

**REGULAR MEETING OF THE STUART CITY COMMISSION
HELD ON FEBRUARY 12, 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
City Clerk: Cherie White**

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

Mayor Hutchinson asked everyone to remember Arnold Stanberry who passed away last week.

**A. PROCLAMATION: Proclaim the week of February 18-24, 2007 as
National Engineers Week**

John Murray, Treasure Coast Chapter of the Florida Engineering Society came forward and graciously accepted the Proclamation.

***Step up Florida Month Proclamation was added to the Agenda at this time.**

Mayor Hutchinson stated an event was to be held on February 24, 2007 in Flagler Park and encouraged all residents to attend.

Mrs. Lewis, Department of Health came forward and graciously accepted the Proclamation.

PRESENTATIONS

B. Stuart in Bloom

Landscape designer Meg Whitmer explained that America in Bloom started in 2001 to promote nationwide beautification programs and it now encompasses 130 cities throughout the country. Stuart and Ocala are the only two cities in Florida that are adopting the program to compete with cities of like size in meeting the 8 criteria including floral displays, landscaping projects, ground cover, etc. Stuart in Bloom is a local campaign whereby members of the planning, landscape, nursery and other related industries have worked together to form a steering committee assisted by members of City and County staffs to determine how best to meet the criteria in preparation for judging by America in Bloom to be done in early May. Cities

will be judged in comparison with cities of like population (15–20,000 in the case of Stuart). The steering committee will plan the route to take the judges for their 2 day tour to show how the criteria are being followed. A lot is already being done in the City of Stuart and a “brag book” will be prepared to facilitate the tour. Depending upon the outcome of the judging, there is the potential for a hosting opportunity for a future awards ceremony and educational symposium. The steering committee is looking for more people to get involved at both the business and resident level. This program is an effort to reinstate the former Green Thumb award.

COMMENTS BY CITY COMMISSION

Commissioner Waxler commented on the great weekend for the Arts Show and praised the new layout of the show as well as the light pole banners.

Commissioner Christie commented on the untimely passing of Arnold Stanberry, and said his activism will be missed.

Vice Mayor Krauskopf questioned why trees are being cut down along Osceola.

Commissioner Mortell said he had already inquired and was told by staff that FPL tree trimming happened to coincide with a Green Canopy Grant that provided funds to remove damaged and diseased trees and replant with new replacements. He also reminded staff that the members of Potsdam are still waiting for their promised trees.

Vice Mayor Krauskopf suggested that the Commission give thought to a rollback during the next budget cycle.

COMMENTS BY CITY MANAGER AND REVIEW OF TENTATIVE AGENDA

City Manager Dan Hudson informed the Commission that an audit of the Housing Authority had been received. He also noted that demolition of some housing on 18th Street has begun. Addressing Item 1 on the agenda, Hudson noted that meetings in May and December will be set for the 2nd and 3rd Mondays of each of those months to accommodate holiday schedules.

Hudson also asked that Item 8 – Resolution 26-07 be removed from the Consent Calendar to be discussed with Item 16, Ordinance 3000-07.

City Attorney Nicoletti read into the record a letter from FDOT regarding the North Point Project permit. FDOT said it was likely that a 25-year lease would be “obtainable” but it was also unlikely that FDOT would relinquish authority to the City nor have an executed lease by June first.

Vice Mayor Krauskopf asked why the City could not do DOT’s work for them and send them the completed form.

Attorney Nicoletti said it was possible to do so.

Commissioner Waxler asked about the impact to negotiations with the tenant.

Attorney Nicoletti said the tenant has no expectations and will wait until the lease is completed.

Vice Mayor Krauskopf said if there is any way to speed the process up he would like to do so.

STAFF REPORT ON CITIZEN COMMENTS FROM PREVIOUS COMMISSION MEETING

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

Helen McBride commented on the wonderful weekend and praised the improved Arts Festival layout. Her house guest was impressed with the swearing in of Congressman Mahoney and the downtown area in general.

