

**REGULAR MEETING OF THE STUART CITY COMMISSION
HELD ON MARCH 24, 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: PROCLAIMING THE MONTH OF APRIL AS ENVIRONMENTAL STUDIES AWARENESS MONTH, Patty Henderson, Council President

Adrienne of the Martin County Environmental Studies Center came forward and graciously accepted the proclamation and thanked the Commission.

B. PROCLAMATION; PROCLAIMING THE MONTH OF APRIL AS WATER CONSERVATION MONTH, Sam Amerson

Karen Smith, South Florida Water Management District came forward and graciously accepted the proclamation and thanked the Commission.

C. PROCLAMATION: PROCLAIMING APRIL 6, 2008 AS PARENTS AND CHILDREN'S DAY, Nancy Kline, Executive Director

Nancy Kline and Patsey Houston came forward and graciously accepted the proclamation and thanked the Commission.

D. PROCLAMATION: PROCLAIMING THE WEEK OF APRIL 13-19, 2008 AS PUBLIC SAFETY TELECOMMUNICATORS WEEK, Melani Forsythe, Representative

Melani Forsythe came forward and graciously accepted the award and thanked the Commission.

E. Employee Service Recognition

Natalie Ann Taylor, Police Department, 5 Years

Natalie Ann Taylor was unable to attend but Chief Morley graciously accepted the award and thanked the Commission.

F. Employee of the Month:

Mercedes Pantoja - Public Works Department

Mercedes Pantoja came forward and graciously accepted the award and thanked the City Commission.

COMMENTS BY CITY COMMISSIONERS

Commissioner Hutchinson announced the National Judges for the Stuart in Bloom contest would be arriving in Stuart on April 27-30. She encouraged all residents to participate in the event by sprucing up their yards.

Vice Mayor Christie stated he attended his first Treasure Coast Regional Planning Council Meeting and stated he would provide feedback to the Planning Council about what the City may be looking for. He also announced he will be reading stories to children at the Gertrude Walden Day Care Center the week of April 13-19, 2008 and he encouraged his fellow Commissioners to do the same.

The Commission stated they too have signed up to read a story to children.

Commissioner Mortell noted a proposal he received relating to the Fountains Gateway. He stated he did not want to spend a lot of time on it and it was not what he had in mind. He encouraged the Commission to discuss this with staff.

Mayor Krauskopf mentioned the following items.

He received negative comments regarding the valet parking and was unsure if it was an isolated incident, but requested a report back at the next meeting.

He asked Dave Peters to put together some info on the Green Building and Environmental issues that the City is addressing on an ongoing basis.

He also noticed some request for timetable extensions and the Commission said they would review those on a case by case basis. He asked if there is a proper charge for the review of the extensions and asked staff to look at those items that are worthy.

COMMENTS BY CITY MANAGER AND REVIEW OF TENTATIVE AGENDA

City Manager Hudson noted the following pending items status:

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 |

Vilabella Compliance : In compliance temporarily but e are working out a permanent solution.

Fiscal Policy on Investments: He also stated they would be moving forward on the fiscal policy and finishing it out.

Road Closure of Lake Street: No further activity and he would contact the School Board to reach a conclusion.

Mr. Hudson also noted the Site plan review is scheduled for April 14, 2008 for the Southpoint Anchorage. He mentioned that he had heard some overall concerns regarding the project and discuss the matters with the Sr. Management of the FIND. He stated he would provide a copy of the letter being sent to FIND outlining the City's strategy for the overall project. Mr. Hudson notified the Commission of a FIND grant application submittal made by the City and assured them it would be brought forward to them at a later date. He also requested the Commission schedule a workshop for Mid Year Budget review as well as Utility Rates discussion.

The Commission agreed to schedule a special meeting for April 22, 2008 at 9:00 a.m.

City Manager Hudson noted the following corrections or additions to the agenda:

Item #3: Penn Plaza should be labeled as a Minor Amendment.

Item #7 : Remove from Consent and labeled as 9a it as an Ordinance and will be 1st Reading.

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

Valerie Jones came forward and expressed concern over the proposed Southpoint Anchorage lease and development of the site.

