

**REGULAR MEETING OF THE STUART CITY COMMISSION
HELD ON NOVEMBER 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 (absent)
Assistant City Attorney Robert Kilbride
City Clerk: Cherie White**

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

PRESENTATIONS

**1. PROCLAMATION: Proclaiming the month of December 2009 as
WHITE DOVES MONTH**

Diane Young, United Way came forward and graciously accepted the proclamation, and thanked the City.

2. Employee of the Month

Louis Boglioli, III, Financial Services

Louis Boglioli was unable to attend the award will be given at the next regular scheduled meeting.

City Manager Hudson gave a special award to Dave Peters for his very hard work and dedication for the Consumptive use permit that Mr. Peters has been working on for five years.

Mr. Peters graciously came forward and thanked the City Manager for the recognition.

3. Employee Service Recognition

**William Reker, Jr. Streets Team, 20 Years
Mattie Marshall, 10th Street Center, 20 Years
Jeremiah Walton, W/S General Government, 15 Years**

William Reker came forward and graciously accepted his award and thanked the Commission. He also read a poem to the Commission reflecting on his work, and service to the City for the past 20 years.

Mattie Marshall came forward and graciously accepted her award and thanked the City Commission.

Jeremiah Walton came forward and graciously accepted his award and thanked the City.

COMMENTS BY CITY COMMISSIONERS

Commissioner Hutchinson thanked Public Works, Police and Fire Departments for their efforts in the Veterans' Day Parade.

Commissioner Krauskopf said we are truly blessed to live in a beautiful community, and asked for all to take time to look around and care for others during the Thanksgiving Holiday season.

Vice Mayor Mortell was pleased to see so much diverse downtown activity on Friday night. The event at the Lyric Theatre was also a nice event.

Mayor Christie commented on the positive activity in downtown Stuart during October and November. He stated that the City of Stuart is a vibrant community with wonderful people.

COMMENTS BY CITY MANAGER

Mr. Hudson noted a letter he sent of a Letter of Interest to the Florida Game & Fish Conservation Commission asking if the City could participate in the Mooring Field Pilot Program. He offered the interest to Martin County as well, if they are interested in participating. He stated there is only two communities that will be awarded on the East Coast.

The City has also received notice of the year round water conservation rules from the Water Management District but is not in effect yet. It is anticipated to be in effect sometime in January. He stated he would report back to the Commission.

Coffee with the City Manager is scheduled at 8 AM on Wednesday, December 2 in the Commission Chamber.

The City Commission agreed with Hudson's suggested Recodification Workshop at 9 AM on December 7th.

Mr. Hudson noted Item 7 has been pulled for discussion; the property owner has requested Item 10 be continued to 12/21/09; Item 11 is fully withdrawn at the request of the applicant; a supplemental memo has been issued concerning Item 14; and a verbal update will be given on Item 15.

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

Bernie Malone came forward commented on the success of the 19th Annual VNA Air Show that drew 51,000 attendees. He thanked the Commission and City staff for their support and noted that all of the air show performers were very complimentary about the City of Stuart.

APPROVAL OF AGENDA

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF AGENDA AS AMENDED EXCEPT FOR ITEM 10 HE REQUESTED IT BE DISCUSSED.

SECOND: COMMISSIONER HUTCHINSON

MOTION APPROVED UNANIMOUSLY

CONSENT CALENDAR

4. Request to approve the minutes of the Regular Commission Meetings of October 26 and November 9, 2009
5. Request to approve a date and time for a special meeting for Re-Codification of Code of Ordinances
6. RESOLUTION 134-09 Authorization to execute a release of Unity of Control between Kremser Family Limited Partnership, Stuart Town Center I LLC and Frank S. Schilleci in accordance with paragraph 2 of the Unity of Control

Item 7 was heard later.

