

**REGULAR MEETING OF THE STUART CITY COMMISSION
TO BE HELD FEBRUARY 23, 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**

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

PRESENTATIONS

A. Employee of the Month Jessica Velazquez, Recreation Department.

Jessica Velazquez came forward and graciously accepted her award and thank the Commission.

B. Employee Service Recognition

**James Egbers, Police Department, 30 Years
Anthony Williams, Turf & Grounds Team, 20 Years
Stephen Borodemos, Distribution & Collection Team, 5 Years
William McGighan IV, Police Department, 5 Years**

James Egbers came forward and graciously accepted his award and thanked the Commission.

Anthony Williams was unable to attend and Milton Leggett graciously accepted the award on his behalf.

Stephen Borodemos was unable to attend and Sam Amerson graciously accepted the award on his behalf.

William McGighan came forward and graciously accepted his award and thanked the Commission.

Presentation by City Auditors on update of new standards as it relates to the City audit.

Dottie Zaharako, Financial Services Director came forward and introduced Mr. Ron Conrad of Cherry, Bekaert, Holland firm to discuss the changes in the audit report this coming year.

Mr. Ron Conrad gave a brief overview of the new standards being implemented in the upcoming audit. He stated that he is currently working on the City's financial statement and will come back to the Commission in March.

Commissioner Krauskopf wanted to know if the City was going to start early for next year.

City Manager Hudson stated that staff has begun a line item and he wanted the Commission to be "cognizant" of the changes.

Mr. Conrad stated the City has a very good finance department.

COMMENTS BY CITY COMMISSIONERS

Mayor Christie acknowledged the presence of a Town of Sewall's Point Commissioner Jacqui Thurlow-Lippisch, Town Manager Bob Kellogg as well as Jupiter Island Town Manager Joe Connelly, and Stephen Leighton from Congressman Rooney's office.

Commissioner Waxler said she had recently attended an event held by Martin Memorial and was pleased.

Commissioner Hutchinson expressed regret that she was unable to attend the opening of the Poppleton Creek project on Saturday. She stated she looks forward to going over there to see all the work that has been done in completing the project.

Mayor Christie said it is a lovely project with benches for relaxation to watch the ducks on the pond.

Commissioner Krauskopf had four issues to address. 1) He had calls from residents of Ridge Lane, who would like the potholes repaired in their radius in and radius out. 2) He would like a copy of the fire report on 521 Flamingo Avenue where there was a structure fire. He had a call from a resident asking what was the City's status on it.

Vice Mayor Mortell stated he had spoken with someone who was working on that incident and that the Insurance company has not released it from its investigation to determine whether or not it was an accidental fire.

Commissioner Krauskopf asked the City Manager if he has scheduled a planning session for the Commission to discuss the status of the last years to do list and how the City wants to move forward this year.

City Manager Hudson clarified he has planned a strategic planning update workshop in March.

Commissioner Krauskopf also mentioned he received a call from Stephen Cotton regarding the purchase and planting of trees approved by the City. Mr. Cotton was upset because he had purchased trees and is now being told he can't plant them because of an objection from an adjacent neighbor.

The City Manager explained a letter of objection has been received from Littman & Sherlock on behalf of two neighbors who she said were her clients.

Commissioner Krauskopf stated the Mr. Cotton relied upon City staff, and followed and did everything they asked him to do, and then this flair's up at the end.

COMMENTS BY CITY MANAGER AND REVIEW OF TENTATIVE AGENDA

City Manager Hudson reminded the Commission of the Bryant Ave road closure for March 2nd. He also reviewed the tentative agenda – Pull Item 7, Dockside for separate discussion and additional information. He also recommended moving item 7 to the end of the meeting.

Item 11, Fire Rescue Consolidation – two supplements were distributed to the Commission re: Special Assistance Fee and the Martin County report of February 3, 2009 County Commission Meeting.

City Attorney Nicoletti addressed Item 2, noting a minor issue on language in the terms of the lease he requested striking The lease acknowledges and agrees that A: the Lessee shall have to establish reasonable parking guidelines with regulations to the lease property and then be subject to City Codes and City Agreement lease shall have non exclusive right to use less or's parking lots ect. He requested the last phrase be stricken in its entirety, and that the lease would only pertain to the leased property, regarding parking, he would have no right to use the City Hall lot or any other facilities.

Vice Mayor Mortell suggested moving forward item 11 on the agenda.

Mayor Christie agreed to move forward item 11, to be heard after the consent agenda.

