temporary CO.

Commissioner Hutchinson stated she insist the traffic signal be operating before the shopping center is opened.

Kev Freeman stated the City understands the need for the signal both for the City and the local community there, and the communities needs of the signal but also understand the issues that the developer is facing in programming this into their schedule with outside forces.

Commissioner Waxler complimented the developer for addressing the commissioners issues regarding the mitigation, and she understood the time constraints, but it is important to have the signalization in place before the project opens.

Commissioner Mortell thought the residents would rather see no development there at all but he understood the developer has the right to have an entry there. He also agreed with Waxler and Hutchinson and noted the developer could still get his leases signed.

Commissioner Christie commended the developer and POA for listening to the Board's concerns but he is on the record as saying the project depends on the light being installed at Windemere and US1.

Robert Sherman came forward to suggest another option of not opening the access road at Windemere until the signal is fully functional. He said that in the agreement with the POA, they are taking the responsibility of taking on the work of relocating the bus station. IT would be on their property and their obligation. If they choose not to do that until 18 months even when the light opens, that still could be there in that case. We have worked long and hard on this issue. We are paying for that. I hear your concerns and I think that might be a hopeful happy compromise. I do not want to be pegged to an obligation of the light but the access to Windemere would be pegged to that light.

Commissioner Mortell asked for clarification, the project traffic engineer said access points had been addressed with FDOT and there is an option where the developer could have a percentage of COs without the traffic signal at Windemere.

Traffic Engineer Susan O'Rourke came forward and felt that concurrency can be met, and suggested adding a condition of development that the connection to Windemere not be operational but the development would still have two access points.

Mayor Krauskopf said we need to be crystal clear on what we are doing and phasing leave a situation that is not crystal clear. He said the Commission wants the traffic signal operating when the project opens.

Mortell move approval of the first reading of Ordinance 2149-08 upon conditions being met and requiring the traffic signal before they move in. The motion also required that the correct name appear on the PUD. Waxler seconded. Mathes said if this creates a financial burden and we cannot move forward then there will not be a signal. The vote was called and Mortell's motion passed 5-0. The second reading on this ordinance will be heard on February 25. Krauskopf said it is important to bring the Vista piece back to see who has responsibility for what. The Board agreed a memo on the issue would suffice.

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL OF ORDINANCE 2149-08 ON FIRST READING CONDITIONED UPON THE AGREEMENT BEING DELINIATED BETWEEN FIRST AND SECOND READING INTO THE ACTUAL CONDITIONS OF DEVELOPMENT RATHER THEN JUST REFERENCE TO AGREEMENT AS WELL AS THE CONDITION RELATED TO THE LIGHT BE EIGHTEEN MONTHES OR CO WHICHEVER IS

SOONER AND THE CORRECT NAME OF THE PROJECT BE INCLUDED IN THE PUD.

SECOND: COMMISSIONER WAXLER

Mark Mathes asked if this included anything that is outside of our control and we are 60 days away from having an operational signal, does that mean the City is unwilling to provide a temporary CO because they have a blanket condition that states, you shall not open if....

Attorney Nicoletti explained that the CO will be issued at the direction of the building official.

ROLL CALL

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

12. ORDINANCE 2151-08 (First Reading) Request to establish procedures and requirements for Traffic Calming and Traffic Control Devices in certain circumstances

MOTION: COMMISSIONER HUTCHINSON: MOVED APPROVAL OF ORDINANCE 2151-08 ON FIRST READING

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

13. ORDINANCE 2152-08 (First Reading) Approving the rezoning of an 8.88 acre parcel of land from Public (P) and B-1 (Business) to Residential Planned Unit Development (R-PUD), property located approximately at S. Dixie Hwy. and East 14th Street. Providing for approval of a Master Development Plan entitle “El Dorado Park PUD”. Amending the City’s Comprehensive Plan to change the land use of a 3.33 acre portion of the site from Public (P) to low density residential (LDR), an .82 acre portion of the site from Public (P) to Multi-Family Residential (MFR), a .12 acre portion of the site from Public Institutional (PI) to Low Density Residential (LDR), a .1 acre portion of the site from Public Institutional to Recreation (R) and a .35 acre portion of the site from Commercial (COM) to Recreation (R)

Terry O’Neil was sworn and gave a brief presentation to the City Commission and Public regarding the proposed project.

Mr. O'Neil stated the proposed project consist of a 15 single family homes and 9 unit Townhomes. He stated that he would be asking the Commission to consider an Ordinance including a PUD Master Plan as well as a series of Land Use Changes for the entire plan.

Paul Grosso came forward, and expressed concern over the future of the economy and budget restrictions for the City. The residents expressed concern to him as to how it may affect the proposed project. He also appreciated the open communication that this project has created between the City and the neighborhood and would like to continue that for a long time.

Robert Downey came forward and expressed concern over the Land Use Change and the proposed project, and showed the Commission a picture of a sign posted on the property listing the property as a park

Eula Robinson Clarke came forward and requested the City look at original deed from the original owner who donated the land. She also suggested looking at some type of small neighborhood plan South of 10th Street and the 14th Street area.

Frank Pittman, 827 SE 14TH Street came forward and requested that the property be dedicated as a park.

Jacqueline Dicarlo 875 E 14th Street came forward and requested a comprehensive plan of the area. She expressed concern over the proposed Townhomes and said it was not the look and density of the neighborhood. She stated "We still are in strong disagreement with that because; you are taking the smallest lot sizes and building houses on it. In that process we are really looking to you to do a master plan."

Tom Gill came forward and asked the City to speak with the community leaders of East Stuart and discuss what their visions are for that property.

Helen McBride came forward and expressed concern over the airport runway issues as well as the funding needed for the proposed project.

