

**REGULAR MEETING OF THE STUART CITY COMMISSION  
HELD ON JANUARY 11, 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 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 Mortell delivered the Pledge of Allegiance led by the Commission**

**PRESENTATIONS**

- 1. PROCLAMATION: Proclaiming the week of January 13-18, 2010 as Martin Luther King, Jr. Celebration**
- 2. Recognize Cherie White for achieving the Master Municipal Clerk Certification**

Tammy Vock, City Clerk Vero Beach presented Cherie White with her MMC plaque and pin.

Cherie White, City Clerk came forward and graciously accepted her award and thanked everyone.

**COMMENTS BY CITY COMMISSIONERS**

Commissioner Krauskopf said he received a letter from Circle Bay regarding rate of accidents that have increased. He passed along a letter he had received. He requested the City Manager look at a plan to implement cul-de-sac of Palm City Road at the southern terminus.

Vice Mayor Waxler expressed concern over cutting off the access to the bridge and asked for a feasibility study done.

Mayor Mortell also questioned evacuation routes, but did not have an objection to have the City look into the matter.

Commissioner Krauskopf said that it appears the City has tried to elevate the problems along Palm City Road but the intensity of the traffic is increasing, so he would like to focus on a goal.

Commissioner Hutchinson also mentioned the new proposed bridge and how that may affect the roadway, but also supported looking into the matter to see if there were any other options.

Mayor Mortell noted the upcoming 2010 Census, and encourages the citizens to submit their forms back to the Census.

He also noted that he had received a parking ticket in Ft. Pierce and along with the ticket he received a brochure indicating where the public parking lots were located. He also noted that the City of Ft. Pierce would not accept his payment the same day because they did not have it in the system. He said he was happy that the City of Stuart does not operate that way. He also mentioned the 1<sup>st</sup> offense for violating the parking in Ft. Pierce is \$30.00. He suggested we pass the brochures out to those heavy offenders in Stuart.

A representative was now present to accept the Martin Luther King, Jr. Celebration proclamation. City Attorney Nicoletti read the proclamation in its entirety.

The proclamation was accepted on behalf of the East Stuart Mainstreet. They are organizing events throughout the weekend highlighted by the festival at Memorial Park, 11-5 on Monday, January 18th. Monday's events include a parade at 1:30 and a speakers' program from 3-4.

#### **COMMENTS BY CITY MANAGER**

City Manager Hudson gave a visual presentation to the Commission. The presentation included pictures of trees planted in recognition of Mayoral service to the City of Stuart. The presentation showed The Mayor's Tree at Krueger Creek Park: Mr. Hudson pointed out the tree that has been planted to honor former Mayor Krauskopf and the location where a tree will be planted to honor former Mayor Christie. In the future a commemorative plaque will be installed at the site of each Mayor's tree.

He also reminded the City Commission Martin Luther King, Jr. Celebration: East Stuart Mainstreet is organizing events throughout the weekend highlighted by the festival at Memorial Park, 11-5 on Monday, January 18th. Monday's events include a parade at 1:30 and a speakers' program from 3-4.

Review of tentative agenda:

Item 11 – Sign Code Update request to continue to 1/25.

Item 14 includes a supplemental memo with staff recommendations.

#### **APPROVAL OF AGENDA**

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF THE AGENDA AS DISCUSSED AND AMENDED WITH SUPPLEMENTAL MEMOS.

SECOND: VICE MAYOR WAXLER

APPROVED UNANIMOUSLY

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

Bernie Malone, Stuart Main Street came forward and announced the upcoming events; Stuart Boat Show, and the Friday evening event at the Gazebo.

Commissioner Hutchinson noted that Friday night is also the opening of the Howard Schaefer Exhibit, at the Court House Cultural Center.

Vice Mayor Waxler also noted the formal grand re-opening of the gallery just redone.