Commissioner Waxler asked to pull Item 3 on the Consent for separate discussion.

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

Jasmine Shanck requested the City review Sunday working laws that were in effect in the late 1970s. She stated there was less stress, and less crime. She asked the City how she would go about getting adopted, the no working on Sunday law.

Vice Mayor Mortell addressed “blue laws” and said “demographically speaking” there has been an increase in population from 1974 to 2009 and that has increased the stress level.

Commissioner Krauskopf asked if the Commission has jurisdiction over that.

Attorney Nicoletti said he had not heard this issue posed in a long time.

Vice Mayor Mortell suggested, Ms.Shank initiate a petition to be placed on the ballot.

APPROVAL OF AGENDA

MOTION: COMMISSIONER KRAUSKOPF: MOVED APPROVAL TO APPROVE THE AGENDA AS AMENDED WITH ITEM 7 AT THE END AND ITEM 11 TO BE HEARD AFTER ITEM 6 AND PULL ITEM 3 FOR SEPARATE DISCUSSION.

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

CONSENT CALENDAR

- 1. Request to approve the minutes of the regular Commission Meeting of January 26 and February 9, 2009**

2. RESOLUTION 13-09 Authorization to execute a certain lease agreement between Lehn Dombrose, Inc. (Lessee) and the City of Stuart (Lessor) for the lease back of property located at 131 SW Flagler Avenue, Stuart formerly known as Dockside Restaurant

Item #3 was heard separately

3. RESOLUTION 15-09 Authorization to execute a Sovereignty Submerged Lands Lease modification between the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, the City of Stuart and Huizenga Holdings, Inc. to reflect current structures at the Southpoint Marina Anchorage
4. RESOLUTION 17-09 Authorization for a budget amendment to the 2008-2009 annual Property Management Fund operating budget; for the appropriation and expenditure of funds to pay a settlement of the Monterey Pointe Golf Range litigation in the amount of \$985,000
5. RESOLUTION 18-09 Authorization to approve a Revocable Permit to construct an area consisting of brick pavers and landscaping within the public right of way along SE Hibiscus Avenue and associated with the use of a professional building located at 1038 East Ocean Boulevard
6. RESOLUTION 19-09 Authorization for a budget amendment to the 2008-2009 annual general fund operating budget of the City of Stuart for the appropriation and expenditure of \$2,822 to fund the purchase of low power consumption lighting and larger saddle bags for the motorcycle unit

Item #7 was heard at the end of the agenda.

7. RESOLUTION 20-09 Authorization to approve an addendum to the contract for sale and purchase of the Dockside Restaurant property at 131 S.W. Flagler Avenue, Stuart, from Paradise Enterprises of Brevard, Inc; and authorizing to execute said addendum

MOTION: COMMISSIONER KRAUSKOPF: MOVED APPROVAL OF THE CONSENT CALENDAR ITEM 1,2,4,5,6

SECOND: VICE MAYOR MORTELL

ROLL CALL;

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

Item #3 was heard here

3. RESOLUTION 15-09 Authorization to execute a Sovereignty Submerged Lands Lease modification between the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, the City of Stuart and Huizenga Holdings, Inc. to reflect current structures at the Southpoint Marina Anchorage.

**MOTION: VICE MAYOR MORTELL: MOVED APPROVAL OF THE CONSENT CALENDAR
ITEM 3 RESOLUTION 15-09**

SECOND: COMMISSIONER KRAUSKOPF

ROLL CALL;

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

END OF CONSENT CALENDAR

11. Update on the Fire Rescue Consolidation

City Manager Hudson gave a brief overview of the Fire Rescue Consolidation with Martin County. He stated that there were three very significant items that remain unresolved. One, funding structure for a consolidated department, two, how it would be governed, third, utilization and compensation for the City's newly built public safety facilities. He described the City's current service program and flex at Station 2, noting that Martin County Fire Rescue has served northern part of the City under an Interlocal Agreement. He addressed the City's options, and the primary operation's the City has been looking at is to consolidate with Martin County Fire Rescue with a fee for service. He stated Martin County has been reluctant to establish a fee that would be beyond a 2 year period.

Hudson said there is also the option to fully staffing Station 2, and the adding a service component to the North. The department has come up with a proposal to provide an Advanced Life Support vehicle. He noted that the City owns two properties north of Wright Blvd, which could be suitable for a station. He said there is another option for the City to take over the dispatching function. He added, "Consolidation appears to offer short term savings but the proposal on the table has some shortcomings and would in fact cause a tax increase for Stuart taxpayers.

