

**REGULAR MEETING OF THE STUART CITY COMMISSION
HELD ON DECEMBER 21, 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 Michael Mortell

Vice Mayor Carol S. Waxler

Commissioner Mary L. Hutchinson

Commissioner Jeffrey A. Krauskopf

Commissioner James A. Christie

Also present were:

City Manager: Dan Hudson

City Attorney: Paul J. Nicoletti

City Clerk: Cherie White (absent)

Deputy City Clerk Mary Nash

Mayor Mortell delivered the Pledge of Allegiance led by the Commission.

PRESENTATIONS

1. Employee of the Month for December

Dave Ford, Public Works

Dave Ford came forward and graciously accepted his award and thanked the City.

COMMENTS BY CITY COMMISSIONERS

Commissioner Hutchinson thanked Milton Leggett and his crew on the downtown decorations for the holiday season. She also had read a couple of articles of pedestrian deaths along the US 1 and asked Chief Morley if there was something the City should do to help prevent this.

Chief Morley came forward and stated in that particular area is darker than the others. He felt there were not many crosswalks along that part of US 1.

Commissioner Hutchinson asked the Chief to keep an eye on the problem. She also stated that at the MPO meeting there was some discussion regarding combining the two MPOs.

Mayor Mortell said it would be surprising if this happens quickly because it is very complex.

Commissioner Krauskopf asked the City Manager if there was a date set for the planning session.

City Manager Hudson said he was targeting the second half of the month.

Vice Mayor Waxler stated she went to Memorial Park yesterday, and noted that there was a large amount of trash and signs leftover from the weekend event.

COMMENTS BY CITY MANAGER

City Manager Hudson advised the Commission he would be bringing Advisory Board Appointment needed to the January Commission Meeting. He also presented a summary prepared by Martin County of the Office space RFP. He said that a County's Review team will be meeting tomorrow, and the City will have several people attending to monitor and track their progress.

Item #3 will be funded thru the City Attorney's outside council fees rather than the Manager's contingency fund. No action is needed.

Item #7, noted the supplemental memo.

Item #8 noted the supplemental memo, recommending continuation to January 11, 2010. Representatives also are present, and wish to have it heard this evening.

APPROVAL OF AGENDA

MOTION: VICE MAYOR WAXLER; MOVED APPROVAL OF THE AGENDA AS DISCUSSED AND AMENDED WITH SUPPLEMENTAL MEMOS.
SECOND: COMMISSIONER KRAUSKOPF
APPROVED UNANIMOUSLY

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF THE AGENDA ITEM #8 AS RECOMMENDED BY STAFF.
SECOND: VICE MAYOR WAXLER

Attorney Terry McCarthy representing Mulligan's #(8) came forward and asked for the courtesy to allow the item to be discussed. He asked for the opportunity to speak on the item.

Interim Development Director Terry O'Neil came forward and stated he has included a memo in the packet for the Commission. He said that the applicant wishes to move forward with the interior renovations only. He said that City staff is looking at this as a whole project, and looked to the City Attorney for his opinion.

Mr. O'Neil recommended this entire agenda item be continued to January.

The motion and second remain to continue the item #8 to January 11th, 2010, as recommended by staff.

APPROVED UNANIMOUSLY

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

Steven Feder, and his wife, owner of Riverwalk Café came forward and expressed concern over the proposed outdoor seating for the proposed Mulligan's along St Lucie Avenue. He stated it would be harmful to his business.

CONSENT CALENDAR

2. **Letter regarding the Stuart Boat Parade**
3. **RESOLUTION 144-09 Authorization to approve an amendment to the contract with Municipal Code Corporation in the amount of \$5,200 for the re-codification of the Land Development Code to be accomplished in 2010**
4. **RESOLUTION 145-09 Authorizing work letter WA29 with Brown and Caldwell for services during construction for the on-site reclaimed water system and authorizing the City Manager to sign the work authorization letter in an amount not to exceed \$121,059.00**
5. **RESOLUTION 147-09 Authorizing work letter WA4 with Captec Engineering, Inc. for services during construction for the Reclaimed Water Transmission Main and authorizing the City Manager to sign the work authorization letter in an amount not to exceed \$31,630.00**
6. **RESOLUTION 148-09 Authorization to execute an Underground Facilities Conversion Agreement with Florida Power & Light**
7. **RESOLUTION 149-09 Authorizing an award of a contract (to be determined) in the amount of \$ (to be determined) for the installation of a Reclaimed Water Transmission Main and to execute a contract with (to be determined) for the reclaimed water transmission main**

END OF CONSENT CALENDAR

Commissioner Krauskopf asked that item #2 letter to remove; "I urge you to consider" and replace with; "how can we help you reconsider".

