

THE FLOW

Upcoming Events

February 17 & 18th

**NUCA of Florida
Legislative Days
Tallahassee**

February 20th

**Next Man Up
Dewatering/Shoring**

February 25th

Safety Director's Forum

March 20th

**Ice men Hockey
Ticket Order form on page 12**



FEBRUARY 2020

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2020 OFFICERS & BOARD OF DIRECTORS

EXECUTIVE COMMITTEE

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Chad Cockrell, A. J. Johns, Inc.

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Marty Adams, TB Landmark

Vice President II

Jason Plauche, Petticoat-Schmitt Civil Con.

Secretary/Treasurer

Rob Pinkston, Ferguson Waterworks

General Counsel

Tony Zebouni, Lindell & Farson, P.A.

Past President

Mike Kivlin, John Woody, Inc.

BOARD OF DIRECTORS

Wesley Cook, Florida Roads Contracting

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Billy Hood, J. B. Coxwell Contracting

Drew Lane, Advanced Drainage Systems

Rick Parker, Standard Precast

Justin Scarberry, ECS Florida

Barry Watson, Fortiline Waterworks

Jarod Wolford, Martin Marietta Materials

Jon Woodall, John Woody, Inc.

PRESIDENT'S MESSAGE

Dear Friends,

I hope that you all are healthy and doing Well. Thank you to all our monthly sponsors, we couldn't be as successful as we are without you!

On January 23rd we held our Installation of Officers & awards meeting. We had an awesome turn out, I believe all who attended had a great time. We had Nate Monroe, with the Florida Times Union, as our guest speaker. He gave us is insights into what is happening within the JEA. I think that the information provided helped everyone who attended to get more details on what is actually happening. NUCA of Florida Legislative Days are February 17 & 18th, we would like to encourage anyone that can attend do so. On February 20th we will be holding our Next Man up class, more information to follow as the class gets closer. The NUCA Conference will be held in Tucson, AZ on February 27th-29th, again we encourage anyone who can attend do so, this is a great Conference to meet fellow Contractors from all over the US.

As always, please continue to support our members and associates. If there is anything, I can do to help you out, please do not hesitate to give me a call. I look forward to working with you all.

Sincerely,

Chad

2020 NUCA of North Florida

Monthly Sponsors

Diamond Sponsor

United Rentals
Trench Safety

Fortiline Waterworks

Platinum Sponsors

Beard Equipment Company

Gold Sponsor

Standard Precast, Inc.

Silver Sponsor

Ring Power Corporation

Bronze Sponsors

A.J. Johns, Inc.
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Flagler Construction
Equipment
Gate Fuel Service
John Woody, Inc.
Lippes & Bryan
Petticoat-Schmitt Civil
Contractors

CALENDAR OF EVENTS

Feb. 11th

Executive Committee
3:30 pm

Feb. 17th & 18th

NUCA of Florida
Legislative Days

Feb. 27th—29th

NUCA Convention
Tucson, AZ

March 10th

Executive Committee
3:30 pm

March 12th to 14th

NUCA of Florida
Bass Tournament

March 20th

Board of Directors
Icemen Event

April 7th

Golf Tournament
St. Johns Golf & Country Club

The Law and Your Business

The Law and Your Business – Contractor Materially Breached Toll By Plate Contract By Failing to Comply with Contract Deadlines and is Liable for Over \$50,000,000 in Damages

**By Rebecca Ross
Regan Atwood, P.A.**

The *Miami-Dade City Expressway Auth. v. Elec. Transaction Consultants Corp.*, case involved a contract for the design and operation of an electronic toll collection and enforcement system between ETC and MDX. The contract included a schedule for the design and development of the system and milestone provisions for implementation of the system. Three years after signing the contract, ETC sued MDX for breach of contract and MDX, in turn, terminated the contract. ETC then added a claim against MDX for wrongful termination. Ultimately, the trial court in a bench trial found 1) that MDX had materially breached the contract by failing to follow the schedule and failing to comply with deadlines and requirements for submittal reviews and approvals and 2) that MDX wrongfully terminated the contract because at the time of termination the system ETC delivered was in material compliance and ETC was substantially performing its obligations.

The trial court then issued a final judgment awarding ETC over \$43,000,000 in damages plus prejudgment interest and interest for a total amount of over \$53,000,000. Also, the trial court awarded ETC attorney's fees and costs in the amount of \$8,000,000 based on the prevailing party attorney's fee clause in the contract. The attorney's fee clause stated as follows: "If any dispute regarding contractor claims arising hereunder or relating to the Agreement (and the Contractor's Work hereunder) results in litigation, the prevailing party in such litigation shall be entitled to recover reasonable attorney's fees and costs including costs and expenses of expert witnesses."

