

**REGULAR MEETING OF THE STUART CITY COMMISSION
HELD ON OCTOBER 18, 2010
AT 5:30 P.M. IN THE CITY COMMISSION CHAMBERS
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994**

Roll call was answered by:

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

Also present were:

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

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

PRESENTATIONS

1. PROCLAMATION: Proclaiming the Month of October as Breast Cancer Awareness Month

Dave Lawson, Stuart Fire Rescue graciously accepted the proclamation and thanked the City Commission.

COMMENTS BY CITY COMMISSIONERS

Commissioner Christie said he asked at a Joint City County School Board meeting for the group to look at the possibility of collective purchasing. He said he was happy to see that the cooperative purchasing is already in progress with those entities and the City.

COMMENTS BY CITY MANAGER

City Manager Hudson noted the food collection can in the lobby at City Hall. This food will be donated to the House of Hope.

Agenda:

Item #4 will be heard after #8.

Item #8 he noted that the City received a petition opposing the proposed project.

Requested adding an additional item #11 to discuss the Constitutional Offices continuing discussions.

APPROVAL OF AGENDA

MOTION: COMMISSIONER KRAUSKOPF: MOVED APPROVAL OF THE AGENDA INCLUDING MOVING ITEM 4 AFTER ITEM 8 AND ADDITIONAL ITEM 11.
SECOND: VICE MAYOR WAXLER
MOTION APPROVED UNANIMOUSLY

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

Dottie McIntosh Williams came forward and expressed concern over code enforcement violations she received for not having a fence around her motor home, no house numbers on her house and a commercial trailer. She felt the violations were unfair because she was not aware of the Ordinance. She suggested that when new Ordinances are passed that they notify all residents of the City by letter or include the notice on the water bills.

City Manager Hudson said he met with several of the neighbors in this area regarding the code enforcement matters. He said the residents have made several good suggestions that the City is currently looking into.

Helen McBride said she was unaware of the Ordinance and her neighbors were also cited. She appreciates the work of the Code Enforcement and said she also educated her neighbors on the house number requirement. She suggested that each Ordinance should be published on the water bill as well as work with the realtors in Stuart.

Thomas Williams agreed with his wife's comments and was "annoyed" when told by code enforcement that he had to move the trailer from his driveway immediately.

City Attorney Nicoletti said the subject ordinance regarding RVs and trailers has been in effect for a year or more and there is no grand fathering provision in the ordinance.

Crystal Lucas had installed a gravel surface driveway to accommodate her husband's commercial business trailer on their property. She complained that her house is not worth half of what she paid for it and in this economy it is not realistic to have to pay \$300 per month for trailer storage. She asked if the same rigorous code enforcement actions are being done on the West side of Palm Beach Road?

Mortell asked if the City is looking into this issue.

City Attorney Nicoletti said he did not know what caused the code enforcement "sweep" in this neighborhood.

Commissioner Waxler said this is one of those "unintended consequences" and asked staff to look into this situation and asked that they make it more moderate.

Ms. Lucas said code enforcement should look out for residents and she appreciates them. She said code enforcement in these economic times should be looking out for the health issue. She said that what she and her neighbors are doing is unhealthy or causing a public nuisance.

Commissioner Hutchinson asked if there was any way we could hold off on the code enforcement violations.

City Manager Hudson said "Yes we will suspended activities until we get to the bottom of it, we will suspend activities."

CONSENT CALENDAR

- 2. Request to approve the minutes of final Budget Meeting of September 27, 2010 and Regular Commission Meeting of September 27, 2010**
- 3. RESOLUTION 109-2010 Authorization to execute an Interlocal Agreement between the City of Stuart and Martin County Sheriff's Office to provide mutual aid on certain roads within Martin County**
- 4. RESOLUTION 110-2010 Authorization to approve a site plat titled "Racetrac at Marketplace Square" prepared by Bloomster Professional Land Surveyors Incorporated**
- 5. RESOLUTION 111-2010 Authorization for Budget Amendment #1 to the 2010-2011 general fund budget, Community Services, infrastructure authorizing the appropriation and expenditure of \$10,000.00 to fund additional construction of the boat ramp/dock renovations/dredging project at Shepard Park**
- 6. RESOLUTION 112-2010 Authorization for the renewal of contracts with three current contractors pursuant to RFP #2009-83 for Landscape Maintenance**

