

**REGULAR MEETING OF THE STUART CITY COMMISSION
HELD ON MAY 19, 2008
AT 5:30 P.M. IN THE CITY COMMISSION CHAMBERS
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994**

Roll call was answered by:

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

Also present were:

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

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

PRESENTATIONS

A. PROCLAMATION; PROCLAIMING the week of May 25 through May 31, 2008 as Paralegal Week.

Michelle Vicat, Deputy City Clerk came forward on behalf of Mary Nash, Paralegal for the City of Stuart, and thanked the City Commission for the recognition.

B. PROCLAMATION; PROCLAIMING the week of June 1-7, 2008 as National Garden Week.

Joan Wilcox, President of the Martin County Garden Club, came forward and graciously accepted the award and thanked the City for the recognition. She stated the Garden Club will be placing floral gardens at City Hall as well as, all the libraries in Martin County.

C. PRESENTATION of 2008 Community Service Award of Gratitude to Seacoast National Bank

Albie Scoggins, Recreation Director recognized Denny Hudson, CEO and Kathy Cavicchioli, Sr. Vice President of Seacoast National Bank and presented a 2008 Community Services Award of Gratitude to Seacoast National Bank for their

generous sponsorship and donation to the City of Stuart over the past two years for the City of Stuart's employee picnic.

Denny Hudson graciously accepted the award and thanked the City.

D. Employee Service Recognition

John Taylor, Fire Rescue, 15 Years

Lt. John Taylor was unable to attend, Chief Sunderman graciously accepted the award on his behalf.

Barbara Sullenger, Finance Department 5 Years

Barbara Sullenger graciously accepted the award and thanked the City.

- *Item E. was heard after the Consent Calendar.*

E. Employee of the Month

Bill Spence, Fire Rescue

COMMENTS BY CITY COMMISSIONERS

Commissioner Hutchinson thanked Kev Freeman for his tenure with the City and wished him well with his new endeavor.

Vice Mayor Christie thanked the City staff for their participation in the past East Stuart Forum. He felt it was very beneficial to the residents and hopes to see progress from the forum. He also stated that unless it is absolutely necessary this will be the last time you will see me wearing a tie for the rest of the summer.

The Commission approved the summer dress code.

Mayor Krauskopf stated that because of the weather many plants that were planted for the Stuart in Bloom contest were not on irrigation systems, and asked the City to look at watering of these plants.

COMMENTS BY CITY MANAGER AND REVIEW OF TENTATIVE AGENDA

City Manager Hudson recognized Kev Freeman for his service to the City. He said a small gathering will take place Thursday Evening at Duffy's for anyone who wishes to attend. He said he will be missed and has received numerous comments on his excellent public and leadership skills. He also stated that Milton Leggett, Bobby Bolden and the staff in the Turf and Grounds Team received a certificate of

appreciation in their role in mentoring some of the youth at Stuart Middle School. He also pointed out that Michelle Vicat was serving as Deputy City Clerk for the evening.

STAFF REPORT ON COMMENTS FROM PREVIOUS COMMISSION MEETING

Mr. Hudson stated they have not found out anything regarding an FBI investigation for Port St Lucie. He did say the city has been able to identify the securities and exchange Commission did in fact open a confidential investigation in February. He said he would forward the City's factual circumstance to them as a followup on that item.

As it pertains to the agenda he had no comments relative to the agenda but wanted to call attention to item #2, Resolution supporting the East Stuart Partnership application for Main Street Designation. He indicated there were several members from the public present in support of the Resolution.

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

APPROVAL OF AGENDA

MOTION: COMMISSIONER WAXLER; MOVED APPROVAL OF THE AGENDA
SECOND: VICE MAYOR CHRISTIE
MOTION APPROVED UNANIMOUSLY

CONSENT CALENDAR

- 1. Request to approve the minutes from the Special Commission Meeting of May 6, 2008 and Regular Commission Meeting of May 12, 2008**
- 2. RESOLUTION 57-08 Supporting the submission of an application by East Stuart Partnership to participate in the Florida Main Street Program in an effort to revitalize the historic commercial areas of East Stuart**