APPROVAL OF AGENDA

MOTION: VICE MAYOR CHRISTIE; MOVED APPROVAL OF THE TENTATIVE AGENDA AS AMENDED

SECOND: COMMISSIONER MORTELL

MOTION APPROVED UNANIMOUSLY

CONSENT CALENDAR

1. Request to approve the Minutes from the Regular Commission Meetings of February 25 and March 10, 2008
2. Reappointment by Mayor Krauskopf of Bernard Malone to the Housing Authority Board
3. RESOLUTION 21-08 Authorization to approve a Major Amendment to the Commercial Planned Units Development (CPUD), property located at 1180 SE Monterey Road Extension amending development documents and timetable of development found within Ord. 2078-06
4. RESOLUTION 26-08 Urging that Congress appropriate \$20 million to begin construction of the Indian River Lagoon South component of the comprehensive Everglades Restoration Plan for fiscal year 2009
5. RESOLUTION 27-08 Authorizing a temporary 10% water rate surcharge effective April 1, 2008 through September 30, 2008
6. RESOLUTION 28-08 Authorizing the City Manager to execute a Settlement Agreement between the City and First South Properties USA, Inc. stemming from an appeal of a variance subsequently denied by the City Commission
7. RESOLUTION 29-08 Authorizing approval of a Major Amendment to the Residential Planned Unit Development (RPUD) on the property located on the NW corner of SE Indian Street and SE Aster Lane for an approval of a master site plan providing conditions for development and to establish the "Allegro at Willoughby Residential Planned Unit Development" an adult assisted living facility

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL OF THE CONSENT AGENDA ITEMS 1,2,4,6

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

5. RESOLUTION 27-08 Authorizing a temporary 10% water rate surcharge effective April 1, 2008 through September 30, 2008

Item 5 was heard at this time

Armond Pasquale came forward and expressed concern over the proposed Resolution. He said the residents are being penalized for saving water.

Commissioner Waxler explained the Bonds covenants the City is bound by and explained this is a temporary situation and will meet in the future to discuss the situation further.

Commissioner Mortell stated he would not be supporting this.

John Hosang came forward and asked if the increase was water only or would it increase the sewer as well. He also expressed concern over any increase.

The Commission stated water only.

MOTION: COMMISSIONER WAXLER: MORTELL: MOVED APPROVAL OF THE
RESOLUTION 27-08

SECOND: COMMISSIONER HUTCHINSON

ROLL CALL

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

3. RESOLUTION 21-08 Authorization to approve a Major Amendment to the Commercial Planned Units Development (CPUD), property located at 1180 SE Monterey Road Extension amending development documents and timetable of development found within Ord. 2078-06

Commissioner Waxler stated she would oppose the Resolution unless it was a 1 year timetable extension.

Commissioner Hutchinson also stated she understood the two issues would be divided up, one the timetable extension and , the off site mitigation issue.

Attorney Terry McCarthy stated his client would not be opposed to addressing them separately. He stated the most important issue for the applicant was the phasing and the extension of time. I would suggest to the Commission that this is not a zoning future.

Mayor Krauskopf explained to Attorney McCarthy that it appeared there was support for a 1 year extension.

Commissioner Hutchinson stated she did not support the off site mitigation.

Commissioner Waxler stated she would like to see that issue come back as a separate issue all together.

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL OF THE RESOLUTION 21-08
AS PRESENTED.

MOTION: COMMISSIONER WAXLER: MORTELL: MOVED APPROVAL OF THE RESOLUTION 21-08 CHANGING TWO YEARS TO ONE AND ALSO SEPERATING OUT THE MITIGATION ISSUE SO THE MITIGATION ISSUE COMES BACK TO THE COMMISSION SO WE KNOW WHAT IT IS WE ARE ADDRESSING.

SECOND: VICE MAYOR CHRISTIE

There was some discussion regarding the contribution of funds for the mitigation and the Development Director Kev Freeman stated that the amount was incorrect in the packet and should be \$29,980.00.

Mr. Desantis, : "Please don't make me come back to another meeting because the interest rate is running and there is no way that I can pay that interest if I don't get an opportunity to rent the buildings that are fully improved on your property. I did what I said I was going to do. The question is, is the building in the front. The building in the front we have not been able to secure one tenant, in a year and a half of solicitation, so I am asking that we do phase I , and if Commissioner Waxler feels that one year is what she can support, then I will support that. I will try and do my best, and If I can't get it rented then I will be back. The second part of the discussion was an opportunity for both me and opportunity a win win for me, and a win for the City. A win for me because it tales a nature preserve the City requires and I can potentially store things on that property. In return I doubled the size of the preserve in the back, but I suggested that was not necessarily a good use of the money. There are plenty of places in the City of Stuart, competition and so on. There is plenty of places in the City of Stuart that can be approved, instead of sticking it in the back where nobody can see it. What I have offered is to say look I will give you a check or I will have my landscaping people put it the landscaping, wherever you want it in the City, to make it look better. Those are two separate items that I request, that you try to deal with both of them if possible, only because the clock is running and the interest rates are running."

