

**REGULAR MEETING OF THE STUART CITY COMMISSION
HELD ON APRIL 13, 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 (ABSENT)
Deputy Clerk Mary Nash**

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

PRESENTATIONS

1. PROCLAMATION; Proclaiming April 19-25, 2009 as Stuart Volunteer Week.

Carol Hodnett, Director of Martin Volunteers came forward and graciously accepted the proclamation and thanked the City Commission. She gave a brief overview of the volunteerism they provide to the community.

2. PROCLAMATION; Proclaiming the month of April as Fair Housing Month

The proclamation will be mailed.

3. PROCLAMATION; Proclaiming May 2, 2009 as Keep Martin Beautiful Great American Cleanup Extreme Martin Makeover Day in Stuart

Mary Kindel came forward and accepted the proclamation on behalf of Keep Martin Beautiful. She encouraged everyone to come out and volunteer to participate in this year's "Great American Clean Up Day" to be held on May 2, 2009.

4. PROCLAMATION; Welcoming the Nina and the Santa Clara to Stuart on April 14th

Mayor Christie presented the proclamation to Mr. Charles Vaughn the proclamation as well as a "Key to the City of Stuart" for the Captain of the Nina.

COMMENTS BY CITY COMMISSIONERS

Commissioner Waxler noted that a few meetings ago she had asked Mike Moon what the County what uses they have come up with for the 18th Street neighborhood that has been blighted. She read aloud a letter she received regarding the reuse plan and a possibility of using the property for a dog park. The FAA stated they would not approve anything would create a congregation of people in that area.

Vice Mayor Mortell suggested responding to the letter by saying we do not want any commercial use there.

Commissioner Hutchinson agreed.

Commissioner Waxler stated the letter came from Mike Moon and is the outcome of a meeting he had with the FAA.

Commissioner Krauskopf said he had been away and returned to find calls from residents regarding removal of speed bumps on Palm City Road.

Commissioner Hutchinson said she lives in that area and the speed bumps are being modified not removed.

COMMENTS BY CITY MANAGER AND REVIEW OF TENTATIVE AGENDA

City Manager Hudson said the East Stuart Mainstreet meeting has been scheduled at 7 PM on Thursday 4/16 at the 10th Street Rec. Center. There is good news on Commercial Recycling Update he said the City has been using an "Audit" approach, 93 businesses have signed up for the program and are eligible for a discount of \$1.00 per yard in their bill. This has kept 76.1/2 tons of waste from the landfill and a savings of \$10,450 is projected this year for the City. He thanked Mary Kindel, Dave Peters, Greg Schommer and Sam Amerson. There is bad news in that a situation has arisen in the vicinity of East Ocean Blvd and Monterey Road, there was an emergency repair that took place a month ago. He said the City is looking at a replacement of gravity sewer main. He said the total contract for the repairs is estimated at \$200k. Staff is proceeding with the emergency repairs and an agenda item will follow on 4/27. In reviewing the tentative agenda, Hudson noted Items, 7, 8, and 12 had been pulled from the agenda.

Re Item 10 – Wastewater Treatment Plant perimeter wall – Bids received and a supplemental memo had been issued to the Commission recommending award of bid. Hudson also noted Item 16 is under budget.

Re: Item 12 – the original budget planned for this was \$250K (\$125k impact fees and \$125k grant). However, the grant was reduced to \$101k, and the purpose of the budget amendment is to make up for the lost grant revenue sufficient to complete the project. This running track should be referred to as the Russell Holloway, Jr. Running Track.

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

Armond Pasquale came forward received in the mail literature from the CRA addressed to "occupant" and asked why the City is "producing" this type of expensive mailout. He noted that the CRA now employs 5 people and the City needs to cut expenses.

MOTION: VICE MAYOR MORTELL: MOVED APPROVAL OF THE CONSENT CALENDAR PULLING ITEMS 7, 8 AND 12.

He noted on item 11, on page 3 of the contract, it states; the use was going to be demonstrated in exhibit A, and was not attached. It also did not say when the water taxi was going to run. Also Item #14, he noted it did not include a arbitration and or a waiver of Jury Trial Clause in the lease.