Vice Mayor Christie thanked everyone for working together. He felt the proposed project was a good project. He felt affordable housing was greatly needed.

Commissioner Waxler stated she could not support the project. She also did not know the future of how the property tax amendment will affect the expenses for the project. She stated she would not support the project.

Commissioner Mortell said the City should approve or disapprove the project.

Commissioner Hutchinson stated she was torn on what to do.

Mayor Krauskopf thanked Terry O'Neil for his work on the project and stated he would not support the project without a revenue stream.

Vice Mayor Christie mentioned the new formation of the East Stuart Main Street Program and invited all the neighbors to join them. He also stated that he will always fight for affordable housing. He expressed concern that there will be no future of affordable housing.

Commissioner Hutchinson stated that she did not know the answer to affordable housing.

Vice Mayor Christie said we are talking about 15 new homes and 15 new families for them to experience what I experienced over 40 years ago, and I sure what you have experienced and some of you that are against it have experienced.

Commissioner Mortell: I have to tell you, I will have to vote yes.

MOTION: VICE MAYOR CHRISTIE: MOVED APPROVAL OF ORDINANCE 2152-08 ON FIRST READING TO CONTINUE THIS PROCESS AND APPROVE THE REZONING OF THOSE 8 ACRES FOR WORKFORCE HOUSING.

SECOND: COMMISSIONER MORTELL : BUT IN THE EVENT IT DOES NOT PASS I WOULD LIKE TO RESERVE THE RIGHT TO MOVE THAT WE DENY IT AND PUT IT TO BED AS WELL.

ROLL CALL

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

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL TO DENY THE APPLICATION.

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

Commissioner Mortell announced that by moving this item for denial we can't move for a land use change on that property for any purpose for two years so this entire matter is over.

14. ORDINANCE No. 2153-08 to approve a major amendment to the Pineapple Commons Commercial Planned Unit Development Agreement. Located at 2511 N. Federal Highway, Colonial Bank

Sworn
Daniel Fee

Pinal Gandhi-Savdas Sr. Planner gave a brief presentation to the Commission and public regarding the proposed project.

Daniel Fee came forward and gave a brief presentation regarding the proposed project. He stated that the original project proposed was a 6000 sq foot restaurant and is now a 2700 sq foot bank.

MOTION: COMMISSIONER HUTCHINSON: MOVED APPROVAL OF ORDINANCE 2153-08
ON FIRST READING

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

ORDINANCES SECOND READING

15. ORDINANCE No. 2150-08 Second Reading) Amending the Emergency Purchasing Authority of the City Manager providing for conflicts, providing a severability clause, providing for codification (Quasi-Judicial)

MOTION: COMMISSIONER HUTCHINSON: MOVED APPROVAL OF ORDINANCE 2150-08
ON FIRST READING

SECOND: VICE MAYOR CHRISTIE

ROLL CALL

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

DISCUSSION & DELIBERATION

16. Discussion of a proposed Ordinance of the City of Stuart amending the City Code at Chapter 6, Alcoholic Beverages, by adding an Article II, Entitled "Nightclubs and Bars"

City Attorney Nicoletti explained that the Commission thought the conditions of the original proposed ordinance were more stringent and hard to enforce. He said 90 businesses within the City have alcoholic beverage licenses. 30 would meet the requirements of the re-draft the purpose of which is to enhance safety and avoid the detrimental effects of alcohol use. Nicoletti said this would apply to nightclubs and bottle clubs and would address illumination of parking lots and the inside of buildings, It provides for out side assembly areas. The idea of courtyards and open air dining

areas dance areas, it provides for that. It also provides for occupancy loading based primarily on the building footprint not the outside courts. You can spread the occupancy out over the outside area, but the load is based on the building itself. Occupancy loads and dance floor and entertainment areas. It would require inspections at all reasonable times. No transfers of ownership of the business without notice to the City would be permitted. It also provides for security of staff and patrons, one security person for 50 patrons. It also provides for a regulatory license.

Commissioner Hutchinson stated that the City needs to do something but she had concerns about how we “discern the difference in use from various establishments”. She suggested that the only thing she can see as different is the hours of operation.

Mayor Krauskopf said this came up and really got to me was the change of use. What you see a building that its current operation appears right for the manner in which it is licensed, and currently used. Let’s say that the use changes and a more intense use comes in. You are regulating that facility for that use to find out whether the life safety code is proper, the lighting. One of my concerns has always been the assembly and the ability for people to get out exits. He suggested adding language into the Ordinance regarding pyrotechnics.

Commissioner Hutchinson suggested looking at the hours of operation because that would make a difference.

Attorney Nicoletti referred to it as “time, place and matter”. Time is what you are talking about, the hours of operation. How do you distinguish a Wendy’s, at just over 3000 square feet and Ashley’s which operates as a restaurant during the day and a nightclub at night. He agreed with Commissioner Hutchinson’s suggestion, and that is about the hours of operation. He felt that feature should be considered.

Christie asked what if the operation changed for example, a Wendy’s closes and some other use comes in that is a restaurant a 2- COP, can that restaurant operate in there?

Attorney Nicoletti stated it could.

Commissioner Waxler suggested finding out what type of liquor license the establishments have within the City.

Mayor Krauskopf stated his main concern with this is the “life safety code, lighting, noise buffering, exits, loading and the use of pyrotechnics in mass assembly area.”

Attorney Nicoletti said the implementation for existing businesses we are still looking at not doing that until October 1, 2008.

ADJOURNMENT:8:46 pm

ATTEST:

Cheryl White, CMC, City Clerk

Jeffrey Krauskopf, Mayor

**Minutes approved at the Regular Commission
Meeting This 10th Day March 2008**