**MOTION: COMMISSIONER KRAUSKOPF: MOVED APPROVAL TO AUTHORIZE THE
MAYOR TO SEND A LETTER TO THE MARTIN COUNTY BOARD OF COUNTY
COMMISSIONERS THANKING FORMER COMMISSIONER DiTERLIZZI FOR HIS
SUGGESTION THAT THE CITY CONSIDER CONSOLIDATION OF OUR FIRE RESCUE
DEPARTMENTS, BUT AFTER CAREFUL REVIEW DECLINE THE INVITATION
RESPECTFULLY TO PARTICIPATE IN THIS CONSOLIDATION.**

SECOND: VICE MAYOR MORTELL

Commissioner Waxler questioned expansion to north area and per capita amortization.

**MOTION: COMMISSIONER KRAUSKOPF: ADDITIONAL MOTION THAT THE CITY
MANAGER WOULD QUANTIFY ANY RESIDUAL EFFECTS OF THE DECISION MADE
THIS EVENING FOR THE NEXT BUDGET YEAR AND THAT WE HOLD A 2 HOUR
WORKSHOP AT WHICH WE MAY BE ABLE TO LOOK AT OTHER BENEFICIAL ITEMS
FOR US, AND WHAT IT IS GOING TO TAKE TO COMPLETE SOME OF THE
RESPONSIBILITIES THAT OVER THE YEARS WE MAY NOT HAVE FULLY FUNDED.**

Commissioner Hutchinson said all along she has been looking at what is best for the entire County but she is not ready to give up a seat at the table. She was sorry the County had chosen a different route, and we are at this situation today. We missed an opportunity to meet a long term solution to benefit all the taxpayers, and we need to do what is in the best interest of the city, to provide the safety for our firefighters and our citizens. If it means we step up to the plate and fully man station 2, and do the other responsibilities, we need to do it and take care of it. I think we need to move on in what is best for our citizens and what is best for our staff.

Vice Mayor Mortell “When this was first presented to the City, and we authorized staff to spend the time and energy together it was a \$3 or \$6 hundred thousand dollar savings in year one, and the first proposal that came back was no savings in year one, and took 19 months to get the proposal that will only last for 24 months. I have real concerns of what the future will tell under such a short interlocal agreement.”

Commissioner Waxler agreed that consolidation of the service would be best in the best interest for the residents of the City and Martin County. She stated it has been “truly disappointing that the County Commission has not been fairer and she suggested the City move forward with discussion with Sewall’s Point and Jupiter Island. She stated there may be an opportunities that would not necessarily be there and hopefully we can work together and save our residents some money and provide them a quality service.

Commissioner Hutchinson noted that the County does not mention in any of their letters that the City provides service to some County residents as well.

Mayor Christie stated that consolidation would have been the way to go but in reality to do that and put the burden on the taxpayers of the City of Stuart is unfair. We went through this process and he felt it unfair to put a burden on the taxpayers in the City of Stuart and said he can’t support it.

Attorney Nicoletti reiterated the first motion on the floor. He stated it would be a letter to the County Commission declining to continue.

ROLL CALL;

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

Commissioner Krauskopf reiterated his second motion; he asked the City Manager set up a workshop for about 2 hour, to discuss what the City needs to do for them, and he asked the Commissioners to prepare and submit to the City Manager specific questions regarding the matter.

SECOND: COMMISSIONER WAXLER

City Manger Hudson explained he would work on a workshop for the third week in March, no later.

Fire Chief Sunderman stated she would do all the necessary research for the workshop.

MOTION APPROVED UNANIMOUSLY

COMMISSION ACTION

- 8. RESOLUTION 14-09 Authorization to approve a Major Urban Code Exception to Maria’s Café, LLC; Tenant of the property located at 10 SW Osceola Street to allow the sale of alcoholic beverages at an established restaurant located with the “Old Downtown Section” (Quasi-Judicial).**

Murriah Dekle of Development Staff presented to the Commission the proposed Major Urban Code Exception. The exception includes allowing for sale of liquor in the old downtown section with service of alcoholic beverages for consumption on site. The applicant would like to apply for a 2 COP license, which is just beer and wine. This property was previously occupied by a restaurant and bar operating under a 4 COP SRX license, which is for full liquor. Staff reviewed the zoning and land use noting the site is located in the CRA and considers the project in compliance and recommends approval.