**SECOND: COMMISSIONER KRAUSKOPF
MOTION APPROVED UNANIMOUSLY**

APPROVAL OF AGENDA

MOTION: COMMISSIONER KRAUSKOPF: MOVED APPROVAL OF THE AGENDA AS AMENDED

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

CONSENT CALENDAR

5. **Request to approve the minutes of the Special Commission Meeting of March 9, 2009 and Regular City Commission Meetings of March 9 and 23, 2009**
6. **RESOLUTION 16-09 Authorization to approve a plat entitle "A Plat of Portside" prepared by Aslan, Inc. professional surveyor and mapper**
7. **RESOLUTION 25-09 Authorization to approve a second minor amendment to the commercial planned unit development (CPUD) on the property located at 1180 SE Monterey Road extension; amending the uses allowed found within Ordinance 2078-06 (Quasi-Judicial)**

Sworn:
Robert Desantis.

This item was continued from 3/23/09 in order to give the applicant (Penn Plaza) time to meet with residents of Kingman Acres to address their concerns. Staff report said all issues have been addressed in the proposed resolution and approval is recommended conditioned on the recommended 4 conditions.

Attorney Terry McCarthy said the applicant had had met with the neighbors and City staff had addressed the dumpster issue which is not accessed on subject site. As for flooding issue, the applicant has met all state requirements and the City Traffic Engineer says there is not additional impact on site.

Public Comment

William Dennis came forward and expressed concern over the garage sale environment.

He also expressed concern over parking and traffic.

Vice Mayor Mortell asked if he was aware of the fact that they have already held a garage sale at this location.

Mr. Dennis stated he was not there during this time.

Tom Simm came forward and expressed concern over the proposed use. He felt it would diminish the property values, and requested that the Commission deny the request.

Roger Young came forward and expressed concern over the proposed use of a garage sale. He stated Kingman Acres residents use Edward Drive and is a private road paid for by its residents. He expressed concern over the amount of traffic this would bring if approved.

Paul Hammer came forward and expressed concern over the proposed use and feels this would not be in the best interest of the residents of Kingman Acres and requested the City deny the request.

Commissioner Krauskopf said as landlord of the property the City had asked Kingman Acres for their trust but no progress has been made since the last meeting.

**MOTION: COMMISSIONER KRAUSKOPF: MOVED APPROVAL TO DENY THE REQUEST FOR RESOLUTION 25-09.
SECOND: COMMISSIONER HUTCHINSON**

Attorney McCarthy asked that the applicant, Bob DeSantis, be allowed to speak.

Mr. DeSantis said in no way did he intend to affect Kingman Acres but in the 35 years he has been a Realtor he had never had an appraisal or property value diminished by garage sales. He noted that this is a commercial property and he had addressed each of the issues with the Kingman Acres HOA in an effort to compromise. Their main issues were traffic and property value. DeSantis said this is a supplemental, temporary use until the PUD expires in December 2009 when he will ask for a time extension due to the economy. He does not want to be a bad neighbor and has complied with all of the City's requests. He will continue to be a good neighbor. He stated then when he was developing the project he abided by the request of Kingman Acres.

Vice Mayor Mortell asked for clarification of the motion and the ramifications of no motion versus a motion to deny.

Mayor Christie asked if the permit would be revocable.

Attorney Nicoletti said this involves the PUD.

Mayor Christie said this is a philosophical thing and he understands both the residents' and Mr. DeSantis' sentiments. He has a difficult time dealing with issues when commercial abuts residential. The City owns the property and from now to December is not a long time to give someone a change to use leased property. He could not see

how it would hurt the neighbors for that period of time. The City has leased the property for one use and is being asked to use it for another use.

Vice Mayor Mortell said at the budget meeting it was discussed that we need to find creative ways to make the business of our City generate recurring revenues and it is a "paradox" that we place our tenant in. He was sure Penn Plaza had a budget hearing to decide what it could do to generate revenue during these trying times. He addressed Kingman Acres' concerns which he called "what if" issues and clarified that when he asked residents if they had known garage sales had taken place prior to public notice, no one came forward. He said he would vote no on the motion to deny because the applicant would not be able to come back with this concept for two years.

The President of Kingman acres' HOA said there is concern "it will escalate and not quit".

Commissioner Hutchinson said this is a flea market and there is not enough parking.

ROLL CALL;

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

- 8. RESOLUTION 31-09 Authorization to approve the first of two (2) one (1) year optional renewal periods with Natural Balance Design Studio, Inc. to provide professional landscape architectural services as needed by the City per the hourly rates in agreement**

Commissioner Krauskopf stated he would be filing a form B and would abstain from this item.