Mayor Krauksopf asked if there was any objection by the Commission for a CO for the building that is already complete.

There was no objection.

Attorney Nicoletti asked to clarify the motion and asked if the motion includes; He stated that the motion holds off on condition number 4 , which ids the mitigation piece and if your motion is subject to any reasonable resolution of the mitigation, then you should be fine.

MOTION: COMMISSIONER WAXLER: : AMENDED HER MOTION ACCORDINGLY.

AMEND SECOND: VICE MAYOR CHRISTIE

ROLL CALL

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

END OF CONSENT CALENDAR

RESOLUTIONS:

8. RESOLUTION 25-08 Authorization to approve a Special Exception use under the City's Land Development Code allowing the subdivision of property in an R1-A zoning district to create a 'Cottage Lot' on the property located at 311 SE Cardinal Avenue creating development conditions compliant with Ord. 2146-07 'Cottage Lots and Ord. 2091-06 'Historic Preservation

Attorney Nicoletti gave a brief presentation to the Commission and Public regarding the item and how the hearing will be conducted.

Mayor Krauskopf passed along a packet of material including objections to the proposed project. He presented them to the City Clerk.

Kev Freeman gave a brief presentation regarding the City's position to the proposed project. He explained this is the break up of what is essentially 3 lots with the historic 1925 Evans Cray homestead located on the middle lot. The owner submitted a petition for demolition of the home (which was granted) but to avoid that he has now applied for a special exception.

Attorney Avron Rifkin suggested a minor revision of Paragraph 4 of the Resolution to state the applicant can donate the house free and clear to the City provided if the City accepts the donation, the condition of Paragraph 4 will be removed. Assuming the City Commission approves the exception and the building is subsequently demolished because of age, the petitioner is locked into that lot. The house could be moved depending on its condition.

Attorney Beile came forward representing the Interveners' she stated that the Commission is being asked to create a non-conforming lot. She addressed the language of the Cottage Lot ordinance stated it does not apply to R1A zoning and the 10 criteria's required had not been met. She also said this could set a precedent and asked her clients to come forward to give their reasons why this request should not be approved.

Joan Schmidt came forward said the residents do not think there is enough historic relevance of the subject property to destroy the neighborhood. She presented into evidence pictures showing signs on property and dock lot across the street stating the properties are the ones being discussed tonight, and for sale by Chase Investment Properties, LLC.

Chris Schmidt came forward and said he had to pay to buy additional land to conform to build his house.

Attorney Nicoletti marked the photos presented to the City as exhibits 1 & 2.

Attorney Rifkin asked Mr. Schmidt when he purchased the additional land and from whom?

Mr. Schmidt stated three different families purchased the land two years ago and it was sold by Lanny Chase.

Attorney Rifkin presented a subdivision map of the neighborhood to the City.

It was noted the houses along the waterfront used to be small cottages but have now grown into much larger homes.

Commissioner Hutchinson explained the reason for the Cottage Ordinance and said it is "not the evil thing being portrayed".

Attorney Nicoletti marked the photos presented to the City as exhibits 1 & 2.

Mary Madden, 324 Cardinal Way and stated she would prefer the existing house remain and a smaller lot be allowed to build a smaller home.

Ryan Strom, 335 SE Cardinal Way came forward and expressed concern that the City could allow this project and would set precedence for other applicants to come forward.

Patty Smail, 200 SE Dunscombe Road, came forward and expressed concern over the demolition of the historic home on the property.

