

**REGULAR MEETING OF THE STUART CITY COMMISSION
HELD ON FEBRUARY 9, 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 (ABSENT)
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

A. PROCLAMATION; Proclaiming the month of February as Black History Month; Dr. Willie Jay Thompson, JD

Dr. Thompson came forward and graciously accepted the Proclamation and thanked the City for their support in the celebration of Black History Month.

B. PROCLAMATION; Proclaiming February 15-21, 2009 as Engineers Week

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

COMMENTS BY CITY COMMISSIONERS

Commissioner Hutchinson requested the City Commission view the County Commission Meeting on TV regarding the consolidation of the Fire Rescue Department. She specifically noted that a County Commissioner Valliere commented on the financial hardship to Sewall's Point residents but did not mention the hardship on residents of the City who live in the District she represents.

Commissioner Krauskopf thanked financial staff for the quarterly report and requested the Financial Service Director provide a "forward looking document".

City Manager Hudson said there were a lot of negative numbers in the subject report but felt they were manageable. He was more concerned about 2010 and 2011 and said staff is doing an analysis of property values to see what we might get as a prediction of what is going to happen with values this year.

Mayor Christie stated that in the Treasure Coast Council of Local Government meetings prominent discussions are the economic stimulus package, and the hope of some funds trickling down to municipalities. The Council wants all members to look for ways to work together in a regional sense of hiring and contracting within the 4-county area. The Council suggested an interlocal agreement among the four county areas.

City Manager Hudson said he had met with Melissa Corbett and Tom Kenney of The Future's Group to discuss the issue and City staff is looking at the issues.

Vice Mayor Mortell noted that Stephen Leighton from Congressman Rooney's office was in the audience, and will be available to discuss the economic stimulus issues with the public or members of City staff.

Clerk's Note: Comments from the public were heard at this time.

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

Helen McBride, came forward and expressed concern over the comments made by the Martin County Commission regarding the Fire Rescue consolidation She said it had been her choice to live in the City and she wants the City Commission to take care of people who live in the City.

COMMENTS BY CITY MANAGER AND REVIEW OF TENTATIVE AGENDA

City Manager Hudson noted that Commissioner Waxler was absent because she had a last minute business commitment.

He also requested a CRA Meeting for February 23, 2009 at 5:15 PM relating to the funding for the Dockside acquisition.

He also noted a letter had been received late today from Martin County regarding Fire Rescue consolidation. He placed copies in the Commissioners mailbox for their review.

Regarding the Tentative Agenda, Hudson addressed Item 4, Key Lime Café noting a memo correcting the minutes of the CRB meeting and a copy of an e-mail received today regarding item #4

Hudson introduced the Manager of Disabled Veterans who said the public should be sure to see proper identification before contributing to anyone claiming to represent Disabled Veterans. The gentleman dressed in Army fatigues and wearing two identification badges noted that \$500 from the funds collected in Martin County would be given back to the County Veterans' group.

Hudson also introduced Stephen Leighton from Congressman Rooney's office who reminded the Board of the District Swearing in Ceremony and new district office open house to take place at noon on February 17th at 335 SE Ocean Blvd. across from the Band shell.

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

APPROVAL OF AGENDA

MOTION: COMMISSIONER KRAUSKOPF: MOVED APPROVAL TO APPROVE THE AGENDA

**SECOND: VICE MAYOR MORTELL
MOTION APPROVED UNANIMOUSLY**

CONSENT CALENDAR

- 1. **Request to approve the minutes of the Special City Commission Meeting of January 20, 2009**
- 2. **RESOLUTION 10-09 Authorization to execute a Martin County Law Enforcement Agencies combined operational assistance and voluntary cooperation Mutual Aid Agreement to provide assistance of routine law enforcement nature across jurisdictional lines**
- 3. **RESOLUTION 11-09 Authorization to execute a standard short form contract between the City of Stuart and Northstar Geomatics, Inc. to provide professional Geographical Information System Services**

MOTION: COMMISSIONER KRAUSKOPF: MOVED APPROVAL OF THE CONSENT CALENDAR

SECOND: VICE MAYOR MORTELL

ROLL CALL;

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

END OF CONSENT CALENDAR

City Manager Hudson introduced the Manager of Disabled Veterans Foundation, Mr. Bobby Brooks, who said the public should be sure to see proper identification before contributing to anyone claiming to represent Disabled Veterans. Mr. Brooks stated their organization received over \$500 from the funds collected in Martin County, and presented a check to the Martin County Veterans Services group.

City Manager Hudson also introduced Stephen Leighton from Congressman Rooney's office who reminded the Commission of the District Swearing in Ceremony and new district office open house to take place at noon on February 17th at 335 SE Ocean Blvd. across from the Band shell.

