

MINUTES

KEY COLONY BEACH CITY COMMISSION REGULAR MEETING

Thursday, January 14, 2010, 9:35 a.m.

City Hall Auditorium

1. Call to Order – The Regular Meeting of the Key Colony Beach City Commission was called to order by Mayor Sutton at 9:38 a.m. immediately following the Comp Plan Public Hearing. *Present:* Mayor Ron Sutton, Vice-Mayor Geraldine Zahn, Commissioner Jeff Vorick, Commissioner Seneca “Tucker” DeGraw and Commissioner Mary Schmidt. *Also Present:* Attorney Thomas Wright, Building Official Edward Borysiewicz, Police Chief Robert Petrick and City Clerk Vickie Bollinger. Public: 10
2. Approval of Minutes: Regular Meeting December 10, 2009
Personnel Policy Workshop January 5, 2010
Approved as written.

3. Special Requests

St. Patrick’s Day Parade on Wednesday, March 17, 2010 – Melvin Sola

Mayor Sutton stated that Mr. Sola requested permission to hold the annual St. Patrick’s Day Parade.

Motion – Moved by Mayor Sutton, seconded by Vice-Mayor Zahn, to allow the annual St. Patrick’s Day Parade on Wednesday, March 17, 2010. Roll Call Vote: Unanimous approval.

City Park & Auditorium Fee Waiver – Business and Professional Women, Taste of the Islands
Lynn Ritli, Chairperson for Taste of the Islands, asked the commission to waive the fees for use of the city park and auditorium for the Taste of the Islands event on Sunday, March 21, 2010. She stated in past years they have raised \$16,000 from this event and have given away \$18,000 in scholarships. She agreed to meet all city rules and regulations as they have in the past, including requirements for insurance.

Motion – Moved by Commissioner DeGraw, seconded by Commissioner Vorick, to waive the fees and allow use of the city park and auditorium for the Taste of the Islands event on March 21, 2010. Roll Call Vote: Unanimous approval.

4. Committee and Staff Reports

- A. Recreation Committee – *Golf Course Manager’s Report*

Vice-Chair Blanche Hines reported on the committee meeting:

Daryl Rice, golf course manager, provided a report to the committee and the major concern is irrigation. The pump needs to be replaced and Mr. Rice suggested that he would pay for the pump in lieu of paying his lease payment.

Pickleball lessons will be given on Tuesday and Thursday 9-11 a.m. by Hans Kolster.

Craft classes will meet Tuesday from 12 – 4 p.m.

AHEC exercise class has been very popular. The committee requests approval for two classes: one from 8 – 9 a.m., and the second from 9:30 to 10:30 a.m.; both on Tuesday, Thursday and Saturday beginning January 19.

Commissioners agreed to add a second AHEC class and the half hour between classes is adequate to take care of the parking issues.

Motion – Moved by Commissioner Schmidt, seconded by Vice-Mayor Zahn, to approve sponsoring two AHEC classes beginning on January 19. Roll Call Vote: Unanimous approval.

Committee And Staff Reports – Recreation Committee – continued

Mayor Sutton stated he has been working with Daryl and city staff to try and resolve the irrigation pump issue. He stated that there is hammering when the pump starts that sometimes blows the pipes apart. The city budgeted \$4,000 for golf course improvements and all of that plus more has been spent. The tennis court re-surfacing cost less than budgeted, so some of that money was used for the golf course. Unfortunately, there aren't a lot of additional funds available to replace the pump. Two estimates were gotten, one to repair the entire system and a second to replace the pump. Other options have been tried to relieve some of the pressure so the pipes don't blow apart, such as turning on more zones. However, this creates extra work to operate the system. Another option is to install a tank with a bladder to reduce the hammering at start up. Although this may help, it is not a solution to the problem.

