

**REGULAR MEETING OF THE STUART CITY COMMISSION
HELD ON AUGUST 25, 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 week of September 17-23, 2008 as "Constitution Week" Portia B. Scott, Constitution Week, Chairperson**

Portia Scott came forward and graciously accepted the proclamation and thanked the Commission.

- B. PROCLAMATION; Proclaiming September 13, 2008 as "Kids Day America"; Dr. Leo Hart and Dr. Randy Hansbrough, Representatives**

The Proclamation was accepted by Jim Chrulski from Stuart Recreation.

- C. Employee of the Month**

Michelle Vicat, Development Department

Michelle Vicat came forward and graciously accepted her award and thanked the Commission.

- D. Employee Service Recognition**

**Rebecca Sharrock, Information Services, 15 Years
Brian Nethers, Fire Rescue, 15 Years
Dorothy Zaharako, Financial Services Department, 5 Years
Paul Hitchcock, Wastewater Treatment Team, 5 Years**

All employees came forward and graciously accepted their awards and thanked the Commission.

COMMENTS BY CITY COMMISSIONERS

Commissioner Mortell stated he had attended Dancing in the Streets and noticed some store and restaurant owners chose to close during the event. He suggested meeting with the store owners to see why they were closed.

Vice Mayor Christie also attended the event and said he enjoyed it.

Commissioner Hutchinson thanked the staff for their work and dedication through tropical storm Fay.

Mayor Krauskopf also thanked the staff for their hard work and dedication especially the Police and Fire during tropical storm Fay. He also asked staff if someone wanted a less intense use would they have to have a special exception. He felt that the discussion during the last retreat it was discussed that the City wanted to get away from those types of requirements. He felt the code is too complex and requested it be simplified.

COMMENTS BY CITY MANAGER AND REVIEW OF TENTATIVE AGENDA

Presented to the City of Stuart – Plaque for Medium Wastewater System of the year.

City Manager Hudson thanked the entire City staff for their hard work and dedication during tropical storm Fay. He referred the Commission to their packets for a storm summary. He was happy to report that all of the City's stormwater systems worked well, and only 2 houses reported minor flooding.

Mr. Hudson also presented an award received by the Wastewater Plant for a Medium Wastewater System of the Year.

He also mentioned the upcoming exhibit coming to the Blake Library in memory of September 11th Magnum Photography exhibit and requested approval of the Commission for a 40 day banner display.

**MOTION: COMMISSIONER MORTELL: MOVED APPROVAL TO ALLOW THE CITY MANAGER TO APPROVE A BANNER DISPLAY FOR APPROXIMITLY 40 DAYS FOR THE MAGNUM PHOTOGRAPHY DISPLAY REMEMBERING 9-11 AT THE BLAKE LIBRARY.
SECOND: VICE MAYOR CHRISTIE
MOTION APPROVED UNANIMOUSLY**

STAFF REPORT ON COMMENTS FROM PREVIOUS COMMISSION MEETING

City Manager Hudson noted the previous comments made at the last meeting regarding possible assistance to local governments for Fannie Mae. He stated it was subject to federal rule making beginning in October. He stated Nancy Phillips our CDBG Consultant would be tracking this for the City.

He also noted two German Students would be interning for their Fall Semester. The two students will be assigned to Public Works and also Parks and Recreation beginning

September 2, 2008, and will be introduced at the next Commission meeting. He also stated the City has endorsed the East Stuart Community to achieve a Main street designation. He stated the application was submitted and the Board who reviews the application will be teleconferencing at 10:00 am here at City Hall. Mayor Krauskopf and Vice Mayor Christie will be in attendance and will be open to the public.

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

Helen McBride came forward and expressed concern over the recent string of crimes in her neighborhood. She feels there needs to be additional police hired to protect the entire City including the recent annexed properties.

Bernie Malone came forward and thanked the City for their support for the Dancing in the Streets event, and announced the event was a light turnout but with no incidence.

Armond Pasquale came forward and expressed concern over the Dancin in the Streets event, and complained over the crowds and the drinking.