COMMISSION ACTION

- 4. **RESOLUTION 05-09 Authorization to approve a Major Urban Code Exception to John White, owner of Key Lime Café, tenant of the property located at 211 S. Colorado Avenue; to allow the sale of alcoholic beverages at an established restaurant located within the "Old Downtown Section" (Quasi-Judicial)**

Murriah Dekle noted that this item is being continued from January 26th. The applicant has been doing business at the subject location for 4 years and in 2007 was granted an exception to serve beer and wine. On January 6, 2009 the CRB approved this subject request by a 3-2 vote.

John White Key Lime Café came forward and presented his case before the City Commission saying his goal is to become a full service restaurant and a liquor license that requires 51% of sales coming from food would allow him to secure a loan to expand and add indoor seating. He also showed the Commission several articles naming Key Lime Café several awards. He is requesting that he be allowed to stop serving by 10 PM Sunday through Thursday and to close at 2 AM Thursday thru Saturday. He is also requesting that he be allowed to add live music and stated he had never had a noise violation or complaint.

Public Comment

Veronica Pasquale 15 Seminole Street came forward and expressed concern over the proposal made by Key Lime Café. She referenced the Development Director's report to the City Manager and said she and her husband has asked for an investigation because of the live amplified music at the Café' which is not permitted there. She said there are residents living in the immediate area and they are entitled to peace and quiet. If this exception is approved 88 more seats would be added bringing in 44 more cars in an area that already has parking problems. She also noted the noise ordinance will not take care of amplified music as the Pasquale's have reported loud music at least twice a month and nothing has been done.

Armond Pasquale reiterated many of his wife's comments and said there are already too many bars and drunks in downtown Stuart. He referenced the ordinance that requires 300 feet between bars and presented photos to the Commission showing a musician playing live music at the Café.

Bernie Malone, Mainstreet Director, said for years the town has sought to be a destination point and John White has created a "niche" unlike anything downtown. Some neighbors have always had negative comment but this restaurant creates a destination.

Eddie Phillips came forward and stated he lives upstairs from the Key Lime Café, and has never heard any noise from the Café, which he called "a plus for Stuart".

Patty Glascock O'Connell, long time resident and owner of the Gumbo Limbo decorative store adjacent to the Café, said the only live music she has ever seen is "a guy playing a guitar" and John White has always been a good neighbor. She said if you live downtown you can expect to have restaurants and the Key Lime Café has "invigorated" this area of downtown.

Susan Zito, whose daughter owns the Z Boutique next to the Key Lime Café' said the Café is a good neighbor but she did express concern about parking.

Steven Vitale, owner of the building where the Key Lime Café is located as well as other surrounding buildings, said these are mixed use properties and in light of economic problems businesses have to be pro-active. He has upgraded his properties and has tried to keep rents reasonable. There is adequate vacant space for Key Lime to expand for indoor seating and other businesses depend on Key Lime to bring in traffic. He said he is working with John White to try and make this happen. He said the heart of the downtown is the Lyric Theatre and the arteries are the restaurants.

Tara Beik, owner of Tara Beik Creations, said she was here to support the Key Lime Café request.

City Police Chief Morley noted that the former Dockside restaurant is now a night club and he expressed concern that extending a liquor license to Key Lime Café would create another night club along with the ensuing problems that require police attention. He stated the police force is the same as it was in 1992.

Mrs. Pasquale asked that a letter from Stuart resident Sherry Johnson be read into the record.

Steven Vitale stated that when he negotiates a new lease with Key Lime he will stipulate conditions to be sure this remains a restaurant and does not become a night club.

Attorney Nicoletti asked Mr. White to clarify what he was requesting as far as hours of operation.

Mr. White stated "We were looking to close by like 12 pm or 1 am. We shot for 2 am because; this will allow everyone to leave and to close the place up. Originally we were asking to stop serving by midnight, this way we have like an hour to close it up. 2 am is like well, if we are going to go for it let's go for it. We were willing to go to maybe 1am or even 12:30 am. So this way at 12:00 pm we do last call for food and we go home, but legally, if you say close by 12:00pm and I have don't have those doors closed by 12:00pm, I did not want to lose my license. I also want to respond to the music, if you look at those pictures there is no amplified music and it is on Carly's patio."

Attorney Nicoletti stated that previous exceptions and permissions that have been granted over the year said; both stop serving and close at a certain time. Is that 10pm during the week and Friday Saturday at 12midnight?

Mr. White stated Thursday, Friday and Saturday we were asking to stop serving at midnight. This way our customers can still eat still finish their drinks and go, and we don't have to kick them out. 10 pm was Sunday through Wednesday. And we actually said close by 10pm. He stated the other nightclub issues are because of the cliental and his customers are not rowdy.