***Comments were made for both items #3 & #5 see below.**

- 3. RESOLUTION 58-08 Authorization to apply for a Florida Boating Improvement Grant from the Florida Fish and Wildlife Conservation Commission, Florida Boating Improvement Program and certifying the use of grant funds; and if successful authorizing to execute the grant upon review and approval by the City Attorney**
- 4. RESOLUTION 60-08 Authorization to apply for two (2) Alternative Water Supply Grants to the South Florida Water Management District in the amount of \$2,000,000.00 and if successful authorize the Mayor and City Clerk to execute each grant subject to review and approval of the City Attorney**

5. RESOLUTION 61-08 Authorization to extend the term of a temporary use agreement to allow for the City boat slips at Shepard Park to remain in place until a Sovereignty Submerged Lands Lease or Butler Act Claim is processed between the Florida Department of Environmental Protection (FDEP) and the City of Stuart originally adopted by Resolution 25-07 at the February 12, 2007 City Commission Meeting

3.RESOLUTION 58-08 Authorization to apply for a Florida Boating Improvement Grant from the Florida Fish and Wildlife Conservation Commission, Florida Boating Improvement Program and certifying the use of grant funds; and if successful authorizing to execute the grant upon review and approval by the City Attorney

Valerie Jones came forward and stated the City was in violation of conditions of its already existing grants received from FIND and Florida Boating Improvement Program. She asked if the City would abide by the grants terms of this grant, unlike the previous grants accepted by the City.

City Manager Hudson stated the City would abide by the conditions of the grant contracts.

5. RESOLUTION 61-08 Authorization to extend the term of a temporary use agreement to allow for the City boat slips at Shepard Park to remain in place until a Sovereignty Submerged Lands Lease or Butler Act Claim is processed between the Florida Department of Environmental Protection (FDEP) and the City of Stuart originally adopted by Resolution 25-07 at the February 12, 2007 City Commission Meeting

Valerie Jones also expressed concern over agenda item #5 and felt the Commission packet material did not indicate what the temporary use agreement refers to.

Attorney Nicoletti stated it was for the use of the seven or eight boat slips at Fraizer Creek, adjacent to Shepard Park.

Valerie Jones stated that by having that lease it was in violation of the FIND grant received by the City, to repair the boat slips.

MOTION: VICE MAYOR CHRISTIE: MOVED APPROVAL OF THE CONSENT AGENDA

Attorney Nicoletti ; "I understand what Miss Jones is saying is, that there maybe an outstanding violation. The TUA, the Temporary Use Agreement basically allows us to continue using that area. Obviously it has to be done legally."

Commissioner Waxler requested the City Attorney meet with Miss Jones to determine what violations she is referring too.

Attorney Nicoletti agreed. : In the mean time we need the extension of the TUA and we need the authority to apply.

Commissioner Waxler: "With that in mind if you would come back to me, I will support with your blessing.

MOTION: VICE MAYOR CHRISTIE: MOVED APPROVAL OF THE CONSENT AGENDA AND REQUEST THE CITY ATTORNEY LOOK INTO ANY VIOLATIONS AS IT PERTAINS TO THE GRANT FOR ITEM #3 & #5.

SECOND: COMMISSIONER MORTELL

Gayle Byrd came forward and as a result of the questions raised by Valerie Jones about the Stuart Anchorage our Florida Inland Navigation Staff investigated that situation in totality and they have resolved, in talking with Mr. Nicoletti and the City Manager that there was no intent to misuse funds that FIND had put forth for public access and improvements, and everything that was going to be disturbed was going to be replaced and that much more. As far as Shepard Park goes, I don't recall if that was discussed and investigated in that regards. The small amount of money that FIND put in many years ago for improvement of those piers has been improved upon

City Manager Hudson asked the Commission if the motion included approval of the entire Consent Agenda?

The Commission said it was with the additional language that the City Attorney review to see if there were any violations made as it pertains to the grant.

ROLL CALL

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

E. Employee of the Month

Bill Spence, Fire Rescue

Bill Spence came forward and graciously accepted his award and thanked everyone.

COMMISSION ACTION

6. RESOLUTION 59-08 Authorization to adopt a schedule of fees and charges for Utilities, under Chapter 82, of the City Code

Commissioner Mortell stated he had requested the amount of consumption for large water users.

Dave Peters stated the numbers were included in the packet material for tonight's agenda.

Murray Hamilton, rate consultant of Public Resource Management Group explained the household uses allowances in comparison to the amount in which the excessive use is determined. It was determined that 11% of the bills uses 1000 gallons, 14% use 2000 gallons and so on. He stated that when you add the sewer rate into the water rate it is an incentive to conserve, because the combined savings for using 1000 gallons less is just over \$6.00.