APPROVAL OF AGENDA

MOTION: VICE MAYOR KRAUSKOPF: MOVED APPROVAL OF THE AGENDA AS AMENDED
SECOND: COMMISSIONER CHRISTIE
MOTION APPROVED UNANIMOUSLY

CONSENT CALENDAR

1. **Request to approve 2007 Commission Meeting Calendar**
2. **Request authorization to over hire (2) firefighters to replace the current vacant budgeted positions**
3. **Request to continue Public Hearing date to March 12, 2007 to consider a rezoning to Commercial Planned Unit Development, Towne Park Professional Center, 751 SE Central Parkway**
4. **RESOLUTION 03-07 Authorization for a budget amendment to the 2006-2007 annual general fund for the expenditure of \$25,000 as a contribution to the Martin County Pineapple Park Expansion Project**
5. **RESOLUTION 03A-07 Request to approve the contribution of Recreation Impact Fees in the amount of \$25,000 to the Martin County BOCC for the Pineapple Park Project**
6. **RESOLUTION 24-07 Authorization for a budget amendment to the 2006-2007 annual Property Management Fund Operating Budget for an expenditure of \$10,984.50 for the payment of the Shepard Park Boat Slip Submerged Land Lease**
7. **RESOLUTION 25-07 Authorization to execute a temporary Use Agreement between the Florida Department of Environmental Protection (FDEP) and the City of Stuart to allow Boat Slips at Shepard Park to remain in place until a Sovereignty Submerged Land Lease is processed**
8. **RESOLUTION 26-07 Approve a Revocable Permit dated December 5, 2006 to 600 SE Ocean Properties LLC permitting the use of public right-of-way for three on-street parking spaces within SE 5th Street right-of-way. Three on-street parking spaces within High School Ave. right-of-way and improve the 10' alley adjacent to Parcel B**

9. **RESOLUTION 27-07 Request authorization for a two (\$2.00) dollar convenience fee charge for each Credit Card Transaction for payments received by the City**
10. **RESOLUTION 28-07 Request to award ITB#2007-204 in the amount of \$175,000.00 to R.K. Contractors, Inc. for the construction and installation of Baffle Boxes at various locations in the City**
11. **RESOLUTION 29-07 Amend the City of Stuart Personnel Policies to eliminate subsection 25.4 "Emergency Service Residency Requirement and add sub-section 49.6 guidelines Regarding the Acceptance of Gifts**
12. **RESOLUTION 30-07 Request authorization to execute an Interlocal Agreement between the City of Stuart and the Treasure Coast Counties of Indian River, St. Lucie, Martin and Okeechobee for the purpose of creating The Treasure Coast League of Cities**
13. **RESOLUTION 31-07 Request to adopt a schedule of Fees, Charges and Deposits for Solid Waste Collection under Chapter 66 and for Utilities under Chapter 82 of the City Code**
14. **Request approval of default proceedings regarding the lease with C.E. Collins, Inc.**

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL OF THE CONSENT
AGENDA ITEMS 1,2,3,5,9,10,12,13,14

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

MOTION: VICE MAYOR KRAUSKOPF: MOVED APPROVAL OF THE CONSENT
AGENDA ITEM 4 RESOLUTION 03-07

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

MOTION: VICE MAYOR KRAUSKOPF: MOVED APPROVAL OF THE CONSENT
AGENDA ITEMS 6-7 RESOLUTION 24-07
AND 25-07

SECOND: COMMISSIONER MORTELL

ROLL CALL

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

MOTION: VICE MAYOR KRAUSKOPF: MOVED APPROVAL OF THE CONSENT
AGENDA ITEM 11 RESOLUTION 29-07

SECOND: COMMISSIONER MORTELL
ROLL CALL

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

QUASI-JUDICIAL HEARINGS

FIRST READING OF ORDINANCES

REQUEST TO CONTINUE ORDINANCE 2094-07 TO THE FEBRUARY 26, 2007 COMMISSION MEETING

- 15. ORDINANCE 2094-07 (First Reading) Requesting to approve a Master/File Site Plan for Avonlea Residential Planned Unit Development (Avonlea Point and West Village and to amend and extend the development schedule. Intersection of Cardinal Way and SR 707, Avonlea Development Corporation (QUASI-JUDICIAL)**

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL TO CONTINUE
ORDINANCE 2094-07 TO FEBRUARY 26, 2007

SECOND: COMMISSIONER WAXLER
MOTION APPROVED UNANIMOUSLY

- 16. ORDINANCE ~~3000-07~~ 2100-07 (First Reading) Request to consider a rezoning from Multi-Family Office (R-3) and Two-Family (R-2) to (RPUD) 600 Building located on the South side of SE Ocean Blvd. and SW 5th Street (QUASI-JUDICIAL)**

Mayor Hutchinson asked that item 8 be heard after item 16.