Attorney Nicoletti informed Mr. White the condition reads: "Stop serving alcohol and be closed by midnight. That is the condition."

Attorney Nicoletti read into the record the letter received by the City from Sherry Johnson, who objected to the applicant's request. The letter also stated the owner of Key Lime Café has many unpaid taxes as well as problems with both the State and Federal governments.

Mr. White came forward and stated all of the taxes have been paid and there is no lien on the business, he also stated that he has a payment plan set up to pay off the Federal Tax Lien.

Commissioner Krauskopf asked for clarification on liquor licenses and the current ordinance requiring 300 foot separation.

Attorney Nicoletti said in the old historic downtown area the norm is 300 foot separation and that is why an exception is being considered. He also addressed the issue of Maria's restaurant which is now located in the old T.A.Verns site.

Doug James verified that a revocable permit had been granted to Maria's Restaurant in the old TA Verns building. The City Commission recently approved a revocable permit for outside seating and recently the CRB will be recommending a Major Urban Code Exception for the service of beer and wine.

Commissioner Hutchinson stated that the reason for that is because they subdivided TA Verns and there are not enough seats for that location to now apply to the State for COP Restaurant only. She also asked if there was anything on the books that prohibits Key Lime Café from expanding without the exception.

Attorney Nicoletti said no there was nothing on the books that would prohibit them from having more seats or occupying more space.

Commissioner Hutchinson suggested that Mr. White talk to other restaurant owners who have expanded. She explained the business is very close to the residents along Seminole Street. She noted that there are pros and cons to the issue but she will not support the Key Lime Café being open any later than 10 pm on weekends and 9 pm on weeknights. She also stated it should be contingent upon the COP restaurant, no future quota license and the expansion needs to take place before the liquor is allowed to be in, and no amplified music.

Vice Mayor Mortell stated the original 300 foot Ordinance was adopted to allow the Commission to have the opportunity to create the exception process. He quoted a consultant who said in order for the City to remain sustainable it has to expand toward the Courthouse and grow down Osceola and East Ocean Blvd, to have sort of a business hub. He agreed with Hutchinson's concerns. He was not sure of the application operating time and requested a clearer answer on that issue. He added that the noise ordinance be enforced. He stated that we should allow Stuart to move forward and not worry that someone is going to order a vodka tonic instead of a glass of wine. If the business is not going to make it then he won't make it. He said he would support the request but, did not agree with music until 2am,

Mayor Christie tried to separate the issues into residents' concerns, hours of operation and music.

When he sat on the CRB Board they tried to strike a balance in the downtown some years ago. He stated he was concerned over the extension of the hours of operation. He said he would not have a problem extending the hours to 11pm on weekends and to 10pm on the weekdays because of residents. He noted that this restaurant has been before the City Commission twice in the past without any consideration for residents, and he also had a problem with the parking issue.

Vice Mayor Mortell expressed concern and said Maria's Restaurant is coming forward with the same application, and if we restrict the Key Lime we have to restrict Maria's.

Commissioner Hutchinson said one, is an established location, and one, and is a new location.

Attorney Nicoletti addressed the times of week when all restaurants are closed and said it is generally 10 PM on week nights and midnight on weekends – but there are a few exceptions.

MOTION: VICE MAYOR MORTELL: MOVED APPROVAL OF RESOLUTION 05-09 TO ALLOW THE SPECIAL EXCEPTION APPLIED FOR BY THE KEY LIME CAFÉ WITH A RESTRICTION THAT NO LIVE OR ANY OUTDOOR MUSIC NOT BE AMPLIFIED AND NOT GO LATER THEN 10PM AND THAT IT BE CLOSED THE SAME HOURS AS BLACK MARLIN AS LISTED, 10PM WEEKDAYS AND 12AM WEEKENDS.

The motion died for a lack of a second.

Steven Vitale said he had made a big investment in this area and if this is not approved White will leave and the area will die.

Commissioner Hutchinson reiterated her strong feeling about closing at 10pm on weekends.

Attorney Nicoletti advised the public that this matter will automatically be continued to the regular City Commission meeting of February 23, 2009 and no further advertising is required.

5. Update on Dockside (Res. 13-09 if needed)

Attorney Nicoletti said staff is continuing to work on getting the numbers in order but the lease needs to be "tweaked". It will be brought back to the City Commission on February 23rd. He noted that the City has until February 27rd at 5^{pm} to withdraw without penalty to the City. He stated the City is currently negotiating with the Department of Revenue.

Vice Mayor Mortell recommended that Attorney Nicoletti draft a revised contract giving the City an extension for another 60 days.

Attorney Nicoletti agreed.

ADJOURNMENT 7:16pm

Cheryl White, CMC, City Clerk

James A. Christie, Mayor

Minutes approved at the Regular Commission
Meeting this 23 Day February 2009