MOTION: COMMISSIONER HUTCHINSON: MOVED APPROVAL OF THE CONSENT CALENDAR ITEM 8 RESOLUTION 31-09

SECOND: VICE MAYOR MORTELL

ROLL CALL;

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

- 9. RESOLUTION 32-09 Authorization to approve the first of two (2), one (1) year optional renewal periods with Cotleur & Hearing, Inc. to provide professional landscape architectural services as needed by the hourly rates in the agreement**

- 10. RESOLUTION 33-09 Authorization to approve the award of a bid to be submitted the lowest, most responsive and responsible bidder for the total bid amount of \$ to be submitted for a precast wall system at the Wastewater Treatment Plant**

- 11. RESOLUTION 34-09 Authorization to execute a license agreement between the City of Stuart and Sunshine Wildlife Tours, Inc. for use of the City Dock located on the St. Lucie River behind City Hall to provide eco-tours and provide water taxi services**

12. RESOLUTION 35-09 Authorization to approve a budget amendment to the 2008-2009 annual general fund operating budget of the City of Stuart; for the appropriation and expenditure of \$15,996.09 to fund additional design and construction costs of the Tenth Street Guy Davis Recreational Running Track

MOTION: COMMISSIONER HUTCHINSON: MOVED APPROVAL OF RESOLUTION 35-09

SECOND: COMMISSIONER KRAUSKOPF

ROLL CALL;

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

13. RESOLUTION 36-09 Authorization to make proper application to the United States Department of Justice, Edward Byrne Memorial Justice Assistance Grant (JAG) program in the amount of \$40,996.00; and if successful, to execute the grant, and subsequently approve the expenditure of the grant to fund in-car cameras and a public speed notification trailer

14. RESOLUTION 38-09 Authorization to execute a first lease amendment between the City of Stuart and Lenh Dombrose, Inc. to the absolute net non-subordinated lease dated February 23, 2009 for the lease of the Dockside Restaurant property at 131 SW Flagler Avenue

15. RESOLUTION 40-09 Authorization for a budget amendment to the 2008-2009 annual Tree Fund budget of the City of Stuart for the appropriation and expenditure of \$6,600 to fund replacement trees not anticipated at the time the original budget was adopted

16. RESOLUTION 41-09 Authorization to approve the award of Bid #2009-234 to H&D Construction Company, Inc. the lowest, most responsive and responsible bidder in an amount not to exceed \$190,500.00 for the construction of the Tenth Street Guy Davis Recreational Running Track

17. RESOLUTION 42-08 Authorization to approve a budget amendment to the 2008-2009 annual water sewer fund operating budget of the City of Stuart for the appropriation and expenditure of \$20,000 to fund legal fees for litigation not anticipated at the time the original budget was adopted

18. RESOLUTION 26-09 Authorization to execute a Memorandum of Understanding between the Florida Department of Environmental Protection and the City to lease or sell two remnant portions of the 3.32-acre Frazier Creek watershed property also known as Bruner Pond Park located at the Southwest corner of South Dixie Highway and Martin Luther King Jr. Boulevard to provide for the improvement of the water quality in the St. Lucie River Basin

END OF CONSENT CALENDAR

MOTION: VICE MAYOR MORTELL: MOVED APPROVAL OF THE CONSENT CALENDAR PULLING ITEMS 7, 8 AND 12.

He noted on item 11, on page 3 of the contract, it states; the use was going to be demonstrated in exhibit A, and was not attached. It also did not say when the water taxi was going to run. Also Item #14, he noted it did not include a arbitration and or a waiver of Jury Trial Clause in the lease.

**SECOND: COMMISSIONER KRAUSKOPF
MOTION APPROVED UNANIMOUSLY**

COMMISSION ACTION

19. RESOLUTION 30-09 Authorization to approve a Major Site Plan proposed by Stuart Key Developers, LLC, owners of the property located at 2601 SE Willoughby Blvd. permitting the development in accordance with such major site plan of approximately 227,755 total square feet of building area (Quasi-Judicial)

Attorney Nicoletti gave a brief presentation regarding the proposed project.

Project Planner Tom Reetz reviewed the project location and gave a brief history of the previous denial due to site layout and ingress/egress on Holt Road. The entry has been modified and the applicant will pay for turning lanes on both Monterey and Willoughby. The 20.35 acre site will have a total building area of 227,755 sq.ft. Based on compliance with regulations, staff recommends approval.