MDX appealed the final judgment and the award of attorney's fees on the ground that ETC failed to comply with certain mandatory dispute resolution procedures. On appeal, however, the court found that the dispute related to the original scope of work in the contract. Thus, the dispute and protest procedures (for out of scope work only) did not apply to the action. Additionally, the appellate court found that ETC had complied with the sixty-day notice requirement in the contract prior to filing suit against MDX. Finally, the appellate court found that the damages were supported by expert testimony and confirmed that prejudgment interest is allowed in Florida for actions based on contract and is calculated from the date that the debt is due. Thus, the appellate court affirmed the final judgment including the attorney's fees and costs, but remanded the case to the trial court solely for a determination of the date of loss for the purposes of calculating the prejudgment interest amount.

NATE MONROE GUEST SPEAKER AT OFFICER INSTALLATION

We were pleased to have Nate Monroe, Columnist for The Florida Times Union, as our guest speaker at our meeting last week. As most people are aware, Nate was instrumental in the coverage of the JEA sale and questions about what was going on behind the scenes.

Tony Zebouni introduced Nate and then Nate gave a little bit of his background. Most of his time with us was spent answering questions from our members. If you haven't been reading his columns, go on line and start reading them or you can sign-up and have them delivered directly to your inbox. Nate Monroe's city column appears every Thursday and Sunday.



Chad Cockrell, NUCA of North Florida President with Nate Monroe.

OFFICER INSTALLATION HIGHLIGHTS

Last week, we installed our 2020 Executive and Board of Directors. We also recognized our 2019 monthly sponsors with certificates and a 2019 plate to add to their sponsorship plaque. Thank you to Beard Equipment Company, Sterett Heavy Hauling, Standard Precast, A.J. Johns, Inc., ECS Florida, LLC, John Woody, Inc., Lippes & Bryan, and Petticoat-Schmitt Civil Contractors for their support. We presented plaques to United Rentals Trench Safety, Ring Power Corp., Gate Fuel Services, and Flagler Construction Equipment who were first time monthly sponsors in 2019.

We also recognized our 2019 committee chairs, Marty Adams, Clay Shoot, Ashton Milam, Fishing, Jon Woodall, Golf, Tony Zebouni & Mike Kivlin ,Legislative, Mike Gruber, Scholarship and Jeff Blomgren, Safety Directors.

Lauren Atwell gave us a update of what is happened at NUCA national. In case you haven't heard yet, NUCA national welcomed Doug Carlson, as the new Chief Executive Officer earlier this month. Doug will be attending the NUCA of Florida legislative days in Tallahassee. Chad Cockrell, President of NUCA of Florida reviewed some of our chapter highlights for 2019 including adding 13 new members, holding 3 successful fundraising events, bringing back the Safety Director's Forum, working to further develop the Young Professionals group, record number of attendees at our Jacksonville Jumbo Shrimp and offering free Primavera P6 Training.



2020 Executive Committee & Board of Directors were sworn in on January 23rd.



NUCA Washington News

Infrastructure Projects Get Big Boost From President's NEPA Permit Overhaul

On Jan. 8, President Trump proposed a major overhaul of federal environmental NEPA permitting rules, responding to a myriad of complaints that bureaucratic delays have significantly slowed down U.S. infrastructure projects such as roads and energy pipelines.

Chamber of Congress CEO Pushes for Bipartisan Movement on Infrastructure

In the U.S. Chamber's annual "State of American Business" address, CEO Thomas Donohue pushed the need for bipartisan action from Congress to ensure "the infrastructure deal we desperately need to modernize the physical platform of this economy."

NUCA Association News

Register Now to Attend the NUCA Convention and Exhibit, February 27-29, 2020

We have a ton of fun and informative events in store for you at the 2020 convention: NUCA's Awards and Auction Gala, Top Jobs awards, team building, the return of the NUCA golf tournament, a riveting keynote speaker, the always informative Utility Construction Economic Forecast, education opportunities, and more networking events. Registration is open right now, but online registration closes Feb. 20 with on-site registration beginning Feb. 27. You don't want to miss the beautiful Loews Ventana Canyon Resort in Tucson, Arizona. Find out more and register at nuca.com.

Trench Safety Stand Down Week: June 15-19, 2020

OSHA's National Emphasis Program on Trenching and Excavation remains a high agency priority for the industry. Start thinking today about the 5th annual TSSD, scheduled for June 15-19. To participate you need only hold a 20-minute toolbox talk, show an excavation training video, or hold a training class. Every TSSD event can save lives.