APPROVAL OF AGENDA

MOTION: COMMISSIONER HUTCHINSON: MOVED APPROVAL OF THE AGENDA
SECOND: COMMISSIONER WAXLER
MOTION APPROVED UNANIMOUSLY

CONSENT CALENDAR

- 1. Request to approve the minutes from the Regular Commission Meeting of July 28, 2008**
- 2. RESOLUTION 94-08 Authorization to adopt the Non-Ad Valorem Assessment Roll for the tenth and final year (2009) of the ten year Downtown Stuart Special Assessment for Parking; directing the Mayor to certify the Assessment Roll to the Martin County Tax Collector**
- 3. REQUEST TO CONTINUE TO A SPECIAL COMMISSION MEETING ON SEPTEMBER 12, 2008 AT 9:00 AM.
RESOLUTION 95-08 Authorization to adopt the Non-Ad Valorem Assessment Roll for the second year (2009) of the ten year Business Improvement District (2) Special Assessment; directing the Mayor to certify the Assessment Roll to the Martin County Tax Collector**
- 4. RESOLUTION 97-08 Declaring pursuant to Chapter 70 of the Code of Ordinances of the City of Stuart, Florida (1995) the intention of the City Commission to abandon and to set public hearings on September 8, 2008 and September 22, 2008 at 5:30 PM in the City commission Chambers to consider the abandonment of certain public right-of-way within the City being that portion of the unimproved S.E. 8th Street, more clearly described in the attached exhibits "A" and "B"**

5. **RESOLUTION 98-08 Authorization to direct the City Manager to pursue the acquisition of the Harbor Walk property to complete the final connection between the Haney Creek Watershed and the outfall to the St. Lucie River**
6. **RESOLUTION 99-08 Calling the General Municipal Election for November 4, 2008 and a run-off election, if necessary for January 13, 2009; establishing a qualifying period for candidates; providing for early voting beginning on October 20, 2008 at the Supervisor of Elections Office, 135 SE Martin Luther King, Jr. Blvd.; and providing for voting at regular precincts on Election Day**
7. **RESOLUTION 100-08 Authorization to approve a boundary plat, titled "Seacoast Hotel" for the approved site plan for development of a hotel called Country Inn & Suites f.k.a. Hampton Inn, consisting of 53,080 square feet of one primary building 4-story on 2.75 acres located on the Northeast side of SE Fischer Street**

END OF CONSENT CALENDAR

Commissioner Hutchinson asked on item 4 if the property owner plans to sub-divide the property.

Murriah Dekle, City Planner stated any future plans would be addressed by the City.

Mayor Krauskopf asked on item 6 if the Florida Statutes preempts the Charter?

Attorney Nicoletti stated an Ordinance would take care of any changes to the Charter because the law allows cities to amend its charter without a referendum in this situation.

Mayor Krauskopf asked on item 7 if this is approving a plat without a PUD.

Pinal Gandhi-Savdas, Sr. Planner stated a PUD was approved for this parcel

MOTION: VICE MAYOR CHRISTIE: MOVED APPROVAL OF THE CONSENT CALENDAR

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

ORDINANCE FIRST READING

8. **ORDINANCE 2164-08 (First Reading) Amending the "Conservation" Element of the City's Comprehensive Plan; mandating the removal of exotic species; adding conservation easements as mechanism for protecting environmentally sensitive lands; deleting provisions allowing on-site intensity transfers from environmentally sensitive lands; amending provisions allowing on-site density transfers from environmental lands requiring an additional 10th of an acre of preserve area for each transferred residential unit; requiring uniform average wetland buffer widths of 75 feet for superior wetlands and 50 feet for average wetlands; giving priority to off-site wetland and preserve area mitigation within watershed basins identified in the City's Comprehensive Plan and within Martin County; Deleting a 10-foot waterfront buffer requirement in the CRA in favor of**

a 25-foot buffer standard as applied elsewhere in the City; Repealing all ordinances in conflict herewith (Quasi-Judicial)

ORDINANCE 2165-08 Amending Chapter 7 "Resource Protection" and Chapter 10 "Hardship Relief" of the City's Land Development Code, providing definitions for the terms "Avoidance" and "Practicable"; establishing impact avoidance and minimization standards for wetlands and other environmentally sensitive lands; providing for an increase in the required construction setback from upland buffer areas from 5 feet to 10 feet; changing the size of parcels required to provide greenway linkage from ten acres or more to five acres or more; requiring a habitat study prior to on-site and off-site relocation of required native vegetative preserve areas; giving priority to off-site wetland and preserve area mitigation to watershed basins identified in the City's Comprehensive Plan and within Martin County; repealing all ordinances in conflict herewith (Quasi-Judicial)

Terry O'Neil announced full copies of the agenda item are on the table in the center of the chambers for the public as well as a summary of the discussion matrix that the Commission has. He gave a brief Overview of the proposed Ordinance.