**CONSENT CALENDAR**

- 3. **Request to approve the minutes of the Regular Commission Meeting of December 14, 2009**
- 4. **Commission Appointments: Commissioner Krauskopf recommends the reappointment of William Mathers to the Local Planning Agency and reappointment of Dr. E.E. Griffith to the Board of Adjustment**
- 5. **RESOLUTION 01-2010 Authorization for a budget amendment to the 2009-2010 annual Water Sewer Fund Operating Budget for the appropriation and expenditure of \$2,869,538.00 to fund the reclaimed water system with reimbursement of funds from the proceeds of the Clean Water State Revolving Fund Construction Loan Agreement WW430400**
- 6. **RESOLUTION 02-2010 Relating to the State Revolving Fund Loan Program; Authorizing the loan agreement; Establishing pledged revenues; Designating authorized representatives**
- 7. **RESOLUTION 03-2010 Authorizing the use of Facsimile Signatures on checks issued by the City**
- 8. **RESOLUTION 04-2010 Authorizing Budget Amendment #7 to the 2009-2010 annual general fund operating budget for the appropriation and expenditure of \$21,535.24 to fund the required additional professional engineering services for the SR 707 turn lane project**
- 9. **ORDINANCE 2197-09 REQUEST TO CONTINUE FIRST READING TO THE COMMISSION MEETING OF JANUARY 25, 2010 Amending the Stuart Comprehensive Plan relating to Capital Improvement Element (CIE) by making annual amendments to the Capital Improvement Schedule**

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF THE CONSENT AGENDA 3-9.

SECOND: VICE MAYOR WAXLER

ROLL CALL

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

## **END OF CONSENT CALENDAR**

### **COMMISSION ACTION**

#### **10. RESOLUTION 05-2010 Authorization to approve a Major Urban Code Exception to permit the existing non-conforming building height to allow for substantial renovation to occur for property owned by the Betty M. Ziebell Revocable Living Trust located in the "Old Downtown Section" of the City, Mulligan's Beach House (Quasi-Judicial)**

Murriah Dekle, City Planner presented the item to the Commission. The property is located at 61 SW Osceola Street (formerly Ashley's). She also gave a brief history of the application. Noting that the site is in the CRA staff said the elevations have changed since the first submittal and the CRB had recommended conditional approval. Staff now supports the applicant's request dependent on 18 conditions.

Attorney Terry McCarthy thanked staff for fast tracking this item so his client could finish the renovations in time to take advantage of what is left of the winter season. He addressed the issues noting that code restricts the amount of money that can be spent for interior improvements and that would limit the applicant's plan to spend half dollars on new kitchen and bathroom facilities as well as new floor coverings. He noted that the applicants request to allow outdoor dining in existing parking places has been removed from the application. McCarthy also noted the changes that have been made to comply with staff and the Commission's concerns.

Marcella Cambolor, applicants representative gave a visual presentation to the Commission and public regarding the color pallete of the building. She explained the teal and ochre colors have been "extracted from the urban code palette" and addressed the concept of providing outdoor seating by "recessing the skin of the building" and recessing the windows in 5 feet to allow for an arcade concept along Osceola Avenue. This idea was highly approved by the CRB. She explained that the outdoor seating was part of the business model. There were questions on the conditions of approval some of which were contradictory but the applicant will follow the plans and elevations as proposed.

Interim Development Director Terry O'Neil addressed some of the conflicting conditions and explained an approved controlling elevation will be provided and abided by.

Public Comment –

Steven and Diane Feder, owners of adjacent Riverwalk Café were happy to see their concerns about outdoor seating and parking spaces had been addressed and they welcomed Mulligan's to the neighborhood.

Flagler Grill owner Paul Daley said his issues have been addressed.

Armond Pasquale came forward and expressed concern over the proposed business and stated it just meant another bar in the downtown. His biggest concern was the putdoor seating and noise.

David Collier, 1138 SE Osceola Street and CRB Board Member, acknowledged that he had voted to approve the proposal, but he was concerned over the Jensen Beach code enforcement and was given a statement by the applicant that things were worked out. I spoke

with county staff regarding the several code enforcement issues that had to be enforced in order to get compliance. He said that is not the way it was presented to the CRB members regarding this project. He also asked the City to monitor the operations for any encroachment into the right of way. He requested the City put some teeth into the approval to assure compliance and if it becomes non-compliant those issues will be addressed rapidly.

Connie Mainwaring, owner of Carambas a downtown shop expressed concern over the impact of Mulligans on downtown. She also agreed with Mr. Colliers comments and had concern over the remodeling of the historic building.

Helen McBride said many of her visiting family and friends want to go Mulligan's in Jensen Beach because they have great food for children. She was happy to see them come to downtown Stuart.

