

**REGULAR MEETING OF THE STUART CITY COMMISSION  
HELD ON APRIL 12, 2010  
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 Waxler  
Commissioner James A. Christie  
Commissioner Jeffrey A. Krauskopf  
Commissioner Mary Hutchinson**

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

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

**PRESENTATIONS**

**1. PROCLAMATION: Proclaiming the month of April, 2010 as ENVIRONMENTAL STUDIES AWARENESS MONTH**

The proclamation was accepted by Mr. Eric Martin, he thanked the Commission and invited the public to the annual gathering and fund raiser, Fish Nic, to be held April 24, 2010 at Flagler Park. He gave each one a flyer about the event.

**2. PROCLAMATION: Proclaiming the week of April 18-24, 2010 as STUART VOLUNTEER APPRECIATION WEEK**

A representative from the United Way of Martin County came forward and graciously accepted the proclamation, and thanked the Commission.

**3. Presentation of River Guardian Award by Leon Abood, Rivers Coalition Chair, to the City of Stuart for Outstanding support of the Rivers Coalition mission**

Leon Abood, of the Rivers Coalition came forward and presented the City with an award and is the first of its kind. The award named River Guardian Award and is for the City's support of the Rivers Coalitions mission as well as the City's watershed program.

Kevin Henderson came forward and also thanked the City for their support to the Rivers Coalition. He said the storm water that comes out of the City of Stuart is the cleanest that discharges water into the St. Lucie Estuary. He stated it exceeds the standards already adopted by DEP.

Commissioner Krauskopf asked that the City display the award with a collage of the work that brought the award to the City.

**4. Presentation by Ron Conrad, Audit Partner, Cherry, Bekaert & Holland, LLP of the Comprehensive Annual Financial Report (CAFR) for the City of Stuart for fiscal year 2009**

Mr. Ron Conrad of Cherry, Bakaert & Holland presented the Financial Report for the City's Fiscal Year 2009. He highlighted several items, concluding with the management letters.

MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL TO ACCEPT THE AUDIT.

SECOND: VICE MAYOR WAXLER

MOTION APPROVED UNANIMOUSLY

**COMMENTS BY CITY COMMISSIONERS**

Commissioner Krauskopf requested an additional agenda item re: Palm City Road to be addressed at the end of this meeting.

He also asked staff for an update on any legislative session regarding any action on I.Q water system. He requested the City look into any action.

**COMMENTS BY CITY MANAGER**

Mr. Hudson addressed the Consent Calendar

Reminded the Commission of the upcoming Business Development Board presentation to be held on April 21<sup>st</sup>, 2010 at 5:30 p.m the topic is "Diversifying the Economy Engaging City of Stuart for Job Creation" The presentation will be held in the City Commission Chambers.

He also noted the May 3<sup>rd</sup> Budget Workshop meeting to be held at 9 am in Commission Chambers.

Pull item #8, & #12 for public comments.

Additional information was also received on Item #13, Penn Plaza.

**APPROVAL OF AGENDA**

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF THE AGENDA AS AMENDED ADDING ITEM #16, PALM CITY ROAD DISCUSSION

SECOND: COMMISSIONER CHRISTIE

MOTION APPROVED UNANIMOUSLY

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

Armond Pasquale came forward said he has continually asked for residential parking restrictions in his neighborhood (Seminole Street) He presented to the Commission the restrictions for residential parking in the City of Miami Beach, as well as pictures of the signs in Miami Beach that are used. He requested the City implement the same type of program.

**CONSENT CALENDAR**

**5. Request to approve the minutes of the regular Commission Meetings of March 8, 2010**

6. Request to approve the minutes of the joint City Commission, Community Redevelopment Agency, and Community Redevelopment Board Meeting of March 22, 2010
7. Approve the Strategic Planning Report of January 29, 2010 at the Mansion at Tuckahoe, Indian Riverside Park

Item #8 was heard below.

8. RESOLUTION 31-2010 Authorization to assess the costs incurred by the City pursuant to Chapter 38, "Environment" of the City of Stuart Code of Ordinances (1995), as amended, to abate a nuisance (Rudge Lien) on privately owned real property within the City in the amount of \$28,072.15 including an administrative charge of \$100.00; and providing that the assessments shall bear interest at the rate of twelve percent (12%) until paid; providing that this resolution shall be recorded in the public records of Martin County
9. RESOLUTION 34-2010 Authorization for budget amendments to the 2009-2010 Annual Grants Fund and General Fund operating budgets for the transfer of funds from the Grant Fund, Fund Balance to the General Fund, Capital, in the amount of \$4,500.00; Authorizing appropriation and expenditure of funds for the purchase of a software program upgrade
10. RESOLUTION 35-2010 Authorization to approve the award of a bid to H&D Construction Company, Inc., the lowest, most responsive and responsible bidder for a total bid amount of \$59,366.00 for the Memorial Park Stormwater outfall project
11. RESOLUTION 37-2010 Authorizing a budget amendment to the 2009-2010 annual General Fund operating budget for the appropriation and expenditures of \$11,000 to fund landscape enhancements along a portion of Dixie Highway immediately North of Colorado Avenue