Attorney David Earl, Law office of Ross-Earl-Bownan PA, came forward on behalf of his client Clark Gipson, he stated that he spoke with Attorney Nicoletti today and is scheduled to meet with Mr. Terry O'Neil with more specific details. He stated that anytime you try to amend the Comp Plan there are many policy objectives. He felt there were some issues that are not considered. He stated his clients concern is the proposed Ordinance creates a pre development burden for anyone to develop a parcel of land. It has significant issues with the connection of greenways and requested the item be tabled.

Mike Gorman came forward and wanted to make it clear that he is only addressing the single item. The item is the one sentence indicating that the set back in the urban waterfront, throughout the entire city, should be increased to 25 foot from 10 foot. He requested the item be tabled until there is an opportunity of the community, LPA to have a dialogue of the increase of 15 feet in the setback. He stated he would not be opposed to the restoration of the setback to its original form, and to have the comprehensive plan moving forward but, felt there was no proper notice for this setback change, and the item presented to the public excluded the sentence regarding the additional 15 feet of waterfront setback. "The Public has had no access or inclination that this exists which I think is inappropriate."

Eileen Gorman gave up her time to Mr. Mike Gorman;

Mr. Gorman continued with his previous comments regarding the proposed Ordinance. He stated the CRA should be disbanded. He stated the one sentence was requested to be put in the document by Commissioner Mary Hutchinson, be merely saying to the consultant drafting the document, "I would like this added to the document." He says ok. There is no evidence in any documentation, that even the commissioners discussed this, not a single landowner not the LPA." He stated if the City Commission passes this Ordinance he felt the following have not been met, Health, Safety, and Welfare. He requested the following, strike, the word possible and substitute with the word definite in the sentence; "Is it possible it could be challenged by a legal proceeding." He concluded his comments and requested this item be tabled. He again stated the one sentence regarding the additional setback requirements be excluded and approved by the Commission. He stated the properties in question have no wetland implications.

Michael Braid came forward and stated that if half of what Mike Gorman stated was true he was concerned as to how this came about. He stated that a lot 50 feet wide and one of the shortest lots on Seminole Street would be effected by the adoption of this Ordinance and an additional 15 feet rear yard setback would be significant. To this property. He disagreed with Mr. Gorman about tabling the item but felt it should be eliminated.

Bruce Laraway came forward and stated the additional setback requirements would be in his garage. He stated he did not understand why the property owners were not notified. He explained that if adopted the new setback requirements would extend into his garage.

Toby Overdorf; came forward and stated the following; "In looking at the matrix, section 11 specifically, The drainage basins ect, I don't have a problem with how staff wants to address this and the definition of watershed as promoted by staff within the 2165-08 is fine however, you using the terms interchangeably within this Ordinance, and watershed appears once then watershed basin then back to watershed. It has implications on how it will be interpreted by professionals engineers ect. I would suggest you use one definition and one terminology and that's it. I think that is an easy fix overall. Number 12, we look at the one tenth per acre, this goes into page 10 of your document, and there really is no justification and no explanation as to how the city came up with, a tenth of an acre for every unit being transferred off wetlands. When you combine this with the other implications of looking at a net developable property, you have to take out the drainage area, the parking area, the rights of ways, the utility easements and the other rights of ways. You are at a real balancing act, there is no definable area of where your development is, and again you are going back to this one tenth of an acre. Where does that come from? I don't understand how you can defend that number let alone have that as a reality. I think that is something that definitely needs to be addressed. Item 15, I agree with how staff has interpreted that and it basically is addressed by saying if there is no man made connections to these outstanding resource wetlands, and I do appreciate the change from superior wetland to outstanding resource. Item 16 was not addressed and specifically to the ornamental trees that are associated with Stuart's tree protection code. We looked at the tree protection code and one of the bases of your changes in all of this is looking at the removal of exotics throughout the city, and the requirement is when there is either development or redevelopment you are required to remove all of the exotics on the parcel. Well, if you have in one section of your code that you have to remove all of the exotics yet all of the flowing trees that you have listed in your code are exotic trees. So now you have to mitigate to remove an exotic tree from the parcel. He felt this was in conflict. He suggested removal of; from protection, the flowering trees that are listed and passed to the Commission a memo outlining that all the flowering trees are non native. You do have one tree that is listed; the banyan is a non flowering tree. He asked for clarification on the native verses non native tress by utilizing the Florida Exotic Pest Plant Council by referencing it in the code when you refer to non native vegetation. That would clear up allot of problems with what is a native and a non native tree.