Public Comment:

Armond Pasquale came forward and expressed concern over allowing another bar in the downtown.

Sherry Johnson, resident of Seminole Street, said Maria's is a wonderful place and would be a wonderful addition to downtown.

Helen McBride came forward agreed Maria's would be a wonderful addition and said old customers are waiting for Maria's to reopen.

Bernie Malone of Stuart Mainstreet stated he was disappointed when Maria's closed on East Ocean and is looking forward to its re-opening.

Robert Steinberg came forward to comment on both items 8 & 9. He expressed concern over the fairness, and he did not see the "spillover" that Mr. Pasquale was talking about. He said this is the only City law that regulates business and we need to have successful businesses in the downtown. He recommended that the City not try to place any further restrictions on these people, and said we have a noise ordinance in effect that should manage any noise problems. He said he would like to see the Commission vote unanimously on businesses in the downtown.

Commissioner Waxler said Maria's sold beer and wine when the business was located on East Ocean and now the past location of Marias is an office. Maria's is moving in the old downtown section in the former TA Verns location which previously sold hard liquor and she is going to be selling beer and wine only. She stated the Key Lime Café would be now selling liquor and the net effect is we are not adding to the sale of liquor in the downtown and is a wash. She stated the City needs to be supporting the downtown business with these economic times. She added that one of the things people like to do in these economic times is go out to eat. She stated that she supports both Key Lime Café and Maria's request.

MOTION: VICE MAYOR MORTELL: MOTION TO APPROVE RESOLUTION 14-09 WITH STAFF RECOMMENDATION.

SECOND: COMMISSIONER HUTCHINSON

ROLL CALL;

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

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

Murriah Dekle gave a brief presentation to the City Commission regarding the proposed Major Urban Code Exception for Key Lime café. With staff and the applicant in agreement, staff recommends approval with the following hours of operation:
Sunday through Wednesday close by 10 PM. Thursday through Saturday close by 12 AM

Public Comment

Veronica Pasquale came forward and expressed concern over the proposed gave an impassioned plea that the Commissioners not allow the Major Urban Code Exception in the downtown. She was critical of John White's financial situation and said businesses are encroaching on the residential area of Seminole Street. She also stressed that there not be any additional special events in addition to the other special events thru the year.

Armond Pasquale came forward and agreed his wife would be a hard act to follow but he repeated his concern for bars and drunks in the downtown. He stated they were bad news for residential neighborhoods and the City is going to have to hire additional police.

Sherry Johnson came forward, who owns a home adjacent to the proposed Key Lime Café. She asked if her letter had been received in objection to the proposed exception.

Helen McBride came forward and suggested parking on Seminole Street be restricted for residents only at night.

Bernie Malone came forward and stated that all residents of Seminole have off street parking and Key Lime Café would be a downtown "destination".

Robert Steinberg came forward and stated that there was nothing stopping the downtown businesses from hiring the South Fork Marching Band and businesses are usually very interested in accommodating residents.

Vice Mayor Mortell stated that if the argument is that Seminole Street is already full than Key Lime Café won't change that. He addressed residential versus commercial and noted that Pasquale's 48-unit per acre building is a commercial enterprise. He also noted that festivals are held in the downtown to attract business downtown.

Commissioner Hutchinson explained the business does not need approval from the City to expand his business and parking is exempt in the downtown, the issue is to grant approval for the applicant to apply to the State for an alcohol license. She expressed concern over the business abutting the residential neighborhood and could support the business to be open until 10:00 pm all the time, stop serving at 10:00, and Thursday-Saturday close by 11:00 pm. She felt the City needed to do a better job a neighborhood/commercial transitions, with the uses conflicts.

MOTION: COMMISSIONER HUTCHINSON: MOTION TO APPROVE RESOLUTION 05-09 SUPPORT STAFF RECOMMENDATION BUT CHANGE THURSDAY-SATURDAY STOP SERVING TIME TO 10:00 PM AND CLOSING TIME IS 11:00 PM. SECOND:

Mayor Christie passed the gavel to Vice Mayor Mortell.

SECOND: MAYOR CHRISTIE

Applicant John White came forward and stated that realistically closing at 10:00 pm eliminates more people coming to the restaurant to eat. He explained that getting them through the door then keeping them there is the key. He explained it was up to the Commission and that is why they have the exception process.

Commissioner Waxler questioned Duffy's hours and was told they are open to 11:00 pm on weekdays and 12:00 pm on weekends.