7. RESOLUTION 135-09 Authorization to approve a road closure for the 35th annual Stuart Boat show on January 13th through January 18th 2010 along Dixie Highway (SR 707) from Albany Avenue South of the Old Roosevelt Bridge to Fern Street at the FEC RR crossing, North of the St. Lucie river draw bridge, subject to Florida Department of Transportation approval
8. RESOLUTION 137-09 Authorizing an amendment to the original scope of work by \$87,192.00 and authorization to execute a contract with Beach Construction Company, Inc. for the on-site reclaimed water system in an amount not to exceed \$2,059,808.00
9. RESOLUTION 138-09 Authorization to approve the award of a bid to Ferreira Construction Southern Division Co., Inc. to the lowest, most responsive and responsible bidder for a total bid amount of \$25,983.00 for the construction and installation of two crossovers and 320 ft. of additional boardwalk for the riverwalk

END OF CONSENT CALENDAR

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF THE CONSENT AGENDA 4,5,6,8,9

SECOND: COMMISSIONER WAXLER
ROLL CALL

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

7. RESOLUTION 135-09 Authorization to approve a road closure for the 35th annual Stuart Boat show on January 13th through January 18th 2010 along Dixie Highway (SR 707) from Albany Avenue South of the Old Roosevelt Bridge to Fern Street at the FEC RR crossing, North of the St. Lucie river draw bridge, subject to Florida Department of Transportation approval

Commissioner Hutchinson expressed concern over the Holiday Boat Parade event that will be taking place in Manatee Pocket. She said the City contacted the Marine Industries Association last year inquiring why the parade had been moved from the downtown area. She said that event has been in the downtown area for many years and was truly disappointed this year. She requested the Marine Industries Association consider moving it back to the downtown area.

Commissioner Waxler asked the Marine Industries Association to articulate why it was moved.

Vice Mayor Mortell stated a sponsor had paid money for the event. He said the Marine Industries Association stated that if the City would provide paid sponsorship they would move it back to the downtown.

Jodi Foster, Treasurer of the Marine Industries Association stood up and stated the Boat Parade was not financially sponsored to hold the Boat Show at the Manatee Pocket. She stated the Boat Parade was moved down to its current location, where we went down the, past Sandsprit Park and into the pocket and out down past Rocky Point because of the construction at the Anchorage in the downtown. That had been the traditional route of the previous Boat Parades. Unfortunately we could not have the parade there last year, and it coincided, it was not really a planned event, but it coincided with John Pierson's party, where he was having the big fireworks, and everything. We had the opportunity, and it turned out to be very successful, we had a lot of people that came to see our parade, in conjunction with the fireworks. It turned out to be a great community event. We had that opportunity to do that again this year. One of the problems we are concerned about with the City of Stuart, is just any more a lack of venue for the Boat Parade. What we would like for the City to do, and because the water is real shallow in a lot of areas, where we want to pass by with the boat parade. There is the new Marina, which are private docks now, and last year....

The Commission stated the docks are all assessable to the public.

Vice Mayor Mortell stated the Harborage on the Northside of the old Roosevelt Bridge docks are all public docks, at the City's mandate. He also stated there is a fishing pier open to the public, as well as the Riverwalk and City Dock which is also public.

Jodi Foster suggested the City submit a boat route to the Marine Industries Association, and they would consider it for future Boat Parades. She said the event is

for all Treasure Coast communities who help support the Marine Industries Association. She said the Marine Industries Association wants to work with the City.

Commissioner Krauskopf ; “As we commit to you on item 7, could you commit to us for next year’s Boat Parade?”

Jodi Foster said she could not because she does not have the authority to do that. She said they are willing to work with the City on the Boat Show which brings a huge economic benefit to the City of Stuart.

Vice Mayor Mortell asked if the Toyota of Stuart sponsored the Boat Parade?

Jodi Foster said the Toyota of Stuart did not sponsor the Boat Parade.

Commissioner Waxler showed Miss Foster an invitation that clearly called the event the Stuart Boat Parade.

Jodi Foster stated the Marine Industries Association had nothing to do with the flyer or knowledge of it.

Commissioner Waxler stated she reached out to the Marine Industries Association last year and said if there was anything that the City could do to move the parade back into the downtown of Stuart to please let the City know. No one contacted her or the City. The parade has been in the downtown for the past 20 years and has better and more viewing areas for the public.

Jodi Foster stated she is hearing that the City of Stuart wants to work with the Marine Industries Association for the future, and she stated their biggest concern was logistics, and venue, and the route this year.

Vice Mayor Mortell noted all the public access points to the waterway and felt the City has gone out of its way to bring public access to the waterway.

Jodi Foster stated they were looking at it as a package to be able to enjoy the whole opportunity. She stated it is not the City of Stuart Marine Industries Association. She said the Marine Industries Association represents all of Martin County and the Treasure Coast.

