

**SPECIAL MEETING OF THE STUART CITY COMMISSION
HELD ON JANUARY 20, 2009
AT 10:00A.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.

- 1. Consider adoption of Resolution 07-09, approving a proposed stipulation settlement agreement in the Collins vs. City of Stuart lawsuit.**

City Attorney Nicoletti: At the conclusion of the direct testimony of Clark Collins, Judge Robey called council into his chambers to give us the benefit of what he considers to be his fairly good track record of predicting the outcome of trials. He indicated to us, that notwithstanding the fact that the City may have evidence to the contrary that this particular jury would likely award Mr. Collins some damages in this case. Then Judge Robey suggested mediating out a settlement. Going back and forth, it took awhile to do, as I indicated to you by memo. Some of you actually were able to participate in that. Others of course have just read it for the first time on Friday. At the end of the negotiations we arrived at a number, that is certainly higher than what we spoke about earlier in our discussions, and yet, is lower somewhat lower ultimately than what could have been awarded to Mr. Collins in this case. We felt that the total exposure was somewhere in the neighborhood of \$3.1 or \$3.2 million. That is assuming Mr. Collins gets to hit a home run. We had heard from Judge Fleet that the case might settle for around \$500,000.00, in fact we have come up with an negotiated amount in the amount of \$985,000.00. The amount takes into consideration the value of the 20 years remaining on the lease. And the value of the improvements that are there. Attorney Glenn Webber is present and can explain another way of looking at it.

Attorney Glenn Webber, representing the City came forward and stated the way the case has been portrayed was just like David and Goliath, and the lost dreams of Clark Collins. The City's theme is this should not be a government bailout. The problem with the case is Mike Crook will testify that Mr. Collins damages are in the neighborhood of \$3.1 and \$3.2 million dollars. The number actually invested is between \$1.6 and \$1.8 million and adds a "loss of opportunity" cost to that. I think that is certainly challengeable because the business was losing money every year. He further explained the scenarios of various outcomes of the trial.

Commissioner Krauskopf stated he was disheartened by the event, but is reassured that the income streams we have built up will have this repaid within 2 years.

MOTION: COMMISSIONER KRAUSKOPF: MOVED APPROVAL TO APPROVE RESOLUTION 07-09 BASED ON OUR PROFESSIONAL ADVICE.

Commissioner Hutchinson stated she was present when the Judge Robey called everyone on his chambers. He stated the Judge was pretty assured the City did not have a good case in this situation. She suggested the Judge contact other Commissioners and provide his suggestion to them as well. She felt it should be a joint decision by the City Commission.

Attorney Nicoletti stated that Judge Robey did attempt to contact the Commission and was unsuccessful at reaching the Mayor.

Vice Mayor Mortell stated he spoke with Judge Robey. He also stated that in the past he has had Judge Robey give me and help me and I have had other judges do that for me and did not settle and I have had results of opposites of what the judge has said. He said the City cannot second guess this and I am going to follow the advice of our experts who we have hired. I personally have a chilling effect to enter into business relationships with people, as a result of this case.

SECOND: VICE MAYOR MORTELL

Mayor Christie stated he felt the City was well represented but he did pick up some body language and expressions from several of the jurors when certain issues came up. He said he would like to see the City put this suit behind us and move forward. He stated he supports the motion.

City Manager recommended the funds would come from the property maintenance fund along with a small transfer from the City's emergency reserve.

Commissioner Waxler agreed the City should settle. She said it was unfortunate the former City Attorney could not be here to defend the City. She said she wants to move forward but feels it is a shame the City could use that money could be used for allot of things besides paying off Mr. Collins, who I think took advantage of the situation. She said she too supports the resolution.

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

ADJOURNMENT:10:21 A.M.

Cheryl White, CMC, City Clerk

James A. Christie, Mayor

Minutes approved at the Regular Commission
Meeting this 9 Day February 2009