Commissioner Hutchinson also asked that in ref to item #2, include both locations and not limit the options for future sites.

MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL OF THE
CONSENT AGENDA 2,3,4,5,6,7 as amended.

SECOND: VICE MAYOR WAXLER

ROLL CALL

MAYOR MORTELL YES COMMISSIONER CHRISTIE YES

VICE MAYOR WAXLER YES COMMISSIONER HUTCHINSON YES

COMMISSIONER KRAUSKOPF YES

COMMISSION ACTION

Item #8 was continued to January 11, 2010.

- 8. RESOLUTION 150-09 Mulligan's Beach House, Major Urban Code Exception (minutes from the CRB Meeting will be in the Commission boxes by noon on Friday, December 18th)**

- 9. RESOLUTION 129-09 Authorization to approve a Major Urban Code Exception to Jenifer's Bar & Grill, Stuart Arcade Associates, LLC in the "Old Downtown Section" of the City, to allow for the sale and consumption of alcoholic beverages within the "Old Downtown Section"**

Commissioner Krauskopf stated he would be filing a Form B on this item, and stated he could not render an objective opinion on the proposed Urban Code Exception.

Murriah Dekle, City Planner gave a brief presentation regarding staff recommendations and conditional approval with conditions.

Attorney Virginia Sherlock representing the applicant came forward and stated the Tenant is requesting the Urban Code Exception to run with the business, and not the property because, the space is leased. She also stated the Resolution should read "Jennifer's Bistro" and not "Jennifers Bar & Grille".

Attorney Nicoletti stated he would make the corrections as needed.

Attorney Sherlock presented the re- assignment of the name change to the City Attorney for the record.

Commissioner Christie asked about condition #2 and asked if the music will be confined to the inside of the building.

Attorney Sherlock said it is part of the agreement, and is planning to have live music.

City Attorney Nicoletti asked the applicant to accept his recommendation that in condition #2, it states; "That all music shall comply with the noise Ordinance". What we are looking at and have considered in the near past, is to make that requirement apply 24/7. Our noise Ordinance today would not kick in until 9:00 pm and goes until 7:00 am, but what we are saying now is with alcoholic beverages we are looking for compliance through condition 24/7.

Attorney Sherlock stated she would notify the applicant and asked if the music is playing at 2:00pm on a Sunday afternoon it would have to comply with the noise requirement.

Attorney Nicoletti stated that is exactly right.

Vice Mayor Waxler asked about the footprint of the business and asked if this is the same area as the old restaurant.

Attorney Sherlock said apparently the owner is going to take a portion of the footprint and create a meeting room civic and business organizations to hold meetings almost like a little conference center.

Commissioner Hutchinson asked if the current front door will remain along the hallway entrance will remain.

Attorney Sherlock said she thinks it will remain there. I don't think he is planning to move that.

Commissioner Hutchinson asked if the other business owners still be able to access the trash receptacle thru the doorway to the back.

Attorney Sherlock said she did not know but would assure that if any other business needs access to empty the trash they will be given access.

Commissioner Hutchinson suggested the owner work out an agreement between the adjacent businesses for this matter.

Attorney Sherlock said she was not aware of the door being moved but did note he was going to re-do the fountain.

Connie Mainwaring, tenant of the Post Office Arcade and owner of Carramba. She hopes the City approves this application for alcohol because without it no business could make it back there. Right now it is a black hole for years and felt it would benefit the entire City by having a viable restaurant and bar in this location.

Armond Pasquale came forward and stated the residents in the downtown are against bars in the downtown. He felt there were too many bars and noise in the downtown and requested denial of the request.

Robert Steinburg, 525 California Avenue came forward and expressed concern over the noise at the former business. He said he has played music there in the past and never had a complaint. He did not feel that any kind of music would create a problem with noise in the downtown.

Mayor Mortell also asked about speakers.

City Attorney stated the property owner may not place speakers on the adjoining hallways or sidewalks as conditioned.

Commissioner Hutchinson supports the request and encouraged filling of empty space in order to keep the downtown going.

**MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL OF RESOLUTION 129-09 AS RECOMMENDED BY STAFF.
SECOND: COMMISSIONER CHRISTIE**

Commissioner Christie felt with the economic times he felt the City should encourage new businesses but also look at how it can be friendly to the adjacent property owners and felt the proposed request is balanced to both sides.

City Attorney Nicoletti clarified the following as part of the approval;
Recommended condition #2 read the same with the addition of ; "And the noise standards in the noise Ordinance shall apply at all times."
#3 add ; "As amended from time to time". Also keep the existing language and add:
"And shall allow other Arcade tenants reasonable access to the Seminole Street trash receptacle."

City Manager Hudson stated this recommendation will be included as part of the approval so the City has a way to enforce the matter in case of future conflicts.