Kevin Freeman gave a verbal presentation on East Ocean Gardens project included ten - 2-story townhomes and one duplex, a total of 12 units with a concurrent permit for on street parking

(Consent Calendar Item 8). Based upon compliance to code, staff offered no objection to this request and said 28 conditions would be incorporated in final approval.

Monica Graziani thanked staff for working with the applicant on the project which had received LPA approval in November. Graziani addressed discussion of traffic flow on Fifth Street and proposed parking on High School Avenue with 3 spaces on Fifth Street. The applicant will donate \$3,500 toward Fifth Street improvements. Hutchinson voiced concern about a concurrent site plan with Stuart Middle School and bus traffic. She wanted to leave open negotiation on High School Avenue on-street parking.

Graziani said the applicant would be glad to work with the School Board on the issues.

Commissioner Mortell felt the issue should be solved now as there is also the issue of City garbage trucks using the narrow road. He said if the Commission agrees with the plans we need to get the School Board to sign off.

Vice Mayor Krauskopf noted that the alley is "tight".

Henry Westendorf, 620 5th Street felt this is a good project but was concerned about the traffic problem and felt the School Board had the ability to fix it on their property. He was also concerned about the condition of the partial sidewalk that he felt the City should remove in order to create an attractive parking area.

Deborah Kline 608 East 5th Street expressed concern that the lot for the proposed duplex was substandard. She also addressed drainage issues on the narrow roads.

Attorney Nicoletti explained this project is incorporated in a PUD and meets the 10-foot setback.

17. ORDINANCE ~~3001-07~~ 2101-07 (First Reading) Requesting to amend the Code of Ordinances at Chapter 66, Solid Waste and at Chapter 82, Utilities, by amending various provisions of Article I in each chapter to increase deposit amounts, regulate delinquency and provide for liens on unpaid balances

Sam Amerson and Dave Peters pointed out that it is hoped that increasing residential deposits would reduce the bad debt write off.

Attorney Nicoletti clarified that this is a procedural issue and would not increase rates and the ordinance would take effect immediately upon adoption.

Commissioner Mortell expressed concern about the 60 day time element and its possible effect on non-full time residents,

Helen McBride pointed out that the City has an automatic withdrawal system for utility payments that can be easily activated.

MOTION: VICE MAYOR KRAUSKOPF: MOVED APPROVAL OF ORDINANCE 2101-07 ON FIRST READING.

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

SECOND READING OF ORDINANCES

18. ORDINANCE 2087-07 (Second Reading) to consider a Major PUD Amendment to Ord. 1527-97, to approve a Master Site Plan consisting of 121,672 square feet of warehouse/office space, Master/Final Site Plan approval, and compliance with the Site Design Qualitative Development Design Standards. Property located on the east side of SE Commerce Ave. Thies Beer Distributorship CPUD (QUASI-JUDICIAL)

Kevin Freeman clarified the following timetables:
Development Timetable condition #23 phase II-
Development Permit Application phase I, application submitted prior to March 2007,
Phase II submitted prior to March 2010. CO for phase I March 2008, CO phase II March 2011. That would need to be incorporated as condition #23.

Bill Mathers came forward on behalf of the applicant to answer any questions.

Vice Mayor Krauskopf noted that annexation does not mean an increase in police and fire personnel.

MOTION: COMMISSIONER WAXLER : MOVED APPROVAL OF ORDINANCE 2087-07 ON SECOND READING.

SECOND: VICE MAYOR KRAUSKOPF

ROLL CALL

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

19. ORDINANCE 2098-07 (Second Reading) Requesting to approve the proposal to abandon a portion of SE Fisher Street east of SE Commerce Ave. to the FEC Railroad in order to facilitate the development of Thies Beer (QUASI-JUDICIAL)

MOTION: COMMISSIONER WAXLER : MOVED APPROVAL OF ORDINANCE 2089-07 ON SECOND READING.