Dave Peters; Maybe the answer is 4000 gallons but we have to do an analysis on that. Or we could establish a rate between 0-4000 gallons and 4000-8000 gallons.

Commissioner Hutchinson felt that the greater number of 1000 gallon uses maybe condominiums who don't have outdoor irrigation users.

Mr. Peters suggested bringing it back to the Commission.

Commissioner Mortell stated he wanted to see more of an incentive to reduce water usage.

Mr. Hamilton stated that if the rate stays the same the total water and wastewater combined is over \$6.00 per 1000 gallons for each 1000 gallons used. If I go back and break it down it is not going to make a much stronger incentive, because I have to recover the cost somewhere.

Commissioner Mortell felt the users who use a small amount of water should not be penalized for high water users.

Commissioner Waxler expressed concern over the concept of what the City wanted and what was being presented.

Dave Peters stated he would look at the concept of a tier of 0-4000 and 4-8000. He said that the Commission should understand that the 0-8000 revenue requirement will remain.

MOTION: COMMISSIONER MORTELL: MOVED APPROVAL TO HAVE THIS MATTER BROUGHT BACK WITH A TWO TIR 0-4000 AND 4-8000 GALLONS AT THE SECOND MEETING IN JUNE. 2008.

SECOND: VICE MAYOR CHRISTIE

Bernie Malone suggested looking at last years consumptive figures.

Commissioner Hutchinson requested more information regarding the agreement with Martin County as well as the RO system figures.

Dave Peters stated the agreement should be executed prior to September 30, 2008.

DISCUSSION & DELIBERATION

7. Discuss proposed amendments to the City's Comprehensive Plan and Land Development Code (LDC) pertaining to environmental protection standards and (2) draft Resolution Number 22-08 declaring said amendments to be "Zoning in Progress" pursuant to Sec. 1.02.04 of the City's LDC

Terry O'Neil gave a brief overview of the proposed amendments to the City's Comprehensive Plan regarding environmental protection standards. He asked the Commission for their guidance as to whether it should move forward to the LPA. He also stated the packet includes Comprehensive Plan Amendments along with grant opportunities to FCT funding. He stated the City has had success in the past.

Dana Small of DLF Environmental Services in Port St. Lucie asked if the City is planning on hiring the necessary staff to review these requirements.

Mr. O'Neil said no. This does not necessarily mean the City will make that delineation but will allow the City to make a study using the same standards as State agencies. Small asked which agency will oversee environmentally sensitive lands. He also stated that includes wetland, upland buffers and species habitat.

Miss Small asked if mitigation would be required to stay within the city limits. She asked if the developers would be required to mitigate on site?

Mr. O'Neil said the intent is to mitigate on site. There are properties in the City mainly to the North that are potential candidates. He stated there are also adjacent parcels may be considered by the City. He said the City may in the future change the language to create that dynamic for linked environmental properties.

Miss. Small she stated that most mitigated properties are linked to watersheds and requested that this issue be looked at. She also questioned the habitat study.

Mr. O'Neil explained "The City would be looking for a study that determines the efficacy of the preserve area that is proposed. If you are going to move it on site and in essence re create it, beyond determining what species would be planted there would need to be a determination of how good that habitat would be. There is probably a point of diminishing

returns in which it may be better for the City to entertain an off site proposal or contribution for other lands, because the area to be recreated is not of great habitat value.”

Debra Duvall, speaking on behalf of the Economic Council, said the Council shares the City’s commitment to the environment but asked that this item be added as a Workshop and requested no decision be made tonight.

Mark Mathes of Lucido & Associates asked for clarification that the City has the authority to agree or disagree with upland and wetland standards. He said the City has control of upland habitat but the wetland issue is new to the City and would require an “immense” increase in staff. Requiring all mitigation in the City would be very difficult and the use of State regulations would be acceptable. Mathes said the City has been very successful in preserving habitat and he would not want the City to move in the direction of the County that requires preservation of “every little mud hole”. He closed his comments with appreciation of O’Neil’s efforts in keeping all interested parties informed.