Commissioner Hutchinson expressed concern, and stated there was history with the City of Stuart and the Holiday Boat Parade.

MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL OF RESOLUTION 135-09 AND THE BOAT SHOW

SECOND: COMMISSIONER KRAUSKOPF

ROLL CALL

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

The Commission agreed to appoint a liaison to keep a dialog on the Holiday Boat Parade and bring it back to the City.

Commissioner Waxler said she would.

Bernie Malone came forward and stated the City of Stuart also lost the Treasure Coast Antique Car Club, and they went North because of no cost to the association.

COMMISSION ACTION

**10. Appeal of City Manager's decision to Declare Public Nuisance;
Property located at 1701 S. Palm City Road; Mr. William Rudge IV
(Quasi-Judicial)**

City Attorney Nicoletti reviewed the background of the code enforcement action and clarified that Mr. Rudge had requested continuance of the appeal to 12/21/09.

MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL TO DENY THE REQUEST TO CONTINUE.

SECOND: COMMISSIONER KRAUSKOPF

Mr. David Todd, Box 536 Hobe Sound came forward and stated he was assisting Mr. Rudge in cleaning up the property. He gave a long list of items that have been taken care of on Mr. Rudge's property to date.

ROLL CALL

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

City Attorney Nicoletti said the burden of appeal is on the appellant and agreed that the City Commission could hear Mr. Todd's comments.

Mr. Todd described the amount of debris that was on the property when Rudge inherited the 2-acre track from his father. He then described the work that has already been done to clean up the property as well as the work still needed to be done.

Commissioner Hutchinson asked the last time code enforcement had inspected the property and was told the property was still in violation of the order when inspected last week.

City Attorney Nicoletti said the Commission has to decide if there is any legal indication that the appeal is justified.

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL TO APPROVE THE CITY MANAGER'S DECISION TO DECLARE THE REAL PROPERTY A PUBLIC NUISANCE TO BE UPHELD AND TO DENY THE APPEAL.

SECOND: VICE MAYOR MORTELL

ROLL CALL

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

- 11. (THIS ITEM IS BEING WITHDRAWN) RESOLUTION 129-09
Authorization to approve a Major Urban Code Exception to Stuart
Arcade Associates, LLC; owner of the property located in the “Old
Downtown section” of the City, Jenifer’s Bar & Grill (Quasi-Judicial)**
- 12. RESOLUTION 136-09 Authorization for the City Manager to apply for
a Federal Government Grant from staffing for adequate fire and
emergency response (Safer) program to hire 9 full time Firefighters
for Station #3 at 100% with no match required from the City and if
successful authorize the City Manager to execute the grant upon
review and approval by the City Attorney**

City Manager Hudson gave an update on Fire Rescue and thanked the City Commission for its support. He noted the contributions made to the Community from the City Fire Rescue Department and the importance of this grant application.

Commissioner Krauskopf expressed concern over the proposed grant application and the net effect of more personnel cost for the future.

He also requested the city look at another option to man Station 3 besides hiring 9 additional personnel. He felt we do not need to have three full time stations operated at night and asked what could be done to reduce the 9 additional personnel. He would like to see new hires “stepped down” to that amount.

Commissioner Hutchinson stated the Commission committed to the cost associated with Station 3 during the budget hearings, and she felt it was worthwhile.

Commissioner Waxler stated that she also committed to providing service to the public during the budget discussions.

Vice Mayor Mortell said we are maintaining control of our own fire department that requires us to occur an expense as opposed to the cost of merging with the County.

MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL TO APPROVE
RESOLUTION 136-09

SECOND: COMMISSIONER WAXLER

City Manager Hudson stated he would provide a staff analysis to Commissioner Krauskopf at a later date.

ROLL CALL

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

ORDINANCE FIRST READING

ORDINANCE SECOND READING

13. ORDINANCE 2195-09 (Second Reading) to approve an amendment to the Future Land Use Map of the Comprehensive Plan to designate the land use of a 2.88-acre parcel within the City of Stuart from “Public/Institution to “Commercial” proposed by Eco Ventures, LLC, lessee of the property; parcel of land consisting of 2.88-acres is located South of the intersection of Monterey Road and Monterey Road extension on a portion of the Old City of Stuart landfill; said land to be concurrently changed from “Public” to a Commercial Planned Unit Development (CPUD) district on the City of Stuart Zoning Map (Quasi-Judicial)

Pinal Gandhi-Savdas, Senior Planner noted the survey requested by Krauskopf had been included in the agenda packet and the time-table is part of development condition #4. Staff also noted the amendment to the lease agreement. Staff recommends approval based on development conditions.