Item #12 was heard below

12. RESOLUTION 38-2010 Authorization to execute an agreement between the City of Stuart and Stuart Heritage, Inc. to provide for the renovation, maintenance and operation of the Evans Cray House

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF THE CONSENT CALENDAR ITEMS 5,6,7,9,10,11

SECOND: VICE MAYOR WAXLER

ROLL CALL

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

### **END OF CONSENT CALENDAR**

8. RESOLUTION 31-2010 Authorization to assess the costs incurred by the City pursuant to Chapter 38, "Environment" of the City of Stuart Code of

**Ordinances (1995), as amended, to abate a nuisance (Rudge Lien) on privately owned real property within the City in the amount of \$28,072.15 including an administrative charge of \$100.00; and providing that the assessments shall bear interest at the rate of twelve percent (12%) until paid; providing that this resolution shall be recorded in the public records of Martin County**

Attorney Christopher DeSantis came forward and expressed concern over the proposed lien against Mr. Rudge. He questioned why the City could not account for approximately \$16,000.00 in charges against his client. He further added that the charges included removal of two buildings which were not done.

City Attorney Nicoletti explained the cost associated with the case and concluded that it has cost the city more to perform this operation than is being charged to them.

Attorney DeSantis stated he would have preferred a formal hearing to be able to question witnesses.

Caryn Yost-Rudge came forward and requested why this item was pulled from the 3/21 agenda.

City Attorney Nicoletti said the item had been pulled due to notification requirements. He said that formal notice was given for this hearing.

Mrs. Yost-Rudge said that all they are asking for is an itemized bill and what they are paying for. She explained that what they can come up with is \$7,000.00 worth of work that was completed. She said she has an issue with the City giving salvageable rights to LEB demolition. She further added that many personal items were stolen from their property, including; zither, tools, guns, ammo, she said they have a list and cost associated with those items.

William Rudge came forward and also asked how the City has the right to give salvage rights to his personal property.

City Attorney Nicoletti said, in this particular case the court gave the City an injunction to go in and clean the property. That is exactly what we did, we contracted to do that.

Mr. Rudge said there were a number of things that he wanted to keep and expressly implied wanted to keep that when the crew was there. I have all of this on video. He said the City is giving him trouble about doors on the barn when in fact the doors were stolen by LEB.

City Attorney Nicoletti said they were not stolen they were removed under a lawful injunction granted by the court, after a hearing, and as a consequence we view this entirely differently. Your neighbors had complained for six years regarding the property, there were vehicles, there were boats and all kinds of trash, and items strewn around that lot that were cleaned up.

Mr. Rudge said that many of those items were cleaned up before the City got there. He stated that the City received injunction the City received because of "misrepresentation and fraud.

Mayor Mortell clarified that the only issue before the Board tonight is Resolution 31-2010.

Vice Mayor Waxler advised Attorney DeSantis that this meeting was not the forum for this discussion and stated that it should be taken up in a court of law. She asked why the Rudge's felt entitled to an accounting when the contract was a set as a flat fee.

Attorney DeSantis said they did not perform the work under the flat fee contract. He said they did not remove an entire house and barn, which would have substantially reduced that contract.

City Attorney Nicoletti stated that the City asked for an all inclusive contract, and was based on three day's work estimated. He stated the work performed turned out to be six day's work, and the City held the contractor to its contract price.

Mayor Mortell said the record reflects the comments made by Attorney DeSantis and City Attorney Nicoletti. The item to be heard tonight is Resolution 31-2010.

MOTION: VICE MAYOR WAXLER; MOVED APPROVAL OF RESOLUTION 31-2010 AND THE ASSESSMENT OF \$28, 072.15 INCLUDING ADMINISTRATIVE CHARGE OF \$100.00.  
SECOND: COMMISSIONER KRAUSKOPF

Mayor Mortell asked if the interest rate in the Resolution City Code or Statutory.

Attorney Nicoletti stated that it is specified in the Ordinance.

Mayor Mortell explained that if the Rudge's do not agree with the decision of this Board then they would need to file an appeal with the Circuit Court.