Robert Steinberg, California Ave. He agreed with Mr. Pasquale's concerns about compliance with the noise ordinance and questioned the City's ability to restrict unwanted noise from the outdoors. He said there is a liability to the City if over the seating in the public right-of-way and felt the business owner should hold harmless the City. He supports the business and wishes the owner well.

Ron Rose, Executive Director of Jensen Beach Chamber of Commerce. He said he is very familiar with the applicant and the Chamber has not had any complaints about the food. He noted Mulligan's community good will, and said this restaurant will bring 45 new jobs to the City of Stuart. He felt there should be no comparison to this proposed restaurant and the one in Jensen beach.

Marcella Cambolor gave her visual rendering presentation to the Commission and public regarding the rendering of the proposed business.

#### Commission Comments:

Commissioner Hutchinson asked for clarification of the style of windows and location of doors.

Vice Mayor Waxler was concerned about the use of the public sidewalk for the "wait staff" serving food as well as the possibility that the intensity of use will eventually happen. When Waxler asked about the color palette, staff explained the applicant wants to use a teal blue and ochre palette. Waxler asked if it was safe to say that a majority of the money is being spent for "infrastructure."

Attorney Terry McCarthy agreed that a new kitchen, new restrooms and new floor covering are costly.

Commissioner Krauskopf agreed with Vice Mayor Waxler's concerns about public using the sidewalk for tables and wait staff. She agreed with Mr. Steinbergs comments about the liability issues. He asked if the City Attorney felt there is enough "teeth" in the Ordinance to cover any violation of the resolution.

Attorney Nicoletti said he, development staff and the City Manager agree there will be adequate "teeth."

Commissioner Christie addressed the live music and expressed concern over the other businesses who also want to put music outside. He felt staff addressed the concerns over the

outdoor events. He stated he hopes the applicant does not take away the historical presents from the building. He also did not want to discourage businesses from coming to downtown by making it too restrictive. He supports staff recommendation.

Commissioner Krauskopf asked if acoustic versus amplified music had been addressed.

City Attorney Nicoletti read into the record the condition 9 relating to the noise ordinance.

Commissioner Hutchinson addressed the possibility of outdoor seating becoming “smokers row.”

Mayor Mortell thought the rendering was “creative” and said people are going to smoke in the outside areas. He did think the noise issue will be “interesting to watch.”

Commissioner Hutchinson referenced code enforcement and asked if there was any way to put in “more teeth other than the normal code enforcement process.” She asked if there is a large amount of spill from the outdoor seating would the applicant be willing to restrict access to the seating.

City Attorney Nicoletti stated that if the business interferes with the pedestrian passing along the sidewalk they would be sited for a code violation and it would be taken care of or go to a hearing. He said he would incorporate into the approval if there were so many code violations in a year there would be a breach and could be sanctioned.

Commissioner Hutchinson asked Attorney McCarthy if there is concern over the amount of people congregating along the sidewalk is the applicant willing to construct a barrier to prohibit the sprawl onto the public sidewalk.

Attorney McCarthy said the applicant agrees to do that, yes.

Mayor Mortell said no potted plants, because they collect cigarette butts and also get moved. He said the barrier needs to be fixed.

Attorney McCarthy said the applicant would agree to those concerns.

Commissioner Hutchinson wants a condition to regulate spill over into the public sidewalks.

Vice Mayor Waxler said it is important to fill this vacancy in downtown Stuart but she wants language in the conditions that make it perfectly clear that the restaurant will be contained in the footprint and not spill onto or use the public sidewalks. She also expressed concern about the number of police calls to trigger enforcement; she did not want to discourage the applicant from calling the police to keep the calls down. She said that historically this business has had live music. She was happy to see the condition that the music remains indoors.

Nicoletti reviewed the recommendations for additional language to address the Commissioners' concerns.

#15: add: or on the sidewalks adjacent to the premises.

Vice Mayor Waxler stated she want the applicant to adhere to the current color code.

City Attorney Nicoletti added: #16 add; furniture for recessed outdoor seating (2 tops only on the Osceola side)

Paragraph 13; In the event where the business generates more than 50 police calls for service which is related to overcrowding or to alcohol or use disturbances (add) or if code violation is adjudicated by a magistrate or court reoccurs in any 12 month period.

#4 strike the word "color".