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF THE CONSENT CALENDAR ITEMS 2,3,5,6

SECOND: COMMISSIONER CHRISTIE

ROLL CALL

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

END OF CONSENT CALENDAR

ORDINANCE FIRST READING

7. ORDINANCE 2211-10 (First Reading) Providing for amendment to the Parking Regulations of the City to allow for the addition of Anchorage Way to the three-hour parking district; providing penalties; providing for codification

MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL OF ORDINANCE 2211-10

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

ORDINANCE SECOND READING

8. ORDINANCE 2213-2010 (Second Reading) Approve a Major Amendment to the “K’Bana Grill” Commercial Planned Unit Development” (CPUD) changed to become Stuart Racetrac; 4201 SE Federal Highway; approving a final site plan, landscape plan, unified signage plan with architectural elevations and conditions of development for the 1.6 acre parcel; declaring the PUD Development to be consistent with the Comprehensive Plan of the City; repealing all ordinances in conflict herewith (Quasi-Judicial)

After ex-parte disclosure and swearing in of those giving testimony.

Murriah Dekle City Planner noted first reading of the Ordinance had been approved contingent on the applicant making changes to the signage prior to the issuance of any permits.

Racetrac representative Stephen Riddle came forward and said the applicant have made the two changes and agree with staff recommendation.

Terry O’Neil Interim Development Director noted that by reducing the signage down to 10 feet is contained in the conditions of the PUD. While the plan that is shown includes a sign larger than what is being approved tonight which is 10 feet.

Public Comment

Attorney Virginia Sherlock said she was representing fuel station owners in the area of the proposed Racetrac and they will present their objections to this project. Their primary concern is the size of the “monster gas station” that has 10 pumps (20) fueling dispensers, and is bigger than any other station in the City (a reduction to 6 pumps would be “less offensive.”) Sherlock said you cannot support small business by allowing a station this size to be put in that will drive out.

Mark Diekman, came forward and said there were 4 gas stations at the intersection of Indian Street and Dixie Highway and there is only one left I say no.

Ellie Jouni, owner of Shell Station located across the street from the proposed Racetrac expressed concern that the area and the impact of a “monstrous station this size” that would cause loss of jobs and even force some properties into foreclosure. He urged the City to rethink the size of the projects and modify the project to fit the City.

Ralph Perrotta who runs a pizzeria at Market Place said Racetrac once built people will not be able to see his business. He asked if the applicant would agree to adding marquee signs to include the businesses behind the proposed building.

James Donnini another station owner said there are three stations that already provide the same services. He gave the example of an effect Home Depot would have against mom and pop hardware stores. He said what will happen is this project would cause loss of jobs, and vacant buildings, non conforming sites and the potential for foreclosures.

Commissioner Waxler asked the justification for allowing this station to come in with 20 pumps.

Terry O’Niel said the City did not perform an analysis of surrounding facilities, that has not been the City’s practice to do that.

Mayor Mortell explained that the City Commission does not have the authority to deny an applicant for a use within code based on a competitive plan of the proposed business.

Commissioner Waxler expressed concern over the number of dispensing spots when the average is 10 in the City.

Mayor Mortell said there is a “certain market that will bear it”.

Commissioner Hutchinson noted this is an annexed property and staff said it meets code.

Commissioner Christie rationalized there is no way we can say no to any business that comes into a neighborhood if the project meets code and we can’t say no to what they are requesting. I think that in that area there are gas stations that are in competition with each other, and if another station is in that location or vicinity. I don’t see how we can say no, if they meet those requirements.

MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL OF ORDINANCE
2213-10
SECOND: COMMISSIONER WAXLER

Commissioner Waxler said she would vote against it because by virtue that there is a site plan we do have the ability to limit certain things to assure it contorts with what we are trying to do in the City.

Mayor Mortell said we did not indicate that to the applicant at first reading.

Commissioner Krauskopf asked the City Attorney if we have the right to determine how many pumps go in the project.

City Attorney Nicoletti said the Commission may have some flexibility because this is a PUD but the site can accommodate it and it meets code.

Commissioner Christie asked the applicant's reaction to public comment, and if there was room in the project for a compromise to reduce the number of pumps in comparison to the surrounding businesses.

Stephen Riddle Racetrac representative said it is company policy to have no less than 10 pumps. We are not here to put anyone out of business, that's not our goal. On the flip side of that the residents will benefit with the lower cost of gas. Race Trac only looks at real estate that can support 10 pumps.