He also asked for that reference in the definition section of Ordinance 2165-08. He directed the Commission to the policies of 2164-08, "We addressed on page 9 that there is no explanation of the one tenth of an acre associated with the transfer. On page 11, the City is now going to issue their own wetland permit on top of the water management district and or the Core permit. I just wanted to clarify that this was something you just wanted to issue. On page 11, in section 4, the City is requiring that when we do an assessment, the City will determine if there are wetlands on another person's property adjacent to that property they are looking at. Is the City actually going to go on someone else's property and determine if

there is going to be wetland there? He concluded with page 14, policy a6.2, local officials will have a qualified government ecologist. He was not sure what that meant. Ordinance 2165-08 on page 22, section 503, he asked about the education requirements and stated that too should be included. Page 24, 5.04.02B.3, he asked; What if a federal permit is not required? In this section we have to have demonstration of a federal permit, and or, you have to have a federal letter submitted saying you have a permit or something. In Many instances a federal permit is not required. Allot of times the core won't even respond. He felt this would prohibit people from moving forward with their development if they can't produce it. Pages 28, 5.03.04c, please use the same language throughout just using the watershed verses watershed basin. In section 5.04.02b, why does the offsite component of your upland mitigation what is the impetus behind saying it has to be rare habitat?"

Attorney Terry McCarthy came forward and stated he represents Mike Gorman and Bruce Laraway, who expressed concern over the proposed Ordinance. He quoted law cases regarding the taking of land in rights of way.

Mark Mathes came forward and expressed concern over the last minute changes to the proposed Ordinance regarding an additional 15 feet setback for the downtown waterfront properties. He requested what would be the impact to the property owners.

Armond Pasquale came forward and stated the CRA should be eliminated and decreases the value of properties and felt it should be included.

Commissioner Hutchinson stated that the language excluded from the LPA was a staff error but felt the changes would make for a better area to the downtown. She did agree that in order to move this Ordinance forward the sentence should remain in there and when the City moves into a form based code it can be looked at in a more appropriate fashion. She did not want it to appear that this was just added at the last minute, and stated this was originally discussed back in May. She did not want to hold up the environmental issue because of the one line that is in there.

Commissioner Waxler agreed and felt this was a very important item. She too expressed concern over the terms that it would be a taking, and made the subject to legal action. She agrees to take it off the table.

Vice Mayor Christie agreed and felt the public and the LPA should have an opportunity to review it.

Commissioner Mortell felt that what has been added to the Ordinance since the CRB and the LPA should be discussed and decided upon individually.

Commissioner Waxler supports these Ordinances be reviewed by the CRB and the LPA.

Mayor Krauksof asked if there was any other additional language added after it was reviewed by the other boards.

Terry O'Neil did say that there was additional language added to the Ordinance. He asked the City Attorney to clarify that because the language reads "may" then the language could remain and the LDR could be amended if the City feels that it may apply to certain areas of the City.

Attorney Nicoletti: Yes, you could change the LDR to make it stricter.

Commissioner Hutchinson: Policy A-4-2, page 7; "This may be reduced to 10 feet in the CRA to promote infill redevelopment and reduce blight , should remain in this document, but when we go back to look at the form based codes we don't have to reduce it the 10 feet. Sp we have the option in out LDR's to not allow it to be reduced arraignments to 10 feet, if at that time we feel it is appropriate." She requested the strikethrough language be returned to the document.

The Commission agreed to the language in items 1-16.

Toby Overdorf agreed to work with Commissioner Waxler on item 12 between readings.

Commissioner Mortell agreed that the City needs to look at the tree issue brought up by Tobey Overdorf.

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL OF ORDINANCE 2164-08 ON FIRST READING WITH THE STRIKING OF NUMBER #1 AND THE ADOPTION OF THOSE BY CONSENT OF THE BOARD OTHER ITEMS IN THE MATRIX ON FIRST READING CONDITIONED UPON STAFF MAKING ARRAIGNMENTS.

SECOND: COMMISSIONER HUTCHINSON

Attorney Nicoletti adjusted the reading of the Ordinance regarding the 10 foot easement.

