

**REGULAR MEETING OF THE STUART CITY COMMISSION
HELD ON SEPTEMBER 10, 2012
AT 5:30 P.M. IN THE CITY COMMISSION CHAMBERS
121 S.W. FLAGLER AVE.
STUART, FLORIDA 34994**

CITY COMMISSION

**Mayor James A. Christie, Jr.
Vice Mayor Eula R. Clarke
Commissioner Troy A. McDonald
Commissioner Kelli Glass Leighton
Commissioner Jeffrey A. Krauskopf**

Also in attendance were:

**City Manager, Paul J. Nicoletti
City Attorney, Michael D. Durham
City Clerk, Cheryl White**

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

PRESENTATIONS

- 1. Performing Arts Moment, Jim Simoneau, Arts Council Board Chair will introduce Andy Landwersiek who will be playing the guitar**

Andy Landwersiek, a senior at Martin County High School performed a small piece of music played on his guitar.

- 2. PROCLAMATION: Proclaiming September 11, 2012 as Patriot Day**

Accepted by Steve and Donna Heaton came forward and graciously accepted the Proclamation and invited everyone to Memorial Park to pray from 9 a.m. to 9 p.m. on September 11, 2012.

- 3. PROCLAMATION: Proclaiming the week of September 16, 2012 through September 22, 2012 as Constitution Week.**

Attorney Portia Scott came forward and graciously accepted the Proclamation on behalf of NSDAR.

- 4. PROCLAMATION: Proclaiming September 20, 2012 as Firearm Safety Day**

Rick Crary came forward and graciously accepted the Proclamation on behalf of the Martin County chapter of NRA.

- 5. PROCLAMATION: Proclaiming the 2012 – 2013 School Year be Officially Declared the 40th Anniversary Year of the Environmental Studies Center**

Two representatives of the Environmental Studies Center came forward and graciously accepted the Proclamation and thanked the Commission.

6. PROCLAMATION: Proclaiming September as Domestic Violence Awareness Month

A Safe Space representative came forward and graciously accepted the proclamation and thanked the City Commission. She encouraged participation to those who wish to support the Walk a mile in her shoes campaign on October 6, 2012 at 8:30 a.m.

7. Employee of the Month – August

Gary Zingo

Gary Zingo of the CRA Department came forward and graciously accepted his award and thanked the Commission.

COMMENTS BY CITY COMMISSIONERS

Commissioner Glass-Leighton congratulated the Environmental Studies Center on its 40th Anniversary. She also requested City staff to look into the schedule for mosquito spraying by Martin County, and expressed concern over recent rains and West Nile Virus outbreak. She also asked staff for monthly updates on the Colorado Avenue construction project.

Commissioner McDonald addressed budget challenges caused by the Florida Legislature and their unfunded mandates, noting Amendment 4, which will be on the ballot in November. He said we need to “step up our advocacy” with the State and County and asked staff to come up with suggestions and ideas and recommendations to counter unfunded mandates.

Commissioner Krauskopf asked for dates when Local Legislative Delegation, ahead of this year’s session, and when they go to Tallahassee to meet with the Florida delegation. He also congratulated McDonald on his re-election as being un-opposed.

Vice Mayor Clarke thanked the Performing Arts Moment guest guitarist for his performance, and gave a “shout out” for the success of the Performing Arts Moments presentations. She asked that the City consider in the future, a Proclamation for Grandparents Day. She also recognized Bernie Malone who is receiving recognition by the Florida Mainstreet Program, for Outstanding member and Participating in Mainstreet. She too was concerned about advocacy and unfunded mandates, and felt the City should meet more often with the County Commission, and have more workshops on working together. She requested an item be brought forward regarding the Lyric/Flagler lease update.

Mayor Christie agreed with previous comments on advocacy noting the Treasure Coast Council of Elected Officials group encourages municipalities to work together and prioritize to the legislature the importance of the unfunded mandates and address the issues of mutual importance. He also noted the Workforce Solutions and Scripps Treasure Coast Newspaper’ Job Fair scheduled for October 3rd in Fort Pierce at the Fenn Center. He noted a Traveling Memorial Wall that will be visiting in Memorial Park on Saturday September 14, 2012, at 1: 30 p.m., and the event will help our local VA Veterans, the event will also include a brick laying ceremony honoring the family of five local Vietnam Veterans, it is open to the public.