Attorney Nathan Nason, the applicant's attorney reviewed a scale site model of the proposed site plan. He said the applicant had "worked hard" with Martin County and the applicant prevailed. There is now a better entry on Willoughby at the County's request and the settlement agreement resolves all issues with the County. He also noted that the applicant has lost 400 square feet of developable units.

Troy Holloway, Gentile Holloway, gave a power point presentation reviewing the site plan changes mainly the two vehicular access points on Willoughby and Monterey Road and the reduction of professional office space and pervious concrete. The ratio is now 60% office and 40% warehouse.

Attorney Nathan Nason recapped what he called changes for the better and the agreement with Martin County.

Vice Mayor Mortell questioned if the Willoughby entrance would encourage traffic to short cut through the site to get to Monterey Road.

Mr. Holloway pointed out there would be two entrances on Willoughby with one a right turn only.

Commissioner Krauskopf had some procedural questions about a single reading for the site plan.

Attorney Nicoletti said statutory procedure tops that code. Commissioner Krauskopf asked if an analysis had been done for well field site protection. He also asked about the easements on site.

Bob Lewis came forward and stated he owns the property along Monterey Road and it abuts the proposed project. He is willing to work with the applicant and the City if they have any questions.

Attorney Nicoletti stated that because the site plan does not show the easements it is not critical and from the City's standpoint they can be stricken. He suggested the motion include striking the easements from the site plan.

Commissioner Krauskopf wanted to know if there was any analysis for well field protection sites for City of County on the property?

Project Planner Reetz stated that originally there were some contaminated soils that have been mitigated and removed, filled with dirt. DEP states this is a safe environmental site.

Commissioner Krauskopf again asked if this was an applicable issue. He deferred any well field questions and contamination of the site to the applicant.

Commissioner Krauskopf asked if the City or County have any wells in the list of radi I where an analysis should have been done or a letter saying, none of that applies. He asked if we miss that would that be something the uses would control?

Attorney Nicoletti said if well field protection issues had been missed, that SFWMD may have, the laws still apply. This site plan on this site plan has been vetted through the public works department; they did not raise that as an issue.

Commissioner Hutchinson said this project is an example of why we need to change our codes but she did not want to go through another law suit so she made the following motion;

**MOTION: COMMISSIONER HUTCHINSON: MOVED APPROVAL OF RESOLUTION 30-09
SECOND: VICE MAYOR MORTELL**

Commissioner Krauskopf said this is a substantial piece of property and one that could be of more benefit to the City instead of just being the usual office/warehouse.

Commissioner Waxler said it does nothing architecturally and it does not take advantage of a unique opportunity. There is no imagination or creativity and the applicant only wants to see how many buildings we can get on this property. She feels the site could be more pleasing with more amenities.

Commissioner Hutchinson said our code for use of pervious concrete needs to be revisited. The idea of impervious concrete would be that it would allow more open space.

ROLL CALL;			
COMMISSIONER KRAUSKOPF	YES	COMMISSIONER HUTCHINSON	YES
MAYOR CHRISTIE	YES	VICE MAYOR MORTELL	YES
COMMISSIONER WAXLER	NO		

20. RESOLUTION 37-09 Authorization to make proper application to the United States Department of Justice, Edward Byrne Memorial Competitive Grant program in the amount of \$414,528.00 and if successful authorize to execute grant and subsequently approve the expenditure of grant to fund civilian dispatch personnel

City Manager Hudson gave a brief overview regarding the proposed application.

MOTION: VICE MAYOR MORTELL: MOVED APPROVAL OF RESOLUTION 37-09 TO AUTHORIZE STAFF TO MAKE PROPER APPLICATION TO THE DEPARTMENT OF JUSTICE FOR A GRANT TO ASSIST IN THE FUNDING OF THE DISPATCH PERSONNEL.

City Manager Hudson said staff determined we would not lose anything if we apply for the grant, and ultimately have to turn it down because we have decided not to move in that direction. He had met with County Fire Chief Billington who believes the existing software being used by the County could be modified so that it would have two sets of protocols operating within it using the same center.

Commissioner Waxler was concerned about the recurring salaries and would like assurances it could pay for itself.

Commissioner Krauskopf wanted to know when we would see the “whole picture” on this again. He said we need to have a better understanding of what the Rescue Protocol software is. I don’t want to just assume the “same-old, same-old”. I don’t mind moving forward with this.

City Manager Hudson I think the intention is we would move away from the same-old same-old, however if that could be done through existing systems, we need to keep that option open.