SAFFER PINKSTON & KIVLIN RECOGNIZED WITH AWARDS

Each year at the Installation of Officers meeting, the President distributes awards to deserving association members. Because Mike Kivlin served the first half of last year and Chad Cockrell began his term in July, both selected who would receive the Outstanding Board Member Award and the Outstanding Individual Contributor.

Rob Pinkston, Ferguson Waterworks, was selected to receive the Outstanding Board Member Award. Rob has served on the Executive Committee for the past few years as Secretary/Treasurer. He is active on a number of committees and has been very active working with the Sporting Clay chairman to make that event a success each year. Rob has also attended a number of NUCA of Florida events.

Alexis Saffer, T.B. Landmark, was selected to receive the Outstanding Individual Contributor Award. Alexis has been Kathy's go to registration helper with our golf tournament and clay shoot. She is always willing to serve in whatever capacity is needed. This year she also worked one of the Clay stations on the course to help keep everyone moving quickly.

The President's Award is given annual to the person who the President feels has helped them the most during the past year. Chad Cockrell selected Mike Kivlin to receive the award. At the end of 2018 when Mike was finishing his term, the President-elect was not able to serve as President. Mike stepped in and agreed to serve an additional 6 month term. He serves on almost every committee, meets with JEA, and is currently serving as NUCA of Florida President.

Congratulations to Rob, Alexis and Mike!



**Rob Pinkston
Outstanding Board Member**



**Alexis Saffer
Outstanding Individual
Contributor Award**



**Mike Kivlin
President's Award**

SAFETY NEWS

By Jeff Blomgren
Safety Director at Petticoat-Schmitt Civil Contractors

SLEEP and SAFETY

A recent wellness article published in the National Safety Council's winter issue extolled the virtues of sleep and how it relates to wellness and safety. In the construction industry, sleep is precious. Early starts, long days, family time, recreation, etc. all compete with the 7 hours of sleep recommended by the American Academy of Sleep Medicine for an adult. The Academy also realizes that not all adults need the full 7 hours but they also discovered in a national survey that 1/3 of Americans get less than 6 hours of sleep per night.

There are some interesting things that happen during sleep. Everyone has heard that "Sleep is the time to charge the batteries." This is true. Our bodies need rest. Some people say that sleep time is doing nothing. That's not true. When you are sleeping. Learning is consolidated into memory, energy is stored for use the next day, the body is actually doing a "self-check". That's our immune system doing a scan to recognize problems.

Long term health issues can result from lack of sleep. Persons with conditions like high blood pressure, diabetes and stroke are all complicated by sleep deprivation. Performance deteriorates with lack of sleep. Going without sleep for 24 hours affects driving as much as someone with a blood alcohol level of 0.1 and that's above the legal limit in every state. Lack of sleep leads more mistakes and poor decision making. We also don't learn as well or retain learning when we lack sleep.

There are things we can do. The mistake we make is by trying to get too much done in too little time. We have to set a routine where sleep is encouraged. A cool dark room that's quiet is best. Avoid screen time before sleep. Your brain gets too much stimulation for sleep to come easily. Eat right, get regular exercise and see your doctor for regular checkups. Sleep and rest are important for all of us. Make sure your plans include it.



NUCA of North Florida, Inc.
Cordially invites you to attend the

Annual NUCANF Spring Golf Tournament

St. Johns Golf & Country Club
205 St. Johns Golf Drive (Off 210 West)
Tuesday, April 7th, 2020
11:30 a.m. "Shotgun" Start

\$600 Per Team (4) includes 18 Holes of Golf, Greens Fee & Cart, Boxed Lunch, Beer and water at stops on the course, Team Handicap, Format (4-Man Captains Choice), Prize Holes and Door Prizes. Award Ceremony will be held in the Dining Room immediately following the end of play. **Price after March 6th, \$700 per team.**

Non-member Cost: \$800/team, \$900 after March 6th

Please fill out the entry below & mail (OR FAX) with payment to NUCANF by Friday, March 22nd.

Name	Company
Phone	Fax

Golfer: _____
Golfer: _____
Golfer: _____
Golfer: _____

Payment: _____ Check (NUCANF) _____ Bill my account _____ Charge credit card*

Visa/MC/AX: _____ Exp Date: _____

V-Code: _____ Zip Code for Credit Card billing address: _____

(The V-Code is the last three digits in the signature strip on the back of the credit card (Visa/Mastercard) or the digits on the front on the card for American Express.