COMMENTS BY CITY MANAGER

City Manager Nicoletti advised the Commission that Terry Iverson has put together a RFQ for a Realtor, to represent the City in efforts to lease the 2-acre parcel on US 1, and probably the former Dockside Restaurant parcel, unless there were objections from the Commission, staff will

send out the RFP and then follow up with an appropriate agenda item to appoint a firm or individual at an early Commission meeting. He also noted that the City has been working with County staff on Airport 60 DNL Noise Compatibility Study, which an update will be heard on the 9/11 County Commission Meeting and pre-set on the agenda at 1:40 PM. City Commission members were urged to attend. An e-mail was sent to the County Administrator and the County Attorney asking them to reconsider a Draft Interlocal Agreement which the City sent on to the County on August 15, 2012, and contains all of the terms and agreements acceptable to the City and noted it was not on the agenda for tomorrow. He stated he would attend the meeting. Also on the 9/11 Board of County Commission Meeting tomorrow there is an Interlocal Agreement for Fire Rescue Services that provides for mutual aid at no cost to the City and no cost to the County except for County services within Sewalls Point, which is contracted by the City for those services and the County has asked the City to pay them for those services, and the City does not anticipate much cost and should be between \$5,000 and \$10,000.

The City's Utility Division received 4 separate awards at the most recent annual conferences of specific agencies that have recognized the efforts of the City employees for outstanding contributions in their respective fields.

An e-mail was received from Sewall's Point Mayor Jackie Thurlow Lippish noting Sammi Sailfish will be joining the River Kidz at their Second Annual Lemonade Stand and River Cleanup event to be held on Saturday September 15th beginning at 10:00a.m.

APPROVAL OF AGENDA

MOTION:COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF AGENDA AS AMENDED.
SECOND: COMMISSIONER MCDONALD
MOTION APPROVED UNANIMOUSLY

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

Richard Giles came forward and expressed concern over the proposed tax bill. He said the City of Stuart showed a 7-8% increase in taxes, and felt that the increase may affect many who are struggling financially, and felt the tax increase was out of line.

City Manager Nicoletti reminded Mr. Giles that the City has maintained a tax rate for the past 5 years, and what that meant is the City was getting fewer dollars every year for 5 years, and this year the City felt they should get the same amount of taxes received last year. Real dollars over the last 5 years the City has gone from a \$25 million dollar budget and is now a \$19 million dollar budget. He stated he would be happy to meet with Mr. Giles to discuss the matter further.

Armond Pasquale came forward and expressed concern over the noise coming from the recent Dancing in the Streets event when the music began playing at 12:00 noon until 12:00 midnight. He also noted many traffic problems with the construction of Colorado Avenue.

President of Stuart Main Street came forward and stated the event began at 6:00 p.m., and there was no music being played by those participating bands until that time. He explained that the purpose of the events in the downtown is to encourage people to come to Stuart visit and spend money in the shops.

CONSENT CALENDAR

- 8. Request to approve the minutes of the Regular Commission Meeting of August 13, 2012
- 9. RESOLUTION 70-2012 Authorization for the execution of a Two Year Renewal to the License Agreement between the City of Stuart and the Stuart Green Market, Inc. for the paved area of the parking lot located at the side of the Stuart City Hall, 121 SW Flagler Avenue, adjacent to St. Lucie Avenue.
- 10. RESOLUTION 74-2012 Authorization for a Budget Amendment to the 2011-2012 Annual Water Sewer Fund Operating Budget
- 11. RESOLUTION 75-2012 Authorization for the adoption of the Non-Ad Valorem Assessment Roll for the sixth year (2012-2013) of the ten year "Business Improvement District (2)" Special Assessment, Directing the Mayor to Certify the Assessment Roll to the Martin County Tax Collector as required by law
- 12. RESOLUTION 76-2012 Authorization for a Budget Amendment to the 2011-2012 Annual General Fund, Operating Budget; Authorizing receipt of Florida Department of Law Enforcement Grant Funds; Authorizing the Appropriation and Expenditure of Funds to Pay for Police Protracted and Complex Investigations
- 13. RESOLUTION 80-2012 Authorization for a Budget Amendment to the 2011-2012 Annual Budget; Authorizing receipt of Funds and Expenditure of those funds to pay for participation in the Downtown Stuart Outdoor Seating Strategy Program
- 14. RESOLUTION 85-2012 Authorization for a Budget Amendment to the 2011-2012 Annual General Fund, Operating Budget; Authorizing the Appropriation and Expenditure of Funds for Miscellaneous Stormwater related Reports and Improvements