Linda Hake thanked the Commission for getting the word out to the community. Her firm has a number of clients concerned about the proposed changes, many who had annexed into the City in the ‘90s. Attorney Hake was representing the Bainbridge Company, that has a proposed project at Marketplace on US 1 and would have a problem with off-site upland mitigation. After explaining the problem she asked that the Commission look into this issue. Attorney Hake then addressed wetland mitigation and said there is no wetland banking available and the City is taking away the opportunity of off- site mitigation. She also wanted clarification on “zoning in progress regulations”.

City Manager Dan Hudson said staff is not recommending that issue tonight.

Toby Overdorf came forward and commented on wetland mitigation banking and said the Federal rule’s first choice is to go into wetland mitigation banks. He quoted Florida code on mitigation banks, delineation and “delegator authority” and asked if the City will have staff capable of doing the requirements.

Mike Stetson said he is a third generation Floridian and staunch supporter of environmental protection. He said many properties came into the City because its policy was to follow the SFWMD rules. He addressed the issues raised by Hake and “respectfully” requested a public workshop because this issue has “far reaching impact to property owners and perhaps to the City”.

Mr. O’Neil addressed Attorney Hake’s comments, with regards to the off site mitigation, there was an error in the earlier draft and the new draft there is an either or provision.

Commissioner Hutchinson said that her opinion was that “malelucas and pepper trees are the developers’ best friends” and exotics were allowed to come in because the properties were neglected. She would like people to see what is in the best interest of the community and not just one piece of land and she felt the City is headed in the right direction. In response to her question on set backs from the water line in the CRA exception,

Mr. O'Neil said the CRA requires a boardwalk or public space.

Commissioner Hutchinson said she had other comments and asked the Mayor how he wanted to handle the discussion.

Mayor Krauskopf said he wanted to work off of the 2-page comparison chart and was comfortable with everything in Column C – revised City amendment. He asked Mr. O'Neil to for any input on comments made by Tobey Overdorf.

Mr. O'Neil said staff had worked with Miller Legg who reviewed the proposed revisions and said they were not inconsistent with State or Federal regulations.

Mayor Krauskopf said it might be simpler to say no mitigation what so ever, and select the Martin County alternative.

City Manager Hudson said the two issues overlapped and Mr. Overdorf was saying it would be an expensive situation if the City took over delineation.

Commissioner Hutchinson questioned Mr. Overdorf on the mitigation bank issue,

Mr. Overdorf explained that there three fresh water mitigation banks and two mangrove area banks but they are not in the City limits however the service area is within the City Limits.

Commissioner Hutchinson requested that Mr.Overdorf provide the map of mitigation banks.

Mr. Overdorf agreed to do so.

Commissioner Mortell said that everyone was in favor of what needed to be done however there seems to be a problem with how to do achieve it. He also agreed with Mr. Mathes, on the issue of preserving systems of habitat. He said he would favor Column C as suggested by Krauskopf

Commissioner Waxler explained she would be abstaining on this item because, of a potential conflict of interest she may have. She stated she was involved with the Industrial Park at Avonlea and has property there the\at would be eligible for mitigation. She did however recommend a workshop be held to discuss the matter.

Vice Mayor Christie agreed that a workshop would be in order.

Mayor Krauskopf requested that the setback issues expressed by Commissioner Hutchinson be brought before the LPA Board. He also requested on Column C, item 4, One of the elements I have tried to encourage through PUDs has been, instead of just having a moon scaped dry or wet retention area that you actually build it out with grasses lob lolly and cypress so you can have, It does not have to be mutually exclusive, it can be inclusive and you can end up with a better project that way. He requested that be included in the concept

of what he is looking for. Mayor Krauskopf asked the Commission if they would like to see this move forward to the LPA with the comments discussed tonight.

MOTION: COMMISSIONER HUTCHINSON: MOVED APPROVAL TO STAFF PROCEED FORWARD WITH THE CHANGES TO THE ENVIRONMENTAL PLAN FOLLOWING THE ITEMS THAT ARE IN ITEM #C ON THE AGENDA STATED 5/19/2008 AS THE YELLOW AND THE BLUE TO THE LPA BARRING ANY ISSUES

SECOND: COMMISSIONER MORTELL

ROLL CALL

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

8. Discuss the Proposed Stuart - Martin County Fire Rescue Consolidation

City Manager Hudson reviewed the preliminary discussion for the proposed consolidation and gave a brief history going back to a 1992 report which is probably out of date now due to changes in population but is still influential in consolidation. He said there was a time when Martin County Fire Rescue was not a single MSTU and now the County has contracts with Sewalls Point, Jupiter Island and Ocean Breeze Park. Tax reform has caused the City to look at ways to save money so we requested a formal proposal from Martin County to provide service to the City. The agenda packet contained three approaches on how to handle the issue.