Attorney Nicoletti said that is correct.

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

**12. RESOLUTION 38-2010 Authorization to execute an agreement between the City of Stuart and Stuart Heritage, Inc. to provide for the renovation, maintenance and operation of the Evans Crary House**

Marty Baum, representative of Stuart Heritage Inc. came forward and stated that the agreement being presented tonight has an unauthorized signature of our acting President, Byron McCartney. He said the Stuart Heritage Board met last week in a special session to discuss the proposed contract with the City. The Board expressed concerns and obtained an attorney to review the contract. The review of the contract by the Board and the Attorney warranted a unanimous decision that Mr. Byron McCartney could not sign any documents until after Attorney Mac Stuckey reviewed and reported to the Board as to the liability and concerns of their Corporation. He further added that the bylaws of the corporation require two signatures on all contracts and checks. He requested the item be tabled for one week.

Commissioner Hutchinson stated that the City has been moving forward with the project understanding that the Stuart Heritage was in agreement with the project.

Commissioner Waxler expressed concern over the contract.

Mayor Mortell said the Commission can approve this item tonight and any concerns the Heritage Board has with its members is their business.

City Attorney Nicoletti stated he was not aware of any concerns of the Stuart Heritage until 3:18 p.m. today. He asked Mr. Baum if he was an officer of the corporation.

Mr. Baum stated he was not, and that he was asked to attend tonight because he was available to represent the Board.

Mayor Mortell asked if it was possible to move the house to another city owned property, until this issue is resolved.

Commissioner Hutchinson said the option we have is to move the house next to the feed store and then work on the issues with Stuart heritage, in hopes we can work out the partnership. She said that that is the way this project will be successful.

City Attorney Nicoletti said he checked early on that Mr. McCarty was in fact the president and he wanted to make sure and that is who he was dealing with. He recommended moving the item forward, and if it turns out that we need to renegotiate somehow because of the Boards concerns, then will do that. I do not have any problem with Mr. Stuckey coming in, even this late, if he has some things he wants to present.

City Manager Hudson said our goal has been to establish a model for a partnership with Stuart Heritage that is why we recommended this approach in the first place. We have no problem continuing dialog with Stuart Heritage. Ultimately if they dispute this particular agreement that we have set up, then we can pull it back and work it on our own.

Commissioner Hutchinson suggested moving forward with working with Stuart Heritage.

Commissioner Waxler expressed concerns over their attorney coming in, and changing things at the last minute. She agreed that this is what a private public partnership is all about. She also said she has no problem authorizing the Mayor to execute the agreement, but telling Stuart Heritage publicly in this meeting, if there are reasonable changes that need to be made, I /we would entertain them. I think we need to get something signed to move this along.

Mayor Mortell explained how the process took place, and expressed concern over the partnership.

MOTION: COMMISSIONER HUTCHINSON; MOVED APPROVAL OF RESOLUTION 38-2010 WITH THE UNDERSTANDING THAT STAFF WILL CONTINUE TO WORK WITH ATTORNEY STUCKEY TO SEE IF WE CAN COME TO AN AGREEMENT ON REVISIONS AND IF THERE ARE REVISIONS TO BRING THEM BACK IN FRONT OF US SO WE CAN CONTINUE TO MOVE THIS PROJECT FORWARD.  
SECOND: VICE MAYOR WAXLER

City Attorney Nicoletti advised Mr. Balm that the City of Stuart will lose control of this building after April 30, 2010. It is important for all of us that we actually move this, relocate it, and as far as we were concerned, up to this morning, had a deal with Stuart Heritage.

Mr. Balm said he truly understands. He appreciated the City's understanding.

Commissioner Hutchinson said she thinks that we all have the same goal in the end.

Mr. Balm: right, I don't believe we are adversarial here, I really don't. There are some legal issues the Attorneys will need to work on.

Commissioner Christie asked Mr. Balm if he was representing the Board.

Mr. Balm: Yes.

ROLL CALL

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

**COMMISSION ACTION**

**13.CONTINUED FROM THE MEETING OF MARCH 8, 2010 PER  
APPLICANT'S REQUEST RESOLUTION 19-2010 Authorization to execute an  
amendment to the amended and restated Ground Lease with the Robert G.  
DeSantis and Joan C. DeSantis Revocable Trust of 1985 and the Vivian I.  
Jones Inter Vivos Trust and James DeSantis (Lessees) of City property  
located at the Old City Landfill, Penn Plaza**

Attorney McCarthy came forward representing Mr. DeSantis to amend his current ground lease.

