

**REGULAR MEETING OF THE STUART CITY COMMISSION  
HELD ON MAY 11, 2009  
AT 5:30 P.M. IN THE CITY COMMISSION CHAMBERS  
121 S.W. FLAGLER AVE.  
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 Invocation, followed by the Pledge of Allegiance led by the Commission.**

**PRESENTATIONS**

**1. PROCLAMATION; Proclaiming May 9 Through May 17, 2009 as Tourism Week.**

Rozeta Mahboubi – Executive Director of the Martin County Convention & Visitors Bureau came forward and graciously accepted the proclamation and thanked the City Commission. She invited everyone to a Tourism Appreciation Luncheon on May 14<sup>th</sup> at the Marriott Hutchinson Island recognizing those in the tourism industry.

**2. PROCLAMATION; Proclaiming the Month of May, 2009 as Foster Care Month**

Rossana Gonzalez came forward and graciously accepted the Proclamation and thanked the City Commission. She presented each Commissioner with a pin to wear recognizing Foster Care Month.

**3. PROCLAMATION; Proclaiming the Week of May 3 Through May 9, 2009 as Paralegal Week**

City Attorney Paul Nicoletti accepted the proclamation on behalf of Mary Nash Paralegal for the City of Stuart and thanked the City Commission.

**4. PROCLAMATION; Proclaiming the Week of May 3 Through May 9, 2009 as Municipal Clerks Week**

City Clerk Cherie White graciously accepted the proclamation and thanked the City Commission.

## **COMMENTS BY CITY COMMISSIONERS**

Commissioner Waxler introduced Meg Whitmer who gave an update on the Eco-Art Exhibit with emphasis on six-native trees. On behalf of Commissioner Waxler, a properly embossed green flag was presented to the City to accompany the planting of a Gumbo Limbo tree to engage the community in the activism of recreating our urban canopy. The Gumbo Limbo tree was donated by Jack Miller of Botanics Wholesale. Meg Whitmer also encouraged the City to have a mangrove seedling display in the lobby of City Hall similar to the one being installed at the County Administration Center.

Mayor Christie encouraged the Commission to attend the July 1<sup>st</sup> Bar-B-Q hosted by the Treasure Coast Council of Local Governments to be held in Okeechobee. Congressman Tom Rooney will be the guest speaker. The Mayor also noted that after tonight's meeting the male Board members will go into "summer dress mode" and eliminate neckties through September.

## **COMMENTS BY CITY MANAGER**

Mr. Hudson noted that staff is reviewing legislative changes and significant growth management legislation and analyzing for possible impact. Staff is also evaluating replacement of oak trees in the historic downtown area and along Osceola Blvd. Mr. Hudson congratulated staff on the water treatment plant tours noting that 542 students visited the plant last week along with "Sammi Sailfish". Haney Creek Park has re-opened after the recent brush fires.

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

Dave Shepherd came forward and expressed concern over the sign located at 1601 S Federal Highway. He stated the sign violates the City's code and are pole signs. He requested it be code enforced. He also complained that the property owner planted several palm trees along US1 that block the north face of his sign. He said his billboard is now useless. He quoted; Harmony of Regulations, Florida Statute 479.15.

City Attorney Nicoletti stated he would be happy to look into it further.

Commissioner Waxler asked that this issue be brought back to the Commission.

Vice mayor Mortell stated he did not want this issue to come back unless staff feels that there is something that would require Commission Action. He stated that he did not want to debate over a dispute between two neighbor's signs.

Commissioner Waxler clarified that all she is requesting is an update so she know what is happening.

## **APPROVAL OF AGENDA**

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF THE TENTATIVE AGENDA WITH MOVING ITEM 14 TO AFTER ITEM 10.