ROLL CALL

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

MOTION: COMMISSIONER WAXLER: MOVED APPROVAL OF ORDINANCE 2165-08 ON FIRST READING

SECOND: COMMISSIONER CHRISTIE

ROLL CALL

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

9. ORDINANCE 2170-08 (First Reading) Establishing regulations concerning the use and operation of low speed vehicles and golf carts on the streets and areas in the City

Attorney Nicoletti gave a brief presentation regarding the proposed Ordinance

Commissioner Waxler expressed concern over the low speed vehicles and asked Police Chief Morley, what he thought.

Chief Morley stated the City Attorney did a good job of preparing the Ordinance and incorporated State Law requirements into the Ordinances.

Commissioner Mortell expressed concern over the requirement that these vehicles must go the same speed as cars along East Ocean Blvd. He stated this would be a new issue.

Attorney Nicoletti stated the golf carts and low speed vehicles would be prohibited along East Ocean Blvd.

Commissioner Mortell noted Abacoa, The Villages and Celebration all have a Golf Cart Ordinance.

Commissioner Hutchinson stated she felt those towns are off the main highways, and Stuart is surrounded by main roads, which would limit the golf cart traffic and to avoid golf carts going onto those roads you would have to post signs at every major intersection.

MOTION: COMMISSIONER WAXLER: MOVED APPROVAL OF ORDINANCE 2170-08 ON FIRST READING

SECOND: COMMISSIONER MORTELL

Helen McBride thought it was a good idea but she would not be able to drive a golf cart to the downtown because she would have to cross East Ocean.

Attorney Nicoletti stated there are large neighborhoods where it would work better than others.

ROLL CALL

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

City Manager Hudson stated this would come back for second reading in 30 days.

ORDINANCE SECOND READING

10. ORDINANCE 2158-08 (Second Reading) Creating Chapter 10 of Stuart Comprehensive Plan entitled Public Schools Facilities Element; amending Chapter 7 Intergovernmental Coordination Element and Chapter 8 Capital Improvements Element and Concurrency Management System

MOTION: COMMISSIONER WAXLER: MOVED APPROVAL OF ORDINANCE 2158-08 ON SECOND READING

SECOND: VICE MAYOR CHRISTIE

Terry O'Neil asked the City Commission to turn to page 26, and noted that DCA may require striking the narrative language, and rely on the algebraic formula. He asked for approval of the Ordinance with the striking of the narrative language, in the event DCA wants it removed from the document.

Attorney Nicoletti stated that whatever the Commission adopts it needs to be adopted clearly. He asked if the narrative language could be legislative intent language.

Terry O'Neil stated that would be fine. He also stated that the data and analysis that supports the application has been produced by the School Board and has been transmitted to the Department of Community Affairs, already as part of their transmittal. There are some differences in the data and analysis that have resulted from talking with the Department of Community Affairs over the past three weeks. I just wanted to make it clear that this Ordinance is relying on, and it's in the transmittal document, relying on the data analysis that has already been transmitted by Martin County, which in turn received that from the School Board.

MOTION: COMMISSIONER WAXLER: MOVED APPROVAL OF ORDINANCE 2158-08 ON SECOND READING

SECOND: VICE MAYOR CHRISTIE

ROLL CALL

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

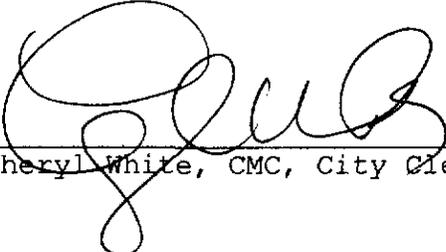
11. REQUEST TO CONTINUE ORDINANCE 2169-08 TO THE COMMISSION MEETING OF SEPTEMBER 8, 2008. ORDINANCE 2169-08 relating to solid waste collection amending Chapter 66 of the City of Stuart code of ordinances by amending article I and II to provide for roll-off, compactor, commercial recycling services; amending article I to eliminate the minimum monthly service fee

MOTION: COMMISSIONER WAXLER: MOVED APPROVAL TO CONTINUE ORDINANCE 2169-08 TO SEPTEMBER 8, 2008.

SECOND: VICE MAYOR CHRISTIE

MOTION APPROVED UNANIMOUSLY

ADJOURNMENT 7:32 PM


Cheryl White, CMC, City Clerk


Jeffrey A. Krauskopf, Mayor

Minutes approved at the Regular Commission Meeting this 22 Day September 2008