Commissioner Krauskopf noted that the County has in place a Market Applicability Rule for approvals. He said that if there is a way to negotiate a lesser number of pumps he would be willing to listen.

Mr. Riddle said it is company policy nationwide in every Race Trac to only have 10 or 12 pumps.

Mayor Mortell said our hands are tied.

City Attorney Nicoletti said had we known this was an issue as they approached staff we could have set forth criteria that specifically discussed that in any way. We already have a Racetrac in the City that has 10 pumps. It was not a concern or issue that staff would have raised.

Commissioner Hutchinson said the number of pumps has never been an issue.

Mayor Mortell said it is not up to the City to judge capitalism or micromanage any business.

ROLL CALL

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

Item #4 was heard here

**RESOLUTION 110-2010 Authorization to approve a site plat titled
“Racetrac at Marketplace Square” prepared by Bloomster Professional
Land Surveyors Incorporated**

MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL OF RESOLUTION
110-10

SECOND: COMMISSIONER CHRISTIE
ROLL CALL

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

- 9. ORDINANCE 2215-2010 (Second Reading) Adopting certain Land Development Code Amendments and rearranging and restating the Land Development Code of the City, by amending Chapter I (general provisions), Chapter II (zoning districts uses allowed, density, intensity, Chapter III (overlay zones), Chapter IV (concurrency determinations formerly known as consistency and concurrency determinations), Chapter V (resource protection related development standards formerly known as resource protection standards), Chapter VI (on-site and off-site development standards formerly known as development design and improvement), Chapter VII (reserved formerly known as accessory structures and uses), Chapter VIII (administration and enforcement formerly known as signs), Chapter IX (reserved), Chapter X (reserved formerly known as hardship relief), Chapter XI (processing of plan applications, formerly known as administration and enforcement), Chapter XII (definitions)**

MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL OF ORDINANCE
2215-10

SECOND: COMMISSIONER CHRISTIE
ROLL CALL

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

10. ORDINANCE 2216-2010 (Second Reading) Amending Section 6.07.14, “Dog-Friendly Restaurants,” to the Stuart Land Development Code; providing for an authorized exemption from State Law to allow dogs in outdoor areas of public food service establishments during operating hours; providing for regulations; providing for application and permit procedures; providing for a complaint procedure; providing for permit revocation; adding a definition for “Public Food Service Establishment” and “Employee”; providing for codification; providing for repeal of conflicting ordinances

MOTION: COMMISSIONER CHRISTIE; MOVED APPROVAL OF ORDINANCE 2216-10

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

DISCUSSION & DELIBERATION

Item #11 added by the City Manager

City Manager Hudson noted distribution of a memo on activities undertaken since the last Commission meeting including: Compiling planning principles; Concentrate on downtown area; Little League issues; Sought and received Tax Collector data; List of improvements and funding in downtown; CAPTEC analyze traffic in area; Address loss of taxes if Willoughby taken off the tax roll.

Mr. Hudson added that he and the City Attorney have speaking engagements lined up. He would also like to explore the possibility of differing action until after the election. He suggested a positive statement of what the city would like to see come out of this.

Commissioner Krauskopf suggested a simple one sheet item that is a joint commitment from both parties to keep it in the heart of the community. He said given time the City will give the County a better product than they asked for.

Mayor Mortell gave an analysis of how this could be a win for everyone. He also suggested a letter be sent to the County asking the County to maintain the baseball fields for the next 60 months.

Mayor Mortell suggested scheduling the meeting as planned for November 8, 2010.

Vice Mayor Waxler asked staff to give Mortell's ideas some consideration.

Commissioner Krauskopf said we have to them an alternative.

Commissioner Hutchinson said they are talking about buying more land than they need, and that means they have future plans.

Commissioner Krauskopf suggested putting forth the least expensive alternative specifically in front of the County.

Mayor Mortell agreed but suggested the City look at its own government center not exclusively for the constitutional offices but other government agencies could utilize a government center.

City Manager Hudson said he would look at scheduling the meeting.

ADJOURNMENT 7:00 p.m.

ATTEST:

Cheryl White, CMC, City Clerk

Michael Mortell, Mayor

**Minutes to be approved at the Regular Commission
Meeting This 8th Day November, 2010**