Mr. DeSantis came forward and requested his lease terms be amended due to the current economic conditions, financially. He requested that his lease be comparable to the Eco Ventures rent. He said he appreciated Commissioner Krauskopf suggestion, but it would not work for him financially. He respectfully requested the City work with him on a rent reduction and look at it after 10 years to reevaluate the property. If the property value has increased, and whatever the market bears, I will pay it.

Commissioner Hutchinson expressed concern over negotiating this lease because she felt it would cause others tenants to come forward and also request a lease adjustment.

MOTION: COMMISSIONER KRAUSKOPF; MOVED STAFF RECOMMENDATIONS

SECOND: COMMISSIONER HUTCHINSON

Commissioner Christie stated he supports helping the proposal move forward.

Vice Mayor Waxler said she will be voting against the motion and made an alternative motion.

MOTION: VICE MAYOR WAXLER; MOVED THAT THE CITY GO MORE ALONG THE LINES OF WHAT WAS SUGGESTED BY MR. DESANTIS.

Armond Pasquale came forward expressing concern over the proposed approval of Mr. Desantis request. He said this is Mr. Desantis problem and the City should not help him.

Bernie Malone came forward agreed the City should assist Mr. Desantis, and felt it was good common sense.

Tom Lucido came forward and said he too is working with his landlord, and felt the City should work with the applicant.

ROLL CALL

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

MOTION: COMMISSIONER WAXLER; APPROVE RESOLUTION 19-2010 AMENDED :DIRECT STAFF TO ENTERTAIN AN AMENDMENT TO THE EXISTING LEASE WHEREBY THE RENT WILL BE \$31,500.00 AND TO BE RE-EVALUATED AT THE REMAINDER OF THE 10 YEAR LEASE WHICH IS 7 YEARS WITH REGARDS TO RE-EVALUATING THE RENTAL AMOUNT, AND BASED ON A CPI RATE AT THE END OF 3 YEARS. I WOULD ALSO LIKE STAFF TO GIVE THE CITY COMMISSION GUIDANCE TO THE REQUEST BY THE TENANT OF TWO 20-YEAR TERMS.

SECOND: COMMISSIONER CHRISTIE

ROLL CALL

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

**ORDINANCE FIRST READING**

**ORDINANCE SECOND READING**

**DISCUSSION & DELIBERATION**

**1. Update Memorial Park Phase I**

Tom Lucido gave a PowerPoint Presentation on phase 1 at \$1.9 million

Dan Hudson gave a brief overview regarding the budget for the project. He said the City had original hoped that grant funding would assist in the project but it appears that there is currently no funding. He said the contract will probably cost less because of the economy and felt the City should move forward.

Tom Lucido said he is finding bids coming in much lower than anticipated, and that the cost of doing business is decreased.

Hutchinson thanked Tom Lucido for his hard work on the project.

MOTION: COMMISSIONER HUTCHINSON; MOVED STAFF RECOMMENDATIONS AND PUT TOGETHER A BID PROPOSAL  
SECOND: COMMISSIONER WAXLER  
MOTION APPROVED UNANIMOUSLY

**2. Martin County Offices Update**

City Manager Hudson said there was nothing new to report and the City was currently in a holding pattern. He said his recommendation at this time is to wait on the decision from Martin County.

**\*The following item was requested to be added by Commissioner Krauskopf:**

MOTION: COMMISSIONER KRAUSKOPF; MOVED THE IMPLEMENTATION OF THREE SPEED TABLES TO BE COMPLETED WITHIN 45 DAYS AT A COST NOT TO EXCEED \$15,000.00, THE SPEED TABLES WILL BE LOCATED SOUTH OF THE ENTRANCE TO MONTEREY COUNTRY CLUB, CIRCLE BAY AND WINDJAMMER.

City Manager Hudson said the City did look at other alternatives based upon the comments made at the last meeting. He suggested adding the item to a CIP list for future, and said that the quick alternative was the speed tables.

SECOND: COMMISSIONER CHRISTIE

City Manager Hudson clarified the funds would come from the Manager's contingency fund.

Commissioner Hutchinson said she would support the motion but requested feedback once it is implemented to see if it satisfies the problem.

Bernie Malone came forward and said there is a lot of traffic on that road, he suggested the City address the issue with the MPO.

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

**ADJOURNMENT 7:53 pm**

**ATTEST:**

\_\_\_\_\_  
**Cheryl White, CMC, City Clerk**

\_\_\_\_\_  
**Michael Mortell, Mayor**

**Minutes to be approved at the Regular Commission Meeting This 10<sup>th</sup> Day May, 2010**