Name on card: _____

*A 5% processing fee will be added to all credit card charges.

Dress Code for Golf Course & Driving Range: Slacks or Bermuda shorts and collared golf shirt for men. No jeans, cutoffs, t-shirts or tennis attire.

Mail or Email this form to: NUCANF, PO Box 16810, Jax, FL 32245,
Ph: 296-1230 Email: nucanf@gmail.com

2020 NUCANF Golf Tournament Sponsorship Opportunities

For all sponsorships, your company will be acknowledged at the awards dinner the evening of the tournament and your company will be recognized in the NUCANF newsletter, The Flow, and the state association publication, The Ditchmen.

\$700 Gold Vendor Showcase

Your showcase includes Domestic beer (or several other options) at your hole, plus a 6 foot table and two chairs and a tee/green sponsorship. You will need to provide anything else that you need. Your company name will be prominently displayed on a sign at the hole. Also available are a bloody Mary Station, Jell-O-Shot Station, Cigar Station, or Hot Dog Station, or Arnold Palmer's Station. First come, first serve based on availability. Holes will be assigned in the order received.

\$500 Silver Vendor Showcase

Same as Gold Vendor Showcase but no beer will be provided.

\$450 Trophy Sponsor (limit one)

Sponsorship includes signage at event.

\$450 Registration Sponsor (Limit one)

Sponsorship includes signage at event.

\$450 Longest Drive/Closest to the Pin Sponsor (limit four)

Sponsorship includes signage at the hole.

\$450 Beverage Cart Sponsor (Limit two)

Sponsorship includes signage at event

\$450 Dinner Sponsor (Limit four)

Sponsorship includes signage at event

\$450 Lunch Sponsor (Limit four)

Sponsorship includes signage at event. Your company will be acknowledged at the awards dinner that evening and your company will be recognized in the NUCANF newsletter, The Flow, and the state association publication, The Ditchmen.

\$300 Green Sponsor (unlimited)

Sponsorship includes signage on the tee or green. Your company will be acknowledged at the awards dinner that evening and your company will be recognized in the NUCANF newsletter, The Flow, and the state association publication, The Ditchmen.

Payment:

☐ Check Enclosed

☐ Please invoice me for total amount

Charge my credit card:*

☐ For total amount

☐ For monthly installments(Feb & Mar)

*(Please complete Credit Card Authorization form. A 5% processing fee will be added.)

Company Name: _____

Your Name: _____

Phone: _____

Signature: _____

Return with payment to: NUCANF, PO Box 16810, Jacksonville, FL 32245



JACKSONVILLE ICEMEN TICKET ORDER FORM

Friday, March 20, 2020

Tickets are \$50 each and include an hour of complimentary beer in VIP Room prior to the game and a complimentary Icemen gift for each attendee. After the game, everyone is invited onto the ice to take a group photo. Doors open at 6:00 pm and game starts at 7:00 pm. Please provide mailing address for tickets. In order to allow time to mail tickets, please submit your order no later than Friday, Feb. 28th.

NAME: _____

COMPANY NAME: _____

MAILING ADDRESS: _____

PHONE NUMBER: _____

of Tickets _____ @ \$50/ticket Total Ticket Cost _____

Payment: _____ Check (NUCANF) _____ Bill my account _____ Charge credit card*

Credit Card #: _____ Billing Zip: _____

Expiration Date: _____ V-Code: _____

(The V-Code is the last three digits in the signature strip on the back of the credit card (Visa/Mastercard) or the digits on the front on the card for American Express.

Name on card: _____

*A 5% processing fee will be added to all credit card charges.

Please complete and email to nucanf@gmail.com by Friday, Feb. 28th.



Members of Lindell Farson & Zebouni P.A., a new NUCA member, joined us for our meeting last week.

Let's
DO THIS

NUCA's Washington Summit
May 19–21, 2020
(Capitol Hill visits on May 20)



2020 is an election year. It's time for Congress to start building again!

Several infrastructure funding bills remain pending in Congress. Our nation must invest in infrastructure and your expertise and passion are vital to making Congress hear our message loud and clear.

We need you at the 2020 NUCA Washington Summit to ensure that Congress finishes its job so we can do ours and build America. For more information, visit nuca.com/summit. Online registration opens in early 2020.