Arthur Earnhardt, 320 Egret Place came forward and thanked the late City Attorney Carl Coffin for his hard work to preserve some of the zoning in the neighborhood. He stated the recent approval for a variance in the neighborhood for a dock was a victory. He felt that every one has the right to develop their property within the zoning law. "The Cresinin's have been building without City Hall approval for years. They have built a room addition which straddles the property line on the South and violates the setback requirements on the South and West Side. In addition the room was built without a permit and not up to code. It was attached and built on a non conforming garage and living area that was built illegally by the previous owner. According to our statutes and the room addition that it is now attached to and loses any grandfathering that might have been enjoyed to begin with. For them, now to say, that it would lower property values, to a structure built seven feet from a side property line and twenty feet from a rear property line sounds a little like a disingenuous argument. He suggested the applicant resubmit the application under a zoning issue as opposed to the cottage lot amendment, which I feel does not serve the purpose of the community.

Commissioner Hutchinson gave a brief history of the cottage lot Ordinance and how it began.

Attorney Nicoletti clarified some of the issues and said this is not a rezoning but takes into consideration cottage lot standards and not zoning. He added that this is not “precedential” as each request has to be judged on its merits.

Commissioner Mortell asked if a cottage lot is an example being offered,

Attorney Nicoletti said as a condition of development anything built would have to comply with these standards.

Commissioner Mortell asked if the City was looking at preservation alternatives.

Commissioner Hutchinson said there are “a lot of moving parts” and she is judging her decision on what has been put before the Board. She did not feel this meets the standards that she has to look at.

Commissioner Waxler said she supports the saving of historic homes. She was surprised by the opposition and she is a proponent of straight zoning, but there are laws on the books and from a legal standpoint the petitioner has not demonstrated meeting the standards of the exception rules # 4, 9 and 10.

Vice Mayor Christie said we have worked hard to give people with small lots relief but he has not heard of plans for this piece of property and is concerned what is going to be there.

Mayor Krauskopf looked at the arguments made on the original plat and comments on zoning and future land use. He said this is the sixth time this neighborhood has come up and said uphold the zoning. He explained that Mr.Chase knew what the property was zoned when he purchased it. He said apart from the historical aspect of it, why don't you pick the house up and move it over on one lot and let it be there. That is an option. The City has made it's commitment to historical preservation. We have identified an area to receive homes. We have funded the infrastructure to receive homes. If you feel that you don't want to raise the structure, and you truly have a commitment to preserving the historical structure, pay Brownie to have him move it and we will have a site to receive it.

Mayor Krauskopf added that he feels this project does not meet the criteria.

MOTION: COMMISSIONER HUTCHINSON: MOVED APPROVAL TO DENY THE REQUEST BASED ON IT DOES NOT MEET THE FOLLOWING STANDARDS FOR SPECIAL EXCEPTIONS AND URBAN CODE EXCEPTIONS; 4, 9 AND #10.

SECOND: COMMISSIONER WAXLER

Christie said if we don't move the building and it is demolished and gone, we create two lots with two houses and continue to lose part of our history. Nicoletti said this is not a zoning change or variance request and denying the petition would trigger appellant rights.

ROLL CALL

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

ORDINANCES FIRST READING

9 ORDINANCE 2156-08 (First Reading) Proposed Amendment to the City Code of Ordinances, Article XI Building Maintenance Code, Sections 18-301 through 18-312(Quasi-Judicial)

Commissioner Hutchinson asked about page number five on portables. She asked if they were only allowed in R-1 or R-2?

Attorney Nicoletti stated they are allowed in any residential district but are limited in R-1 and R-2.

Commissioner Hutchinson noted page (8), Boat was crossed out and watercraft was left in?

Attorney Nicoletti explained that vessel was a new preferred word. He noted the word watercraft would be crossed out and the word vessel would be replaced.

Commissioner Hutchinson noted page (9) states the length of time the pods can stay and asked if there would be extensions granted for disaster situations.

Attorney Nicoletti stated the City Commission could suspend that, if there was a problem.

MOTION: COMMISSIONER WAXLER: MOVED APPROVAL ON ORDINANCE 2156-08 ON FIRST READING

SECOND: COMMISSIONER MORTELL

ROLL CALL

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

Item 7 now 9A +was heard at this time:
This item was changed to an Ordinance 2157-08

9a ~~7. RESOLUTION 29-08~~ ORDINANCE 2157-08 Authorizing approval of a Major Amendment to the Residential Planned Unit Development (RPUD) on the property located on the NW corner of SE Indian Street and

SE Aster Lane for an approval of a master site plan providing conditions for development and to establish the “Allegro at Willoughby Residential Planned Unit Development” an adult assisted living facility

Sworn were:

Mike McCarty, Land Design South
David Kirkland, Hallmark Holdings
Steve Marguart ,Captec Engineering
Attorney Terry McCarthy, applicant representative

Kevin Freeman gave a brief summary of the proposed project . He stated the proposal was for the 9.9 acre site on the NW corner of SE Indian Street and SE Aster Lane. The zoning is RPUD and land use is multi-family residential with a density of approximately 18.96 DU/Acre. Staff reviewed the “unique” master site layout and said the project is considered compatible and in compliance with the Comp Plan.