#5 strike the word "location"

#5 add the word "height"

Commissioner Hutchinson wants to re-address the location of the door on Osceola side and said the colors have to adhere to the existing color palette.

Strike "similar to neighboring riverwalk"

Terry O'Neil stated he would strike #4 & 5 and could be covered under #1.

The Commission agreed.

Terry O'Neil clarified the applicant must adhere to the existing color palate.

The Commission agreed.

City Manager Hudson cleared Mr. Steinberg's concerns and that the other outdoor sidewalk uses in the downtown are covered by revocable permits and must hold harmless the City.

Commissioner Hutchinson noted the Cone Heads business in the downtown should have a revocable permit and asked the City Manager to look into the matter.

MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL RESOLUTION 05-2010 AS STATED AND AMENDED.

SECOND: COMMISSIONER CHRISTIE

ROLL CALL

MAYOR MORTELL YES COMMISSIONER CHRISTIE YES

VICE MAYOR WAXLER YES COMMISSIONER HUTCHINSON YES

COMMISSIONER KRAUSKOPF YES

### **ORDINANCE FIRST READING**

#### **Item #11 was continued to January 25, 2010.**

**11. ORDINANCE 2198-10 (First Reading) Adopting a Comprehensive Sign Code for the City by amending general sign provisions; Amending the definitions; Providing for severability; Providing for conflicting provisions; Providing for codification**

**12. ORDINANCE 2199-10 (First Reading) Requesting and consenting to the inclusion of a portion of the City within a Municipal Service Benefit Unit to provide wastewater collection and treatment service**

This ordinance was requested by five customers to allow for central sanitary sewer connection to the County's sewer system in North River Shores.

MOTION: VICE MAYOR WAXLER; MOVED APPROVAL ORDINANCE 2199-10  
SUBJECT TO CLARIFICATION OF CITY STAFF AT THE NEXT MEETING.  
SECOND: COMMISSIONER KRAUSKOPF  
MAYOR MORTELL YES COMMISSIONER CHRISTIE YES  
VICE MAYOR WAXLER YES COMMISSIONER HUTCHINSON YES  
COMMISSIONER KRAUSKOPF YES

## **ORDINANCE SECOND READING**

## **DISCUSSION & DELIBERATION**

### **13. Proposal to Renegotiate the Ground Lease for Penn Plaza**

City Manager Hudson said this item was requested by the tenant Robert DeSantis. and has not been staffed. He stated he was looking for direction from the Commission as to if they wish to entertain the concept presented.

Commissioner Krauskopf said he would prefer not to write the lease down but to help the tenant make the business grow, and speak to the adjacent property owners about the proposal and be an advocate for him. He said times were hard and felt the City should help him with trying to get a business there.

Mayor Mortell said he spoke with Mr. DeSantis and he and he said one thing he understood that the City is in a private public partnership. He said he would be inclined to walk down the path to try and work something out.

Commissioner Hutchinson stated she was not inclined to open this up because the City has several long term deals in the community. She said it would open up a can of worms with the other leases the City has.

Vice Mayor Waxler said this is not a typical lease, it is a private/public partnership. and part of being a partner is "give and take." She expressed concern that just down the street we are going through the same situation with Océangate builders, and would be interested to see the comparison of the two parcels. She asked staff to look into the properties and see where they are at this point, and also keep Commissioner Krauskopf's ideas in mind as to what concessions the City can make to help the current financial situation.

Mayor Christie addressed the worst case scenario, and said he would not mind looking at short term relief and should be considered.

Commissioner Hutchinson said we have to look at what the repercussions will be in looking into this. She stated that next time the economy takes off and values go high, I doubt we are going to be able to go back to those people that are leasing the land from us and say; now I want to increase it. She again expressed concern over the other land leases.

Speaking on behalf of DeSantis, Attorney Terry McCarthy said he represents a number of landlords and they have all been asked to reduce rents because we are in a depression. He said this is not Centex we are dealing with but this is someone we have all known and have been dealing with for 30 years. Mr. DeSantis has never walked away from any obligations but is simply asking the City to open negotiations; I can assure you he is losing money on a monthly basis. He anticipated building more than what he has built. There just is not any demand at this time. He is also willing to go back and have the property appraised at a later date, and if the rent goes up higher than initially calculated then it goes up. He is asking you to ride with him in the bad times and in the good times he will ride with you. I would ask that you give us the courtesy to come back and make a presentation. Bring some experts in here and here what is going on.