SECOND: COMMISSIONER WAXLER  
MOTION APPROVED UNANIMOUSLY

**CONSENT CALENDAR**

- 5. Request to approve the minutes of the Regular Commission Meetings of April 13 and April 27, 2009
- 6. RESOLUTION 47-09 Authorization to execute a modification of consent agreement No. SFWMD 94-93-CO-WU with the South Florida Water Management District dated October 17, 1994 pertaining to the operation of wells 1 through 15 while remediating a contamination as part of the forthcoming 20-year consumptive use permit RC)
- 7. RESOLUTION 48-09 Authorization to execute two utility easement deeds to Martin County Board of County Commissioners for temporary construction and permanent maintenance of a gravity sewer main and for operation and maintenance of an existing lift station located on NW Windermere Drive
- 8. RESOLUTION 49-09 Authorization to execute a special event contract between the City of Stuart and the Arc of Martin County to hold an event entitled 2009 Toyota of Stuart Treasure Coast Bike Fest on May 29, 30 and 31, 2009 at Flagler Park from the Stuart Feed Store to the St. Lucie River ( RC)
- 9. RESOLUTION 50-09 Authorization to approve and accept the Children’s Services Council County (2009-2010 Neighborhood Grant-East Stuart Youth Initiative Program) and to execute a contract between the Children’s Services Council of Martin County and the City of Stuart for Recreation Program Services related to the East Stuart Youth Initiative Program
- 10. RESOLUTION 51-09 Authorization for an early retirement incentive program for those employees that meet eligibility criteria

**END OF CONSENT CALENDAR**

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF THE CONSENT AGENDA ITEMS 5-10.

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

**Item #14 was heard here:**

**14. Discussion regarding alcoholic beverage restrictions in the Downtown**

City Attorney Paul Nicoletti reviewed the background of this item noting that the CRB (Community Redevelopment Board) had recommended that only 12 alcoholic beverage

licenses and changing the 300 foot rule in the downtown area. Ten already exist and one is reserved for the Post Office Arcade.

Commissioner Hutchinson stated that there were already 12 liquor licenses already existing in the downtown. She expressed concern on the licenses and how they would affect the diversity in the downtown.

City Attorney Nicoletti said he was not looking at the type of license only at the number of licenses.

Vice Mayor Mortell did not want to micromanage the downtown and expressed concern over any future businesses in the downtown and what they may want.

Commissioner Hutchinson said we need to clarify our maps.

Vice Mayor Mortell said if we don't want any more restaurants we should say so.

Hutchinson said the end goal is to have a diversified downtown. She stated there are some loopholes that need to be closed because there are so many types of licenses with the State.

There are 8 pages of different kind of liquor licenses and the ordinance does not address the "what ifs". She said that the idea is we want people to live in the downtown and adopting this Ordinance does not go hand in hand with that.

Commissioner Krauskopf said we do not need to expand and if we have 10 now we should leave it at 10.

Commissioner Waxler said what we have is not necessarily broken and asked what was in the best interest of the community. If we start doing this we may create "gamesmanship and ways to get around it, avoid it, whatever." I thought the way we handled Key Lime Café, and Maria's was good. Downtown is always a work in progress.

Commissioner Hutchinson said we are going full circle and before the exception process came into play there was, basically was no new places. We then changed it because someone wanted it changed, and this Commission has spent so much time on this one issue over the past four years. She expressed concern over allowing it to happen and how to stop it.

Vice Mayor Mortell gave a history of how the 300 foot rule and exception process came into play in the downtown. No one is applying for anything now, and we do not want to "box ourselves into because no one would have the opportunity to apply for an exception and we may really want that.

City Attorney Nicoletti said the CRB is trying to come up with a way that it was easy to understand easy to explain and easy to enforce.

Commissioner Waxler said that is a noble goal, but there are other areas of our City that are unique and they don't fit black and white pieces of a puzzle. There needs to be some way to think outside the box.

City Attorney stated he would re-write and simplify that section to make it less confusing.

City Manager Hudson said the CRB is looking for criteria and a checklist. He stated the City has always explained to them that it is their judgment as to whether it fits in the downtown or not.

Mayor Christie asked if we limit to 10 or 12 or whatever in this general area, there are other areas of downtown that are expanding. He asked if it was restricted to this district.