City Attorney Nicoletti asked if the Commission wanted to include the amended condition number 3 regarding the trash.

Commissioner Hutchinson said she would move approval but leaving the landowner to work out the trash removal agreement with the tenant.

*Strike from approval "And shall allow other Arcade tenants reasonable access to the Seminole Street trash receptacle."

City Attorney Nicoletti stated he would also change the name on approval.

ROLL CALL

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

ORDINANCE FIRST READING

ORDINANCE SECOND READING

DISCUSSION & DELIBERATION

ADJOURNMENT 6:11 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**



FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

<small>LAST NAME FIRST NAME MIDDLE NAME</small> KRAUSKOPF, JEFFREY A.	<small>NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE</small> STUART CITY COMMISSION
<small>MAILING ADDRESS</small> 121 SW Flagler Avenue	<small>THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:</small> <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
<small>CITY</small> <small>COUNTY</small> Stuart, FL 34994 Martin	<small>NAME OF POLITICAL SUBDIVISION:</small> City of Stuart
<small>DATE ON WHICH VOTE OCCURRED</small> December 21, 2009	<small>MY POSITION IS:</small> <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

CITY COMMISSION MEETING
REQUEST TO SPEAK

SPEAKER# _____

ITEM#

9

The City Commission encourages public participation during their meetings.
Please follow instructions, complete the form and present it to the City Clerk

NAME Robert Stenberg DATE Dec 21, 2009
(PLEASE PRINT)
ADDRESS 525 Ashburn CITY Stent ZIP _____
PHONE 283-3261

ADDRESSING THE CITY COMMISSION (ORD# 1279-93)

- .) Members of the public who have been called upon to speak should come forward to the microphone: state their name, city in which they reside, and the item number.
- .) All remarks shall be addressed to the City Commission as a body and not to a particular City official.
- .) **PREPARED STATEMENTS** shall be presented to the City Clerk for the record.
- .) To ensure fair and equal treatment of all who appear before the City Commission, speakers will be limited to five-minutes.

DECORUM (ORD 1279-93)

Any person making personal, impertinent, irrelevant or slanderous remarks, or who becomes boisterous while addressing the City

CITY COMMISSION
**CITY COMMISSION MEETING
REQUEST TO SPEAK**

SPEAKER# _____

ITEM# 9

The City Commission encourages public participation during their meetings.
Please follow instructions, complete the form and present it to the City Clerk

NAME ARMOND PASQUALE DATE 12/21/09

(PLEASE PRINT)

ADDRESS _____ CITY STUART ZIP 34994

PHONE 283-5677

ADDRESSING THE CITY COMMISSION (ORD# 1279-93)

- .) Members of the public who have been called upon to speak should come forward to the microphone; state their name, city in which they reside, and the item number.
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CITY COMMISSION MEETING
REQUEST TO SPEAK

SPEAKER# _____

ITEM# 8 + 9

The City Commission encourages public participation during their meetings.
Please follow instructions, complete the form and present it to the City Clerk

NAME Connie MRAINWALING DATE 12/21
(PLEASE PRINT)

ADDRESS 305 Skyway CITY St Paul ZIP 311994

PHONE 221-3309

ADDRESSING THE CITY COMMISSION (ORD# 1279-93)

- .) Members of the public who have been called upon to speak should come forward to the microphone; state their name, city in which they reside, and the item number.
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CITY COMMISSION MEETING
REQUEST TO SPEAK

SPEAKER# _____

ITEM# 9

The City Commission encourages public participation during their meetings.
Please follow instructions, complete the form and present it to the City Clerk

NAME Steven Fedee DATE 12/21/09

(PLEASE PRINT)
ADDRESS 201 SW St Lucie Ave CITY Stuart ZIP 34994

PHONE 772-341-0509

ADDRESSING THE CITY COMMISSION (ORD# 1279-93)

- .) Members of the public who have been called upon to speak should come forward to the microphone; state their name, city in which they reside, and the item number.
- .) All remarks shall be addressed to the City Commission as a body and not to a particular City official.
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DECORUM (ORD 1279-93)

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CITY COMMISSION MEETING
REQUEST TO SPEAK

SPEAKER# _____

ITEM# 8

The City Commission encourages public participation during their meetings.
Please follow instructions, complete the form and present it to the City Clerk

NAME Pamela Feden DATE 12/21/09
(PLEASE PRINT)
ADDRESS 201 SE St. Lewis Ave CITY Stuart ZIP 34997
PHONE 772-341-8589

ADDRESSING THE CITY COMMISSION (ORD# 1279-93)

-) Members of the public who have been called upon to speak should come forward to the microphone; state their name, city in which they reside, and the item number.
-) All remarks shall be addressed to the City Commission as a body and not to a particular City official.
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