SECOND: COMMISSIONER CHRISTIE

ROLL CALL

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

20. ORDINANCE 2099-07 (Second Reading) Requesting approval to amend the Code of Ordinance to implement additional regulations regarding definitions, Magistrate Powers, duties of the City Attorney, Fines and Costs, Summary and other Procedures (QUASI-JUDICIAL)

MOTION: COMMISSIONER CHRISTIE: MOVED APPROVAL OF ORDINANCE 2099-07
ON SECOND READING.

SECOND: COMMISSIONER MORTELL
ROLL CALL

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

RESOLUTIONS

21. RESOLUTION 23-07 Authorization to approve a Major Urban Code Exception to John White, Key Lime Café, 211 S. Colorado Avenue to allow the sale of Alcoholic Beverages at an established restaurant located within the "Old Downtown Section" (QUASI JUDICIAL)

Kevin Freeman gave a brief presentation and recommended for approval. He stated the City received an objection from the adjacent neighbor.

John White the applicant distributed packets to the Commission and gave the history of Key Lime Café. He said his intention is to make Colorado Avenue an integral part of downtown.

Commissioner Mortell noted that the purpose of creating the exception process was to find compromise. He said he had met with the next door neighbors and would like to find a middle ground and not create a wedge between neighbors. He noted that no one wants to create a night club atmosphere and the exception to serve beer and wine should have time constraints.

Commissioner Waxler supported this exception because Key Lime Café brings a different atmosphere to downtown Stuart.

Attorney Nicoletti said code enforcement would monitor the operation.

Vice Mayor Krauskopf felt the City has other things to focus on and this sort of issue should be administrative.

Armond Pasquale came forward and stated that immediate neighbors were not notified of this meeting and said there are already 13 bars downtown.

Commissioner Mortell insisted the issue of public notice needed to be resolved.

Mayor Hutchinson wanted to have the legal description clarified.

Bernie Malone came forward and stated that 15 years ago Stuart started being known as a great place to eat and have a drink and you cannot legislate what people would like to drink with their meals. He suggested weeknights open until 8 and weekends until 9.

Commissioner Waxler asked who was the applicant and felt that if an Urban Code Exception was granted to the owner that it would run with the land.

Attorney Nicoletti stated that as part of the conditions it is granted to the business and will not run with the land.

Commissioner Waxler asked that this be tied to food sales and asked how this is monitored and reported in a log.

Vice Mayor Hutchinson stated the police department works with the Division of Alcohol and would do periodic checks.

Commissioner Mortell stated the likelihood of the alcohol sales supersede food sales is highly unlikely.

Attorney Nicoletti stated the state requires the business to report this to them.

Commissioner Waxler requested the Key Lime Café report to the City the sales of alcohol and food. She also felt the applicant should meet with the neighbors to reach a compromise.

Attorney Nicoletti stated that the reporting of the sale of alcohol and food should be added as a condition to the Urban Code Exception.

Commissioner Waxler also asked Mr. White what time would be a good time for the sale of alcohol beverages and music to stop.

Mr. White stated that 9 p.m. during the week and 10 p.m. Friday and Saturday's.

Commissioner Waxler stated she had a problem with that because of the residents in the downtown area. She suggested 8 p.m. on a weekday and 9 pm on the weekends.

Mr. White stated he would agree to Commissioner Waxler's suggestion but wished to continue serving food until 9 or 10 p.m.

Mayor Hutchinson asked who would be monitoring this?

Attorney Nicoletti stated more then likely the Code Enforcement.

Mayor Hutchinson: " Does the Code Enforcement work at 9 pm at night?"

Attorney Nicoletti: "No, but on a complaint bases the Police Department could respond as well."

Vice Mayor Krauskopf expressed concern and felt this was an administrative and enforcement nightmare.

Judy & Jim Chisolm : Mr. Chisolm came forward and stated he had no problem with Mr. White's business. He did express concern over the time of alcohol sales as well as music. He suggested Monday – Friday 8 or 9 p.m. He also suggested the music stop at around 8: 30 on the weekends. He also suggested the City impose a concrete wall between Sherry's home and Lafiamiglia Restaurant for the sound. He is willing to discuss a compromise on this issue.

David Horiwitz owner of Rare Earth Pottery came forward and support the request by Key Lime Café and requested the City approve it.