- 1 – Aggressively pursue and develop a counter proposal
- 2 – Cautiously pursue and do due diligence study
- 3 – Not pursue at all but ultimately as the City moves forward we will need to address a strategy of “service delivery”.

Mr. Hudson recommended the City proceed cautiously and ask due diligence questions which have not been thoroughly addressed. He said the governance questions are disconcerting and suggested inviting the Martin County Taxpayers Association to do an independent review of the proposal.

Commissioner Mortell expressed concerns that the Martin County Britt Road station and Station 23 in South Stuart are being proposed to be closed and not a single Martin County Commissioner has spoken publicly in favor of this consolidation.

David Jackson speaking for the Firefighters union voiced support of consolidation for safety issues. He said it would increase the Level of service for citizens of Stuart and offer more protection for fire fighters and the economic impact would be beneficial to the residents of Stuart. He stated the union has no comments regarding the current proposal.

Helen McBride, a long time City resident, came forward and stated she chose to live in the City because of the benefits it offered. She noted that the City had just built a new Emergency Services/Police facility and said she did not trust the County Commissioners

because they are always “belittling the City”. She said the City will still pay for fire protection and wanted to know what it is going to cost City residents.

Doug Killane, a 27 year resident of the City, has 13 years of service with City Fire Rescue and wants to maintain and improve the Level of Service and to do it at a lower cost. He was concerned how we are going to reduce the costs as the County claims and said the burden of proof is on the City Commission.

Mayor Krauskopf said this issue has been going on for 25 + years and he understands the frustrations that everyone has and looking at a faster time frame on a proposed consolidation. He supports option 2 (cautiously pursue) and is willing to explore this but the County sent us “the sauce but they did not send the meat”. They did not send any numbers, any of the hard facts that we have talked about over the years. Consolidation is worthy of pursuing but he is not in a hurry to make a mistake. I have a responsibility to the citizens of Stuart and hoped the County is not doing this for political reasons. He also hoped the discussions would go on in “back rooms” and not in the media.

Vice Mayor Christie has always said police, fire and recreation are the heart and soul of the City and it is important that they continue to exist. There is a need to be concerned with the safety issue but when you hear some stations are going to be closed it does not sit well. He also wants the City to “address the money problems” and ask what the real savings are. He does not want to give up the City’s autonomy for something over which we have no control whether or not the MSTU will increase or not increase. Vice Mayor Christie stated he supported alternative 2, but stated he would like to proceed with caution. He did not think the proposal before the City is the best proposal, but was also concerned that there was no “exit” clause in case the City wanted out of the consolidation.

Commissioner Mortell noted the Mayor’s comment earlier as it relates to the interlocal agreement for water. He stated there was an election going on right now in the County and stated he would be surprised if the County Commissioners would get a majority vote to do this merger before this election occurs. He felt the City is “being played” and felt the County is not getting their hands dirty. I don’t want to present the County with an interlocal agreement; I want their Commissioners, not their staff, committing to the interlocal agreement. He is willing to cautiously pursue the issue but wants to see a County agenda item based upon the proposal that is currently on the table to see what really happen .

Commissioner Hutchinson ; “The one thing I don’t want to do is have a short term savings with long term cost.” did not want a short term savings with long term costs and said if the County is serious for saving money, she wants to be sure all entities involved are playing the same game. She stated she does not want to sign off on a deal that is not in the best interest of the City.

MOTION: COMMISSIONER WAXLER : MOVED APPROVAL OF THE CITY MANAGER
RECOMMENDATION WITH THE
UNDERSTANDING THE CITY IS NOT
PROPOSING AN INTERLOCAL AGREEMENT TO

MARTIN COUNTY BEFORE THE COUNTY
COMMISSION ARE INVOLVED WITH THE CITY.

SECOND: COMMISSIONER MORTELL
MOTION APPROVED UNANIMOUSLY

ADJOURNMENT 8:08 PM

Cheryl White, CMC, City Clerk

Jeffrey A. Krauskopf, Mayor

Minutes approved at the Regular Commission
Meeting this 23 Day June 2008