INSTALLATION OF OFFICERS PHOTOS



New Board Member Rick Parker, Standard Precast chats with Board Member Jarod Wolford, Martin Marietta



Committee Chairs (l to r) Mike Kivlin, Tony Zebouni and Marty Adams



2019 Monthly Sponsors





NUCA

TUCSON, ARIZONA

Annual Convention & Exhibit
Loews Ventana Canyon Resort
February 27–29, 2020

The Evolution of Leadership

NUCA's 2020 Convention and Exhibit is just around the corner! Start making your plans to attend the industry's premiere conference. Our 2020 Convention will include the industry events and educational sessions you expect, all designed to help you achieve superior results for your business.

- ☀ Attend our dynamic educational sessions to become involved in our industry's leading topics
- ☀ Exchange new ideas for better job productivity with your industry peers
- ☀ Discover new advanced technologies and strengthen your relationships with the industry's top equipment and service vendors
- ☀ Enjoy the luxury of the Loews Ventana Canyon Resort and the NUCA Foundation golf tournament
- ☀ Have fun with industry colleagues and new friends

Register today! Early-Bird registration closes December 15, 2019.

For more information: [NUCA.COM/CONVENTION](https://www.nuca.com/convention)



With Limited Healthcare Options, You Can Count on NUCA to Help Your Company Cover the People Who Matter to Your Company the Most—Your Employees and Their Families.



"Our employees are like family." We've heard our members say this for years. So NUCA knows getting great health coverage for your employees is a priority for your company. NUCA has teamed up with Compass Risk Management to help you find the most competitive premium for your employees and families that meet your cost objectives.

Group Health Insurance

Be confident that you have the right health benefits solution for your organization and employees. Compass will tailor your company's health insurance coverage plan to meet your employees' needs and your cost objectives.

Group Vision Insurance

Routine eye exams are a preventive measure for overall health and wellness. Compass can help you provide vision plans to help employees offset the costs of routine checkups and prescribed vision correction lenses.

Group Dental Insurance

Plan options can provide comprehensive coverage for regular exams, cleanings, fillings—even orthodontic care—or tiered coverage options, such as coverages that include co-pays.

Please contact Meredith Leutbecker at NUCA to get started.
Phone: 703.358.9300, Email: meredith@nuca.com



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SAVE THE DATE

MARCH 12-14, 2020



20TH ANNUAL ANDREW SCOTT JOHNSON MEMORIAL SCHOLARSHIP FOUNDATION BASS TOURNAMENT

TIME & LOCATION:

MARCH 12-14, 2020

DAYS INN/PIER 2, LAKE OKEECHOBEE

HOTEL RESERVATIONS:

For Hotel Reservations in the NUCA FL discounted rate room block, contact Kari Hebrank via email

khebrank@carltonfields.com or phone 850-513-3607

or Rebecca Brown via email rbrown@carltonfields.com or phone 850-224-1585.



REGISTER NOW

NEW MEMBER SPOTLIGHT

Lindell Farson & Zebouni, P.A.



Over 30 Years of Experience Serving the Utility Industry

Providing counsel and litigation support in construction matters, public and private procurement, personal injury, government relations and business law.

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****Free Initial Consultation for all NUCANF members****

FEBRUARY FEATURED SPONSOR

LIPPE S & BRYAN

OUR FIRM APPROACH

Formed in 2001, Lippes & Bryan, P.A. is a law firm dedicated to efficient and practical resolution of construction, business, and real estate disputes and general legal counseling for our clients. We are committed to furnishing quality legal representation in our law practice by achieving cost-effective and desirable legal solutions for our construction industry clients, including site and underground utility contractors.

We focus our law practice in the following areas:

- construction law and litigation
- business law and litigation
- real estate litigation

Our firm goals are to create and achieve practical and cost-effective resolutions of our client's legal disputes and concerns. We use our legal and construction industry knowledge, creativity, effective negotiation, and aggressive litigation where appropriate to achieve our clients' goals.

Lippes & Bryan, P.A. and its attorneys will assist you from the beginning of the attorney-client relationship with a thorough review and analysis of your disputes and concerns and possible solutions to them, which can help avoid unnecessary, protracted, and/or costly litigation. Our approach assists our clients in achieving pro-active resolution of their business problems, whether through advice, consultation, and planning, or through negotiation, mediation, arbitration, or litigation. We help guide our clients to legal solutions, whether that involves filing and prosecuting, defending, resolving, or avoiding lawsuits.

At Lippes & Bryan, P.A., you will get quality and personalized representation from its construction industry knowledgeable attorneys, Mark C. Bryan and Harold S. Lippes, who are ready, willing, and able to assist you in meeting the challenges presented to your construction business.

Please inquire about our one hour Florida construction lien and payment bond seminars for your staff, provided at no cost to NUCA members, by calling us at (904) 686-1500.