Attorney Terry McCarthy representing the applicant said nothing has been changed and the lease amendment is “a clean up issue”. As for the time table, as soon as the economy picks up the applicant will start Phase II. Meanwhile Phase I is fine and the developer will come in with Phase II at the appropriate time.

Commissioner Krauskopf said his questions had been addressed.

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL TO APPROVE ORDINANCE 2195-09 ON SECOND READING.

SECOND: VICE MAYOR MORTELL

ROLL CALL

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

DISCUSSION & DELIBERATION

14. The annual meeting of the Martin County Legislative Delegation is scheduled for Tuesday, December 15, 2009, 1:00 PM at the Martin County Commission Chamber

City Manager Hudson had distributed a memo listing additional items the Commission might want to consider when addressing the Legislative Delegation – i.e. reclaimed water issues and on-going request for funding reclamation of Memorial Park.

Commissioner Krauskopf expressed concern and suggested specific language on how to address the legislature to assure that it is acted upon and does not sit in an inbox up-there.

City Manager Hudson said the submission date is December 7th and he would

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL TO AUTHORIZE THE CITY MANAGER SUBMIT A LETTER SIGNED BY THE MAYOR/COMMISSION TO THE LEGISLATURE WITH THOSE ITEMS PRESENTED.

SECOND: VICE MAYOR MORTELL
MOTION APPROVED UNANIMOUSLY

15. Update regarding noise complaint at Key Lime Cafe

City Manager Hudson said he and the City Attorney had met with the owner of the Key Lime Café regarding the noise complaints. Mr. White, the owner said the 3-piece band he had hired has been “removed from the venue”.

Veronica Pasquale, 15 SE Seminole Street came forward to remind the City Commission that the original approval Resolution 05-09, stated that the application could not create detrimental effects on the land owners 300 feet. She said an amplified guitarist has been playing there for the last three weeks and that does negatively affect the community. Mrs. Pasquale insisted that something has to be written into the resolution to give the police something to work with for enforcement. She also said with Mulligan’s coming the City could have another problem at the other end of the street.

Commissioner Hutchinson expressed concern and stated she did not think it was the City Commission intention to remove that section of the agreement that did not allow amplified music. She stated that under oath he agreed to not allow amplified music.

City Attorney Nicoletti said the owner petitioned to have the requirement removed and his testimony is binding. He stated the City Commission would need to trigger a public hearing modifying the Special Exception.

Vice Mayor Mortell said when he visited the Café recently he did notice there were two speakers directing music out to the street and did not benefit the patrons of the Key Lime Café.

Commission Hutchinson was concerned that there was something in the first ordinance that was not included in the second.

City Attorney Nicoletti said the development department modified its list as requested by the applicant. He stated it was in the materials as presented to the City Commission. He did state that it was portrayed by the applicant that music was not going to be an issue. He stated the question is does this affect adjacent neighbors.

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL TO OPEN ANOTHER PUBLIC HEARING TO RELOOK AT THE SPECIAL EXCEPTION FOR THE KEY LIME CAFÉ AND INSTITUTE THE ORIGINAL CLAUSE THAT THERE WAS NO AMPLIFIED MUSIC PERMITTED.

SECOND: COMMISSIONER HUTCHINSON

City Attorney recommended reconsider the Special Exception and make any additional modifications that need to be made.

Commissioner Krauskopf said it was clear.

Commissioner Waxler reiterated her position and requested a copy of the discussion.

Vice Mayor Mortell also suggested a criteria when it comes back before the City Commission on conduct of this type of hearing.

Armond Pasquale said a mechanism is needed for enforcement of the noise ordinance. He also said there is a problem with the noise coming from Dockside.

Mayor Christie said we need to consider the possibilities of noise from Mulligan's,

Vice Mayor Mortell said this is not about the noise ordinance it is about the Key Lime Café.

ROLL CALL

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

ADJOURNMENT 7:11 p.m.

ATTEST:

Cheryl White, CMC, City Clerk

, Mayor

**Minutes approved at the Regular Commission
Meeting This 14th Day December 2009**