Mayor Mortell stated that Mr. DeSantis has heard what the Commission comments are and would be up to Mr. Desantis do decide for himself if he wants to bring it back.

City Manager Hudson said staff just wanted to get some sense whether the Commission wanted to entertain the idea.

#### **14. Discussion on East Ocean Government Center – Joint Meeting**

City Manager Hudson gave an overview of this item that is included in the agenda for the joint meeting with the County and School Board tomorrow. The meeting includes an item for discussion regarding the East Ocean Government center. This item was scheduled tonight to discuss a strategy in advance of the meeting. Martin County has solicited proposal to replace rental real estate with permanent offices. They have identified three areas within the County, the Administrative Center, Willoughby Blvd area, and also the Court House. There was only one major proposal submitted in the area of the courthouse, the Wachovia Bank Building, and appears to be less competitive.

He stated the East Ocean Government Center concept will be discussed tomorrow. He stated the City has developed a competitive alternative recommendation to the County. He gave a visual presentation to the Commission.

Mr. Hudson identified six potential locations for a county office building that would be within the vicinity of the courthouse as follows; Wachovia bank building, and also includes the two unfinished Civitas buildings, the existing East Coast Lumber site, the Erneston Produce site, the existing Court House site and the City owned Sailfish Ball Park. Staff recommends the Sailfish Ball Park be proposed to Martin County for the construction of County offices.

Interim Development Director Terry O'Neil reviewed a preliminary site plan for the 8-acre Ball Park site that offers a number of options, and would meet the office space needs downtown for a number of years.

Commissioner Hutchinson stated that it was vital as a City to bring Constitutionals back downtown. If they go to Willoughby they will be gone forever, and moving them to Willoughby will go against everything that has been discussed regarding sprawl. She said if they are downtown it supports those businesses in the downtown and makes it convenient and allows residents to take care of everything all in one location.

Mayor Mortell said we all agreed we want the constitutionals downtown but do we have the political will to give up Sailfish Ball Park.

Commissioner Hutchinson expressed concern that the County staff is moving down the road to move to Willoughby, and we have to go in with a game plan. She felt it was a good opportunity with the low cost of construction at this time.

Mayor Mortell said we need to put it on the County to do the right thing.

City Attorney Nicoletti said we are looking to slow down County staff.

Vice Mayor Waxler said we need to do whatever it takes. She also felt their concern would be that it is too close to the sewer treatment plant. She stated the City is showing a synergy for the County in the location of the Sailfish Park.

Commissioner Krauskopf suggested presenting to the County a simplified color site plan and requested ownership remain in the City with a use agreement. We may want to show moving City Hall here someday, and reserve space for it. The ball fields are easily replaced with existing space at Guy Davis Park.

Mayor Mortell stated one of the things they may object to is that the City retains ownership.

He thinks that if both parties agree to this plan then the City could fee simple the footprint of their building.

Commissioner Krauskopf suggested designating Mayor Mortell as the City spokesperson at the meeting tomorrow.

The Commission agreed.

Mayor Mortell asked if the Commission was willing to stand up to Little League.

The Commission said they were.

Commissioner Hutchinson felt this was a wonderful opportunity to synergize many different things that are going on, that will really secure the future of downtown Stuart.

Chris Frambes The owner of the Edelweiss Café asked if there was anything he could do to help “mobilize the business community.”

City Manager Hudson said the City is now in a position to take up a proposal and now is the time to contact the County Commissioners.

Commissioner Krauskopf suggested showing the County a graphic of the area with no particular buildings just the area with the amount of land available.

Staff suggested using an aerial to show the 8-acre green area.

Business owner Paul Daly said this is critical to downtown and offered the help with the 75 member downtown business association. He asked the City to provide a direct message for them to use to give the County.

Vice Mayor Waxler suggested a reception like the Managers meeting to discuss the proper message.

Helen McBride came forward and stated it was a wonderful idea and felt it would benefit the entire City.

**ADJOURNMENT 7:51 p.m.**

**ATTEST:**

\_\_\_\_\_  
**Cheryl White, CMC, City Clerk**

\_\_\_\_\_  
**Michael Mortell, Mayor**

**Minutes to be approved at the Regular Commission  
Meeting This 25th Day January, 2010**