

**SPECIAL MEETING OF THE STUART CITY COMMISSION
HELD ON December 7, 2009
AT 9:00 A.M. IN THE CITY COMMISSION CHAMBERS
121 SW FLAGLER AVENUE
STUART, FLORIDA 34994**

Roll call was answered by:

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

Also present were:

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

Mayor Christie delivered the Pledge of Allegiance led by the Commission.

- 1. RESOLUTION 139-09: Confirming the results of the Canvassing Board of the City of Stuart for the City Commission Groups II and IV for the General Municipal Election held on November 3, 2009.**

**MOTION: VICE MAYOR MORTELL: MOVED APPROVAL OF RESOLUTION 139-09
SECOND: COMMISSIONER WAXLER
MOTION APPROVED UNANIMOUSLY**

2. Re-Codification of the Code of Ordinances.

City Attorney Nicoletti announced the item, and gave a background as to the recodification project that has been in the works for 2 years. He stated that staff has been through their sections of the code at least 3 times with him.

Vice Mayor Mortell suggested that as we move forward on this project we will look at reducing the size of the code.

Commissioner Waxler stated that by adopting the Florida Building Code that should remove quite a bit from the document. She stated it also take away the uncertainty.

Vice Mayor Mortell asked about the strike thru language and if that would be redlined language.

City Attorney Nicoletti stated that will remove large volumes from the code.

Commissioner Hutchinson asked about the removal of the Code Enforcement Board, and if disallows a future Commission from reestablishing the Board because of cost associated with the Magistrate.

City Attorney Nicoletti stated a future Commission would have to add it back into the Code.

Commissioner Krauskopf suggested having a placeholder within the code for future options to re establish the Board.

City Attorney Nicoletti stated he would do that.

Commissioner Hutchinson inquired as to the removal of some things that are noted "not enforced".

Attorney Nicoletti stated those items that are noted "not enforced" were either not enforceable or we felt really needed to come out, or they may be some other way to enforce it.

He explained the Municipal Code process and the Attorney reviewing the Code looks at hundreds of Florida Codes as well as State Statute Law to determine what should be in the code. Typically the footnote includes FS quotes.

Commissioner Hutchinson asked how we determined what is coming out of the code and what it's not, she expressed concern over a future problem that maybe we should note why the language was removed or why it is in here.

Attorney Nicoletti explained that the Code Company Lawyers go through the code in a global way. When I go back and look through their notes and question it being amended or not, I have noted that. I have invested a large amount of time and discussions with staff on what the City may or may not need in the future.

Commissioner Hutchinson just wanted to be assured that what the City Code, does not interfere with State Statues.

Attorney Nicoletti stated that several sections of the code include statutory language that is regulated by the state. Our LDR would still control things like mass of a building, and all the things we normally consider.

Commissioner Hutchinson also expressed concern that the amended code does not conflict with the Land Development Regulations. She said she did not want any surprises down the road.

Commissioner Hutchinson noted the following items;

Page 137, Taxi Cabs, One part is called a license and in another part it is referred to as Taxi Cab License and requested that it be uniformed names.

Page 152, The City Manager is stricken as the Director of Emergency Management, why?

City Attorney Nicoletti stated there is a section that calls for the City Manager as the Director of Emergency Management.

Page 153, The Mayor declare a State of Emergency and not the City Manager, why?

City Attorney Nicoletti states that Statutes calls for the Mayor to declare a State of Emergency, and if not available it is the Police Chief.

City Manager Hudson said there was a change in the Statute 8-9 years ago, that went to this structure.

Mayor Christie asked if in some cases State Statute supersedes the City's Code.

Page 226. Asked if all parks should be included in the RV overnight parking rule?

Albie Scoggins, Community Services Director stated that the original intent was to eliminate a overnight parking problem that was occurring at Shepard's Park. This was due to the large number of boats anchored offshore and was resolved when the Anchorage was constructed.

Commissioner Mortell expressed concern over a patron in the downtown may have too much to drink and have to leave their car overnight. I think we would rather have them leave the car then drive drunk.

City Attorney Nicoletti stated he would look at the matter.

Commissioner Hutchinson also noted the code references a dingy dock that the City no longer has.

City Attorney Nicoletti said he kept the language for the possibility that the City has another one.

Commissioner Hutchinson also mentioned the day docks behind City Hall.

Commissioner Waxler noted the rules are included in the code for dinghies on page 452.

City Manager Hudson said the City will look beyond Shepard's Park.

Commissioner Krauskopf stated that his intent was to simplify the code.

City Attorney Nicoletti stated this will do that.

Commissioner Krauskopf asked about item 4 on page 2 of the City Attorney Memo. He ask the City Clerk to look into the past election records to look for a referendum where we asked the public to approve electronic transfers and they voted that down.

The City Clerk said she would look into that.

Commissioner Krauskopf discussed the section that refers to the sale of alcohol in proximity to churches and schools.

City Attorney Nicoletti explained the City can be more restrictive for the school and churches.

Commissioner Krauskopf requested to know whether the language of the code restricting the churches will remain in the code.

City Attorney Nicoletti stated Municipal Code recommends it be removed and conformed to what they say or make it more restrictive. Part of it is just updating it to statute or keeping it in and making it more restrictive.

Commissioner Krauskopf stated he had no desire to lessen the requirement and requested it remain in the code enforceable by the City.

City Attorney said his recommendation is to make it more restrictive than statute. He did question the restriction on proximity to churches.

Vice Mayor Mortell expressed concern over what constitutes a church?

Commissioner Krauskopf asked about the DCA letter to see if the EAR is sufficient.

City Manager Hudson said that will be a series of initiatives coming to you over the next year as the EAR based amendments.

Commissioner Hutchinson asked because churches will be removed from the equation is there anything else of substance that changes the code in some way shape or form.

City Attorney Nicoletti stated he thought about two items, seawalls, docks and bulkheads. We have taken that piece of the code and made more sense out of it. I don't think it is going to change the code much.

Vice Mayor Mortell discussed the City's seawall requirements and a recent issue to construct docks. Most people are constructing their docks higher because of insurance requirements, but our code restricts this.

City Attorney Nicoletti stated he also looked at some changes to the fire code.

Commissioner Waxler noted a past situation regarding the fire code requirements for historical structures.

Attorney Nicoletti said he would discuss the matter again with staff but understood that the request is to allow for adaptive reuse and rehabilitation of historic structures. He said he would also look at each of the deletions and refer to statutes.

The Commission agreed.

MOTION: VICE MAYOR MORTELL: MOVED APPROVAL OF THE DRAFT RECODIFICATION OF THE CODE WITH THE CHANGES.

The Commission agreed proposed draft code will come back to the Commission within the next 60 days as amended.

City Manager Hudson briefed the Commission on the status of the current Nuisance case on the Rudge property.

ADJOURNMENT: 9:57 A.M.

Cheryl White, CMC, City Clerk
Minutes approved at the Regular Commission
Meeting this 14th Day December 2009

James A. Christie, Mayor