Commissioner Krauskopf said he has tried to keep an open mind on this but cannot support the motion as encroachment has become more intense.

Vice Mayor Mortell said what we have done is tell Arthur Dehon he can expand his liquor licenses and charge more rent. Key Lime was here before Maria's. He stated in reality it was the intention of the City of Stuart to have Osceola and East Ocean commercial boulevards. There is commercial to the east, south and west of Key Lime Café and 2 residential homes to the north and we are treating one landlord different from another landlord.

**MOTION: COMMISSIONER HUTCHINSON: AMENDED MOTION TO APPROVE RESOLUTION 05-09 SUPPORT STAFF RECOMMENDATION BUT CHANGE THURSDAY-SATURDAY STOP SERVING AND CLOSING TIME TO 10:00 PM.
AMENDED SECOND: MAYOR CHRISTIE**

Victoria Pasquale came forward and stated the noise ordinance does not work in downtown Stuart noting that her many complaints and calls were not listed.

Vice Mayor Mortell said this will not solve the problem and stated that once Key Lime closes at 10:30 pm those people are not going to leave the area.

Mr. Pasquale accused Commissioner Mortell of having no concern for the residents of Seminole Street.

John White came forward and stated said he now too lives downtown, and nothing is going to be rowdy about Key Lime Café. He agreed to accept any motion the Commission makes.

ROLL CALL;

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

ORDINANCE FIRST READING

- 10. ORDINANCE 2178-09 (First Reading) relating to solid waste collection; amending chapter 66 of the City of Stuart Code of Ordinances by amending article 1 to establish title to solid waste; and prohibit the removal of solid waste under certain circumstances; providing for a schedule of fines; providing for repeal of conflicting ordinances; providing for severability; providing for codification and providing an effective date**

**MOTION: COMMISSIONER KRAUSKOPF: MOTION TO APPROVE RESOLUTION ORDINANCE 2178-09 ON FIRST READING
SECOND: VICE MAYOR MORTELL**

ROLL CALL;

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

ORDINANCE SECOND READING

DISCUSSION & DELIBERATION

Item #11 was heard after the consent calendar

11. Update on the Fire Rescue Consolidation

Item #7 was heard at this time

7. RESOLUTION 20-09 Authorization to approve an addendum to the contract for sale and purchase of the Dockside Restaurant property at 131 S.W. Flagler Avenue, Stuart, from Paradise Enterprises of Brevard, Inc; and authorizing to execute said addendum

City Attorney Nicoletti gave a brief overview of the proposed addendum for sale and purchase of the 131 SW Flagler Avenue Property. He explained the due diligence period ends at 5:00 pm this Friday.. He has some estoppels information in one part of the DOR liens but not from the State Attorney's office. He explained there were some objectionable issues between the City and Mr. Dombrose.

Vice Mayor Mortell suggested including direction to staff to cooperate with Attorney Richard Kibbey to assist by providing a letter that we are trying to work this out, because obviously the State is looking for this deal to go thru and get paid and I think Richard Kibbey could roll that date to May.

Attorney Nicoletti said every month is costing the lessee \$30,000 in interest, which he has pledged to pay back to the City.

Attorney Nicoletti asked the Commission for permission for flexibility, as far as identifying a time frame that is absolutely needed.

City Manager Hudson mentioned the Commission had been provided handouts, including closing statements and funding options. He stated the most accurate cost for the closing is around \$3,870,590,600, He recommended the Commission approve a not to exceed number. He recommended using the general fund to close and replace it after the closing.

MOTION: COMMISSIONER KRAUSKOPF: MOTION TO APPROVE RESOLUTION 20-09 AND TO GIVE STAFF THE LEEWAY AS TO THE ELEMENTS OF TIME FOR THE ADDENDUM SOME TIME FOR THE ADDENDUM TO USE THE BEST JUDGEMENT BECAUSE IT CHANGES ON A DAILY BASIS. AND A NOT TO EXCEED NUMBER OF \$3,850,000,000.

SECOND: VICE MAYOR MORTELL

Attorney Nicoletti explained the amount of the second mortgage is not pinned down but appears to be around \$1.5 million, he said he has made an even less offer, and was suppose to hear today from the folks in South Carolina. He hopes to get a number tomorrow.

The Commission agreed to an emergency meeting if needed.

ROLL CALL;

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

ADJOURNMENT :7:59 P.M.

Cheryl White, CMC, City Clerk

James A. Christie, Mayor

Minutes approved at the Regular Commission
Meeting this 9TH Day March 2009