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL CONSENT CALENDAR

SECOND: VICE MAYOR CLARKE

ROLL CALL

COMMISSIONER GLASS	LEIGHTON	YES	COMMISSIONER MCDONALD	YES
VICE MAYOR CLARKE		YES	COMMISSIONER KRAUSKOPF	YES
MAYOR CHRISTIE		YES		

END OF CONSENT CALENDAR

COMMISSION ACTION

- 15. RESOLUTION 84-2012 Authorization to adopt a schedule of Fees, Charges and Deposits for Water Wastewater and Sanitation Services in accordance with the Water, Wastewater, and Sanitation Rate Study, Dated August 29, 2012, under Chapter 66 for Sanitation and Chapter 34 for Utilities, of the City Code and Chapter 34 for Stormwater Fees of the City Code in accordance with the Chapter 34.

Dave Peters Gave a brief summary regarding the recent rate study done by PRMG. Based on the studies assumptions, considerations and analysis, the Study offered the following recommendations: 1) Adopt the water and sewer , sanitation rate study as

provided in the agenda and adopt the stormwater fees as provided for by the Public Services Commission CPI adjustment, with the rates attached to the agenda item and have been identified by strikethrough and underlines. He summarized the proposed rates to the Commission and public.

Henry Thomas of PRMG gave a brief overview, visual presentation, and recommendations to the City.

Bryan, a citizen of Stuart said the City was “forcibly drugging people” and wanted to know how much would be saved if the City stopped fluoridation.

Dave Peters said that if the City stopped fluoridation of the water it would have no impact.

Commissioner Krauskopf asked if the lost water calculation was in an acceptable range?

Dave Peters said yes it meets with SFWMD guidelines.

Commissioner Krauskopf asked if the accounts receivables and collections are in a good category.

Dave Peters stated yes we are.

City Manager Nicoletti addressed questions asked by Commission concerning lost water qualifications, accounts receivable, a table on rates, and the importance of indexing. He stated for resolution purposes a scrivener's error will be corrected to say is; the number that goes into the 1,000-3,000 gallons will be 2.81 + the 3.6%.

Vice Mayor Clarke noted for resolution purposes it should state “shall” and not should regarding the vehicle replacement fund.

Commissioner McDonald was very pleased with the quality of the service, and was happy to see the City has one of the lowest rates in the area.

City Manager Nicoletti noted that the City Attorney was going to read the Resolution into the record clarifying the chapter number scrivener errors.

MOTION: COMMISSIONER MCDONALD; MOVED APPROVAL RESOLUTION 84-2012 WITH THE ACTUAL RATE STUDY DOCUMENT.

SECOND: VICE MAYOR CLARKE

ROLL CALL

COMMISSIONER GLASS LEIGHTON	YES	COMMISSIONER MCDONALD	YES
VICE MAYOR CLARKE	YES	COMMISSIONER KRAUSKOPF	YES
MAYOR CHRISTIE	YES		

- 16. RESOLUTION 67-2012 Authorization to grant a Special Exception Use to Krueger Property Management LLC “Property Owner” and East Ocean Tower, LLC “Co-Applicant” for the Construction of a 120 foot tall Stealth Telecommunications**

Tower within a B-2 Zoning District located at 2160 SE Ocean Boulevard (Quasi-Judicial).

Sworn: Tom Reetz, City Planner gave a brief presentation to the Commission and public regarding the proposed cell tower.

Sworn: Michael Houston gave a visual presentation to the Commission and public.