City Attorney Nicoletti stated that outside of this area the 300 foot rule applies. This is the only micro area that has been treated differently.

Paul Daley, owner of the Flagler Grill and co-owner of the Pelican Café, said he has a 4COP for Flagler Grill and usually closes by 10:30pm, but would like to be able to stay open if a special occasion is requested. He asked that the Commission “please don’t begin restricting the regular 4 COP licenses because it can harm other restaurants businesses”. He stated that he came to the meeting as a defensive move to make sure that things don’t get passed without talking with the restaurants. If we had our choice, the number of 10 existing businesses downtown is plenty. Please do consider the fact though it is much better to have 10 healthy businesses downtown then to have 12,14 and 16 businesses that are all cutting one another’s throats, and then you have turnover of business. He also did not want to restrict the nightclubs all together because it draws younger crowds and should not be restricted to people over 50 years of age.

Attorney Nicoletti clarified that the 300 foot rule does exist other than in the old downtown district. He stated he would need to clarify the language in that section with an amendment to clean up the section.

Commissioner Hutchinson expressed concern over the amount of time spent on this issue.

There was additional discussion by the Commission on the types of liquor licenses including the SRX.

Police Chief Morley said his department’s most concern is with nightclubs and there is no differential in being a restaurant closing at 10 PM and a nightclub closing at 2 AM.

Mainstreet’s Bernie Malone came forward, and recalled the Post Office Arcade special exception and understood the 300 foot rule pertained only to downtown.

City Manager Hudson said we always struggle with this whenever the issue comes in front of us.

Attorney Nicoletti said the ordinance has been amended several times, and the issues will be readdressed.

## **COMMISSION ACTION**

### **11. Advisory Board Appointments**

City Manager Hudson gave a brief history of the proposal to the Commission for appointments. He stated he would like to see the terms of the Board members coincide with the Commissioners terms. He also added the at large appointments need further discussion. He recommended combining the Board of Adjustments responsibilities into the Local Planning

Agency responsibilities. The Ordinance would not change just the LPA members would adjourn and convene as the BOA. Staff will be looking into the matter of number of members and a quorum requirement.

MOTION: VICE MAYOR MORTELL; MOVED APPROVAL TO REAPPOINT MEMBERS TO COINCIDE WITH THE COMMISSIONER ELECTION DATES PLUS ONE MONTH.

Attorney Nicoletti stated he would look at any Ordinance change that would be required.

SECOND: COMMISSIONER WAXLER

ROLL CALL

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

### **ORDINANCE SECOND READING**

**12. ORDINANCE 2180-09 (Second Reading) Amending Chapter 58, Parks and Recreation, and Chapter 70, street and sidewalks related to special events on public and private property and rights of way; repealing conflicting ordinances.**

MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL OF ORDINANCE 2180-09 ON SECOND READING

SECOND: VICE MAYOR MORTELL

ROLL CALL

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

**13. ORDINANCE 2181-09 (Second Reading) Amending certain provisions in Chapter 78, traffic and vehicles of the City of Stuart Code of Ordinances relating to parking fine by increasing certain fines; establishing prosecution before the City Magistrate; providing for a schedule of fines; providing for repeal of conflicting ordinances**

MOTION: VICE MAYOR MORTELL ; MOVED APPROVAL OF ORDINANCE 2181-09 ON SECOND READING.

SECOND: COMMISSIONER HUTCHINSON

ROLL CALL

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

Commissioner Krauskopf asked Terry Iverson when they would see the energy RFP.

Terry Iverson stated he should have it sometime in the near future.

### **DISCUSSION & DELIBERATION**

**Item 14 was heard earlier.**

**14. Discussion regarding alcoholic beverage restrictions in the  
Downtown**

**ADJOURNMENT 6:59 p.m.**

**ATTEST:**

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**Cheryl White, CMC, City Clerk**

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**James A. Christie, Mayor**

**Minutes approved at the Regular Commission  
Meeting This 8<sup>th</sup> Day June 2009**