Armond Pasquale came forward and stated he was not officially notified of this meeting, "Therefore this issue should not be discussed tonight." He also expressed concern over serving of alcohol as well as the outside seating area. He stated there were plenty of bars in the neighborhood.

Mayor Hutchinson wanted to make sure the legal description includes the outdoor seating area, if that is the pleasure of this Board.

Bernie Malone came forward and felt the City should not regulate businesses and felt that people should be able to do what they want within the law.

Commissioner Waxler stated she would be happy to meet with the applicant and the adjacent property owner to help facilitate the situation.

Mr. Chisolm and Mr. White stated they would be happy to do that.

Attorney Nicoletti stated a 300 foot courtesy notice needs to be mailed out because it was not done so for this hearing.

MOTION: COMMISSIONER MORTELL:MOVED APPROVAL TO TABLE RESOLUTION
23-07 TO MARCH 12, 2007.

Commissioner Mortell did not think it was in the city's best interest to micro-manage two neighbors' disputes.

SECOND: VICE MAYOR KRAUSKOPF
MOTION APPROVED UNANIMOUSLY

Commissioner Mortell asked that if this error was reported to the City earlier it could have eliminated a need for this public hearing.

Mortell noted that he had been late for a noon appointment because 18-wheeler delivery trucks blocked the street and he wanted to not allow double parking between specific lunch and dinner hours.

Mayor Hutchinson stated that staff is already looking at the issue.

DISCUSSION & DELIBERATION

- 22. Staff is working on converting the Urban Code section of "Chapter 3" (Overlay Districts) of the City's Land Development Code into a form based code**

Kevin Freeman gave a power point presentation on the Urban Code re-write .
"Staff will have a full presentation of Code Conversion made to City Commission, LPA and Community Redevelopment Board in March and by April staff could schedule a Workshop to present this transition from a text base code to a form based code."

Commissioner Krauskopf felt the plan was worth it and much like the Duany Plan and anything that would help simply this, would really help the public.

Commissioner Waxler asked if it was possible to have all the different Boards meet in a joint workshop?

Attorney Nicoletti said it is possible legally but would be tough in a discussion setting with the amount of people involved.

Commissioner Mortell said other municipalities and commissions have Commissioner appointed members on the various boards and we need to have board members that reflect the individual commissioners' feelings on the issues. He suggested as vacancies on the Boards come up, they be given a District number and that District commissioner would appoint his representative to the specific board.

Vice Mayor Krauskopf asked staff to distribute to the Commission the LPA/BOACRB Board information.

23. Update by Mayor on discussions with Martin County and Martin County School Board related to the proposed Constitutional Triangle

Mayor Hutchinson said she and the City Manager had met with the School Board representative and there are no funds to move the City garage and they had also met with County Commissioner Doug Smith separately.

Commissioner Mortell said it would not be fiscally responsible to give away land.

Mayor Hutchinson said it enables more options.

Vice Mayor Krauskopf said it eliminates variables.

Mayor Hutchinson wanted to direct staff to look for another site. She added that County Commissioner Doug Smith still has issues with the wastewater treatment plant.

Commissioner Mortell said Commissioner Smith and County Administrator Sherman indicated the City should come up with bond money. He said we should tell the County the City is not comfortable with issuing new bonds and the wastewater treatment plant should be left where it is.

Mayor Hutchinson wanted to leave possibilities open for the redevelopment downtown area.

Commissioner Waxler did not want to move the wastewater treatment plant and suggested cosmetic enhancements.

Vice Mayor Krauskopf asked staff to give the Commission some numbers and any "efficiencies" to buffer the wastewater treatment plant.

Mayor Hutchinson felt this is an area of the City that is not being used to its full potential. She said the goal is trying to keep the Constitutional Officers in the downtown to support the downtown.

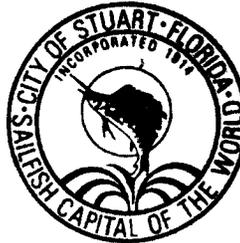
Commissioner Waxler stated the City is so chooses could look at the possibility of a partnership down the line.

ADJOURNMENT 8:29 p.m.


Cheryl White, CMC, City Clerk


Mary L. Hutchinson, Mayor

Minutes approved at the Regular Commission
Meeting This 12th Day March 2007



Cheryl A. White
City Clerk