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL RESOLUTION 67- 2012

SECOND: VICE MAYOR CLARKE

ROLL CALL

COMMISSIONER GLASS LEIGHTON	YES	COMMISSIONER MCDONALD	YES
VICE MAYOR CLARKE	YES	COMMISSIONER KRAUSKOPF	YES
MAYOR CHRISTIE	YES		

17. RESOLUTION 82-2012 Authorization to approve a Major Urban Code Exception to Ronald M. Hart, Terra Fermata, Tenant at 26 S.E. 6th Street, as described within the attached legal description; To allow the display and sale of outdoor retail (Quasi-Judicial)

Sworn: Deanna Freeman gave a brief summary and presentation to the public and Commission.

Sworn: Ronald Hart came forward and thanked staff for their assistance.

Commissioner Glass Leighton questioned the location of the dumpster.

Deanna Freeman stated the dumpster will be located to the rear of the property in a completely enclosed area.

Vice Mayor Clarke addressed noise issues in the neighborhood and specific conditions for approval.

Deanna Freeman stated that the purpose of this item is an outdoor display only.

Arrmond Pasquale came forward and expressed concern over allowing another outside bar and noise.

Mayor Christie addressed noise issues, and outside music.

Deanna Freeman said the applicant will have to follow the City's noise Ordinance laws. And as conditioned for approval the applicant must abide by the clarified the City ordinance and is in effect 24/7, and the hours of operation should protect the neighbors.

MOTION: COMMISSIONER MCDONALD; MOVED APPROVAL RESOLUTION 82- 2012

SECOND: COMMISSIONER GLASS LEIGHTON

ROLL CALL

COMMISSIONER GLASS LEIGHTON	YES	COMMISSIONER MCDONALD	YES
VICE MAYOR CLARKE	YES	COMMISSIONER KRAUSKOPF	YES
MAYOR CHRISTIE	YES		

18. Request by Mr. Joseph Calabria to amend a 2006 Restrictive Covenant, applied to his property at 3202 SE Federal Highway, to allow for the operation of a Bar

Development Director Terry O'Neil reviewed the status of this 9.8 acre property that was the original site of the former Walmart. He explained that the property was annexed into the City he agreed to annexation with restrictive covenants, that prohibited a bar location on the site which was supported by the applicant. He noted the applicant has asked the City to remove the restrictive covenants to allow him to lease the property to a bar/pool hall.

Staff has determined the justification for placing the restrictions remain valid, and staff recommends not supporting the applicant's request.

Property Owner/Applicant Joseph Calabria presented his case giving a chronological order of events for the property, and leading up to the real estate market going "to pot" and banks stopped lending. He said he has been paying taxes for the past five years with no revenue coming in, and noted similar nearby businesses being allowed to operate with beer and wine licenses, and in some cases also full liquor licenses. He said his site will have security, will not allow smoking, and has no noise or parking issue, and he is requesting the exception to be allowed to being in a sports bar.

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF STAFF RECOMMENDATION

SECOND: COMMISSIONER GLASS LEIGHTON

ROLL CALL

COMMISSIONER GLASS LEIGHTON	YES	COMMISSIONER MCDONALD	YES
VICE MAYOR CLARKE	YES	COMMISSIONER KRAUSKOPF	YES
MAYOR CHRISTIE	YES		

Mr. Calabria said he wanted to start "contraction" outside of the City.

City Attorney Durham explained that the restrictive covenants will run with the land even if he chooses to de-annex out of the City, and further added that he would have to follow State Statutes regarding de-annexation.

19. RESOLUTION 77-2012 Authorization to Execute a Lease Agreement between the City of Stuart and Duffield Marine, Inc. for that certain property known as the Shepard Park Building (Former Chamber of Commerce Building)

Terry Iverson, Purchasing Director came forward and gave a brief presentation to the Commission and public regarding the proposed lease of the old Chamber of Commerce Building at Shepard Park.

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL OF RESOLUTION 77-2012
SECOND: VICE MAYOR CLARKE

City Manager Nicoletti read into the record an email he received from the adjacent property owners thanking the City and were all in support of the proposed Duffy Boat Sales at that location. They stated it was a very appropriate use of the property.

Vice Mayor Clarke asked if the lease rent due date should be March 31, 2013.

City Attorney Durham clarified the lease commencement date as April 1, 2013.

