

# MINUTES

## KEY COLONY BEACH CITY COMMISSION PUBLIC HEARING

Thursday, May 26, 2022 – 9:30 a.m.

City Hall Auditorium & Virtually Via Zoom Conferencing

**1. Call to Order, Pledge of Allegiance, Prayer, Roll Call:** *The Public Hearing by the Key Colony Beach City Commission was called to order by Mayor Trefry at 9:30 a.m. followed by the Pledge of Allegiance, Prayer, and Roll Call.*

**Present:** *Mayor Trefry, Vice-Mayor Harding, Commissioner Sutton, Commissioner Beth Ramsay-Vickrey, Secretary-Treasurer DeNeale* **Also Present:** *City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Ryan Benninger, Public Works Supervisor Mike Guarino, Building Official Gerard Roussin, Officer Joe Burden, Code Enforcement Officer Stacy Stahl,*

**Public:** *7 Marble Hall, 6 Virtual*

**2. Administration of Oath to Witnesses:** *City Clerk Gransee read the Oath of Witness to all planning on testifying.*

**3. Citizen Comments:** *City Clerk Gransee reported on not having received any citizen correspondence.*

**4. Disclosure of Ex-Parte Communications:**

*Commissioner Beth Ramsay-Vickrey reported on attending a ride-a-long with Building Official Roussin and stopping in front of the property in question. Commissioner Ramsay-Vickrey stated that no discussion took place about the property. Commissioner Beth Ramsay-Vickrey further stated that she had let Building Official Roussin know that she will pose questions on the two neighboring lots regarding variances, setbacks, and shoreline erosion, and asked the Building Official to bring updated google maps to the meeting. Commissioner Ramsay-Vickrey stated that none of these questions were answered ahead of today's meeting and the conversation will not affect her decision making.*

*Commissioner DeNeale asked City Attorney Ryan Benninger if emails from the applicant to the Commission are considered ex-Parte communications. City Attorney Benninger asked if the emails were addressed to the council at large, which Commissioner DeNeale replied that they were addressed personally to him and the other Commissioners. In addition, Commissioner DeNeale stated that they were addressed to the City Clerk with the Commission courtesy copied. Mayor Trefry clarified that these communications happened post Planning & Zoning Meeting and prior to the appeal. City Clerk Silvia Gransee stated that the two emails that were received from Mr. Carden were accepted as a statement by the applicant and were added to the agenda packet as such. City Attorney Ryan Benninger stated his understanding that the two emails received by the applicant were made part of applicant's statement. Commissioner DeNeale stated that this is not the way he read it and explained, that the emails were send to the City Clerk with the language of "I am writing this email to justify my variance request for the rear setback and providing clarification" with the Commission courtesy copied. Commissioner DeNeale stated that it was not*

stated to the City Clerk with the request to be added to the package. City Attorney Ryan Benninger stated that out of abundance of caution this communication should be considered ex-Parte communication. Commissioner DeNeale explained that these two emails bothered him and that it would sway his judgement. Mayor Trefry agreed that it would sway her judgement also. Commissioner DeNeale further said that he has not seen anything like this before, and he does not like it and it would sway his judgement in this proceeding. Mayor Trefry asked for recommendation from legal on how to proceed. City Attorney Ryan Benninger asked if the recommendation was needed now or after the meeting. Mayor Trefry stated that the Commission has never been in a comparable situation, and that she has never been in a position where something would color her judgement to approve or deny a variance and asked the City Attorney if they should recuse themselves or how to proceed.

City Attorney Ryan Benninger requested a 10-minute recess to look into the matter. Mayor Trefry stated that the Commission will do a 10-minute recess and will reconvene at 9:46 a.m. City Attorney Benninger requested two additional 10-minute recesses and the meeting reconvened at approximately 9:50 a.m.

After recess, City Attorney Ryan Benninger stated that legal is prepared to make a recommendation on the matter. City Attorney Benninger stated that legal's position and recommendation to the council is, if there is a concern with the issue and a quorum will not be available today to consider Mr. Carden's variance request, that it would be appropriate for a motion to postpone the matter to the next scheduled meeting. City Attorney Benninger continued saying that this will allow legal to do more research on the matter and that this is an issue of first impression, and he is unfortunately not able to address this matter on the fly. City Attorney Benninger stated that out of respect of due process for the applicant this is the City Attorney's considered response. Mayor Trefry stated that she will entertain a motion to table the matter until legal has more information and to be addressed in the future.

**MOTION:** Motion made by Commissioner Sutton, seconded by Commissioner DeNeale, to table the matter.

**ON THE MOTION:** Roll call vote. Unanimous approval.

Mayor Trefry stated to Mr. Carden that the Commission wants to be absolutely fair to him. Mr. Thomas Carden stated that he understands and reiterated that he addressed the City Clerk in the emails and cc'd the Commission which is his legal obligation to do.

**5. Adjournment:** The meeting adjourned at 9:56 a.m.

Respectfully submitted,

*Silvia Gransee*

City Clerk

**ADOPTED: June 9, 2022**

*Silvia Gransee*

City Clerk