Attorney Terry McCarthy said this site plan incorporates three concepts of assisted living and is site specific to the City of Stuart. This is a rental facility for independent living to assisted living to memory impaired.

David Kirkland came forward and explained the unique site plan and said residents of the facility would come in at 80 years or older and this concept “allows for aging in place”.

MOTION: VICE MAYOR CHRISTIE: MOVED APPROVAL ON ORDINANCE 2157-08 ON FIRST READING

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

Commissioner Hutchinson thanked the applicant for coming in with a project that exceeds requirements. Commissioner Waxler agreed. Vice Mayor Christie said the location is unique because of what it offers.

Mayor Krauskopf asked about one sized electric and water meters,

Mr. Kirkland said water and electric would be included in rental fees.

Mayor Krauskopf requested that the drainage and lighting be kept on their side.

The applicant stated they would.

Kevin Freeman stated that information would be included in a final site plan prior to March 30, 2009.

ORDINANCES SECOND READING

10. ORDINANCE 2154-08 (Second Reading) Amending the Code of Ordinances at Chapter 2, Administration by amending various provisions of Article V, Code Compliance to implement comprehensive amendments and additional regulations regarding implementation of State Law. Definitions, Magistrate appointments and powers, duties of the City Attorney, fines and costs, liens and lien rights, summary and other procedures, formal procedures, appeals and contempt proceedings; providing for repeal of conflicting ordinances (Quasi-Judicial)

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL ON ORDINANCE 2154-08 ON FIRST READING

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

11. ORDINANCE 2155-08 (Second Reading) Relating to Residential Docks and Seawalls, amending Chapter 18 Buildings and Building regulations of the City of Stuart Code of Ordinances by amending Article VIII, Seawalls, Bulkheads and Marine Construction to provide for recognition of riparian rights, the prior requirement of State Permits (Quasi-Judicial)

Commissioner Hutchinson noted that throughout the ordinance references are made to “building permit” and “marine construction”.

Staff agreed to conform the language would be “construction permit”.

Commissioner Hutchinson also noted some numbering and lettering were not quite consistent and future dock was not specified.

Attorney Nicoletti suggested striking the word “existing”.

Commissioner Hutchinson said we do not have language for commercial docks that are not marinas, such as the dock behind Willie Gary’s building.

Commissioner Mortell noted that type of dock can only have two boats.

Dan Bogan, Assistant Development Director said the issue does not appear in the current code.

Attorney Nicoletti said we will have to add a section.

Commissioner Hutchinson questioned "pier use for docking".

Attorney Nicoletti said the definition has to strike "mooring vessels".

Commissioner Hutchinson suggested making the changes and reviewing the Ordinance for accuracy and bring it back for second reading again.

Commissioner Mortell also had a question on "50% of existing structure".

Attorney Nicoletti said that really is "prior structure".

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL TO CONTINUE ORDINANCE 2155-08 TO APRIL 14, 2008.

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

DISCUSSION & DELIBERATION

12. Discussion of Resolution 32-07 (rescinded) approving a license agreement with Lamar Advertising to locate electronic monopole billboards on City properties north of the Roosevelt Bridge and at the northeast corner of SR-76 and Monterey Road (7-Eleven)

Mayor Krauskopf had requested adding this item to the agenda for discussion by the Commission.

After discussion by the Commission regarding the Lamar settlement agreement, the Commission directed the City Attorney to negotiate an amendment to the agreement that would allow the City to lease a space at the City owned land at the corner of Monterey and Kanner Hwy, 7-11 site to Lamar to erect 1 digital billboard only, and allow them to keep 7 wood existing billboard signs.

ADJOURNMENT 9:50 P.M.

ATTEST:

Cheryl White, CMC, City Clerk

Jeffrey Krauskopf, Mayor

Minutes approved at the Regular Commission Meeting This 28TH Day APRIL 2008