SECOND: COMMISSIONER WAXLER

ROLL CALL;			
COMMISSIONER KRAUSKOPF	YES	COMMISSIONER HUTCHINSON	YES
MAYOR CHRISTIE	YES	VICE MAYOR MORTELL	YES
COMMISSIONER WAXLER	YES		

ORDINANCE FIRST READING

21. ORDINANCE 2180-09 (First 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

City Attorney Nicoletti gave a brief overview of the proposed Ordinance.

Commissioner Hutchinson said the current system is not working and we need a system where somebody can come in, make a deposit and reserve a date without having everything on the application ready. The whole process has to be re-reviewed.

Commissioner Krauskopf asked if Hutchinson would be more comfortable interlineating her suggested changes.

Vice Mayor Mortell said the intention is for bigger events and referenced Willie Gary's Christmas party.

Attorney Nicoletti said there is more flexibility with this ordinance and it allows the City Manager to negotiate.

Mainstreet Director, Bernie Malone said there used to be total confusion and this document has base detail. We need a balance of events that calls for teamwork. In the past he had no problem working with the City and this ordinance is "one stop shopping".

Commissioner Hutchinson said she is concerned with management of the program, not necessarily the Ordinance. We need a way for somebody to come in advance and reserve a date. She has spent three years discussing this issue and is frustrated.

City Attorney Nicoletti clarified new language on date reservation.

Commissioner Waxler said we also need to change the application and have clear time restraints.

City Manager Hudson said it is frequently negotiated in an emergency situation.

Commissioner Waxler expressed concern that the Commissioner's recommendations were not in the document.

Commissioner Hutchinson said different departments handle different issues and we need coordination, this is a management issue.

MOTION: COMMISSIONER HUTCHINSON: MOVED APPROVAL OF ORDINANCE 2180-09 ON FIRST READING WITH THE ADDED LANGUAGE BY THE CITY ATTORNEY AND WITH THE CAVEAT THAT THERE BE CHANGES IN MANAGEMENT ON HOW THIS IS HANDLED.

Mayor Christie stated he had some concern and would put them in writing, and pass them along to the proper person.

Bernie Malone asked if a deposit would be refunded.

Vice Mayor Mortell felt the deposit should be bigger, and he wanted them to be serious about doing the event.

Commissioner Hutchinson said the deposit should be half of the fees are going to be. You put in the reservation you kind of have an idea of what the fees are going to be there will be a time frame for a partial refund.

Attorney Nicoletti said he would add some language to the Ordinance.

SECOND: VICE MAYOR MORTELL

ROLL CALL;

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

Attorney Nicoletti read the title of Ordinance 2180-09.

A New Roll Call vote was needed.

ROLL CALL;

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

22. ORDINANCE 2181-09 (First 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

Attorney Nicoletti said people have been illegally parking and just paying the \$10 fine and the fine was not high enough to eliminate illegal parking. Some language has been changed so they are now answerable to the Magistrate rather than going to court.

Commissioner Waxler had questions on truck parking in residential zones.

Attorney Nicoletti said we need to add "As Defined in section....".

Commissioner Hutchinson wanted to know where it is written is what the time period means? What you hear is that they just move from parking space to parking space.

Attorney Nicoletti said he will better define it in the code.

Attorney Nicoletti read the Ordinance title.

Vice Mayor Mortell mentioned he had recently received a parking ticket in Orlando and it read that if not paid within 10 days the fine increased. He recommended doing something similar.

Attorney Nicoletti said he would included added language that the fine would double after 10 days.

Helen McBride expressed concern about the distance from parking spaces and fire hydrants as a safety issue and the fire lane parking violation should be higher. She said the first offense should be \$25.00 and the second offense \$50.00.

Commissioner Hutchinson expressed concern over the commercial trucks in a residential neighborhood. She said we should not ticket someone who has an air conditioning repair vehicle in their driveway.

MOTION: COMMISSIONER HUTCHINSON: MOVED APPROVAL OF ORDINANCE 2180-09 ON FIRST READING WITH THE CORRECTION OF TRUCK PARKING IN A RESIDENTIAL ZONE AND DOUBLE FINES AFTER 10 DAYS EXCLUDING HANDICAPPED PARKING VIOLATIONS.

SECOND: COMMISSIONER WAXLER

ROLL CALL;

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

ORDINANCE SECOND READING

ADJOURNMENT 8:12 PM

Cheryl White, CMC, City Clerk

James A. Christie, Mayor

Minutes approved at the Regular Commission
Meeting this 11 Day May 2009