ROLL CALL

COMMISSIONER GLASS LEIGHTON	YES	COMMISSIONER MCDONALD	YES
VICE MAYOR CLARKE	YES	COMMISSIONER KRAUSKOPF	YES
MAYOR CHRISTIE	YES		

20. RESOLUTION 81-2012 Authorization to approve the execution of an Interlocal Agreement; Approval of the Issuance of Bonds to Finance an Assisted Living Facility located in Stuart, Florida for purposes of Section 147(F) of the Internal Revenue Code.

Commissioner McDonald asked to clarify and assure the City is not liable for these bonds.

City Manager Nicoletti stated that was our understanding and asked Stuart Lodge to clarify there is no liability on behalf of the City.

City Attorney Durham stated that the City's Bond Council was comfortable to say the City is not liable and felt very comfortable with the interlocal.

Rob Gal, representing the Underwriter came forward and stated, "we are going to fully cover all the appropriate, and we will make sure you are an insured party, on those agreements. We are going to have full payment and performance bonds, liquidated damages. I think the question is when we met with City staff, about a month and a half ago was, one of the concerns from one of the Commissioners was, make sure we don't end up to a half built facility, speaking on behalf of the investors, or the folks who will be selling the bonds to the investors. We button up these bond issues tightly to make sure we have construction monitors throughout the entire process, the bond issue, and the bonds are held within a bank trustee. No funds go out of the trustee unless they are for an approved cost, and we have all the appropriate insurance from the general contractor, architects, and the Developer. Everyone is covered every which way to make sure that at the end of the day, when we close, we are going to have a facility that is fully constructed and complete to open.

MOTION: COMMISSIONER MCDONALD; MOVED APPROVAL OF RESOLUTION 81-2012
SECOND: VICE MAYOR CLARKE

Mayor Christie asked that some of the jobs that will be created from this project be given to those who live locally, and are from the area.

City Attorney Durham asked the applicant to provide a timeline for the project.

Chris Young, Chief Operating Officer Living Well Lodges came forward and stated they would work with the local municipalities to do job fairs to bring in local work force on the project.

Our tentative schedule to close is mid December and mobilization of the contract will take place at the same time.

Capital Trust Agency is here for any questions.

ROLL CALL

COMMISSIONER GLASS LEIGHTON	YES	COMMISSIONER MCDONALD	YES
VICE MAYOR CLARKE	YES	COMMISSIONER KRAUSKOPF	YES
MAYOR CHRISTIE	YES		

21. RESOLUTION 83-2012 Authorization for the execution of an Agreement between the City of Stuart and PNC Bank, Mark Brechbill and the City of Stuart extending the 2002 Civitas Development Agreement for a period of two years.

Terry O'Neil gave a brief presentation to the Commission and public regarding the proposed agreement.

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL RESOLUTION 83-2012

SECOND: COMMISSIONER MCDONALD

ROLL CALL

COMMISSIONER GLASS LEIGHTON	YES	COMMISSIONER MCDONALD	YES
VICE MAYOR CLARKE	YES	COMMISSIONER KRAUSKOPF	YES
MAYOR CHRISTIE	YES		

22. ORDINANCE 2249-2012 (First Reading) Request to approve a Major Amendment to the Eco-Center Commercial Planned Unit Development (CPUD), thereby approving a revised Site Plan, Landscape Plan and Building Elevations to accommodate an Expansion of the Mortuary Facility (Quasi-Judicial)

Deanna Freeman gave a brief presentation to the Commission and public regarding the proposed CPUD amendment.

Commissioner Krauskopf complimented the applicant on how beautiful the property has been maintained.

MOTION: COMMISSIONER KRAUSKOPF; MOVED APPROVAL ORDINANCE 2249-2012

SECOND: VICE MAYOR CLARKE

ROLL CALL

COMMISSIONER GLASS LEIGHTON	YES	COMMISSIONER MCDONALD	YES
VICE MAYOR CLARKE	YES	COMMISSIONER KRAUSKOPF	YES
MAYOR CHRISTIE	YES		

ORDINANCE SECOND READING

DISCUSSION & DELIBERATION

ADJOURNMENT: 8:19 P.M.

ATTEST:

Cheryl White, CMC, City Clerk

James A. Christie, Mayor

**Minutes to be approved at the Regular Commission
Meeting This 15th Day October 2012**