Commissioners and staff discussed/commented:

- Mr. Rice has been replacing blown and broken heads – which the city paid for. What is the expense of not fixing this system – the cost of additional repairs, etc?
- A few years ago the irrigation system was operated with a 5 HP pump, but was replaced with a 25 HP pump. The old pump is still in the Public Works garage and could be re-installed.
- The proper fix is a variable speed pump, but it would cost about \$15,000.
- Prior golf course management was aware of the problems with the irrigation system and maybe did not water as often so that there were fewer repairs. The city controls the price to play and other business matters. Daryl's frustration is understandable and this situation of having to do extra work to keep the system working only adds to it.
- Daryl is doing a good job with the course and it is frustrating for him. The city would like to keep him involved. However, we have to work within the budget.
- The city must be fair with Daryl to make necessary repairs to the golf course, but we don't have unlimited funds.
- Maybe Daryl could be asked to provide a list of projects in June so that they can be considered for next year's budget.
- The budget could be reviewed to see if any other funds are available, such as Contingency or maybe Infrastructure Funds.

Commissioners agreed to table this issue until the next meeting. Mayor Sutton will report back on possible funding sources for the pump.

B. Beautification Committee – No report.

C. Disaster Preparedness Committee – Building Official Borysiewicz stated that the threat of a tsunami in Haiti has caused County Emergency Management to assess their plans if a tsunami threatened the Keys.

D. Planning & Zoning Committee – No report.

Commissioner Vorick stated that his agenda item regarding Sparky's Landing could be considered now. He asked what the owner of the restaurant needed to do if he wanted to put a roof over the deck along the canal.

Mayor Sutton stated that he looked back at the commission minutes and the roof was discussed in 2006. He said the owner would need to apply for a variance and get the approval of DCA.

Committee And Staff Reports – continued**E. Utility Board – *Bid Specifications and Evaluation for Replacement of Crane***

Mayor Sutton said the crane at the sewer treatment plant needs to be replaced. The Utility Board recommends that Mr. Daryle Osborn, Keys Engineering Services, Inc. be hired to write the bid specifications, review the bids, and make a recommendation for a cost of \$1,500. Commissioner Schmidt suggested setting a time frame for Mr. Osborn to complete the bid specs. Building Official Borysiewicz stated he has not had a problem with Mr. Osborn completing city projects.

Motion – Moved by Commissioner Vorick, seconded by Commissioner DeGraw, to hire Daryle Osborn of Keys Engineering Services, Inc. to complete the bid specifications, review the bids and make a recommendation for a cost of 1,500. Roll Call Vote: Unanimous approval.

Repair of Storage Tank Pump at the Sewer Plant

Mayor Sutton gave a brief history of the problems at the sewer plant and the options to complete the repairs. He reported that a diver was hired to go into the tank to try and remove the pump and to repair the gate. Fortunately, the diver was able to free the pump and fix the gate in about 4 hours at a cost of \$4,000. It was found that the pump itself was not broken, but just jammed from rags and other inappropriate debris in the sewer system. Commissioners commended Plant Operator Dave Evans and his staff and Building Official Borysiewicz and city staff, including Mayor Sutton for the great job and dedication to completing this repair. Thanks to all the citizens who responded so quickly to the water conservation request.

Commissioners discussed: what changes could be made to avoid these problems, is there some routine maintenance that could be done to help prevent a repeat of this problem, proactive planning in the event of a total shut down of the system, the possibility of having interlocal agreements with other cities for assistance in the event of a disaster, and more contingency planning. Mayor Sutton will work with Plant Operator Dave Evans and the Utility Board on a possible maintenance program and contingency plan.

F. Police Department – Chief Petrick stated there was a burglary at the real estate office on 7th Street on Sunday. There were 3 other similar burglaries in Marathon that same night and more 2 nights later at the west/south end of Marathon. He said he continues to work with the Sheriff's Office to arrest the perpetrators.

Mayor Sutton stated that the frame around the steel door was enhanced to try and prevent a repeat offense and a motion sensor light was installed. He said that he would try to call all commissioners when these events happen to keep them informed. Chief Petrick said the Sheriff's website: keysso.net provides a list of active calls if citizens want information. Commissioner Vorick stated that his agenda item regarding private video cameras could be considered now. He reminded citizens that a permit may be needed if installing video equipment valued at more than \$1,000. Building Official Borysiewicz clarified that if the equipment only required being plugged in to an outlet, a permit was not required. Commissioner Vorick asked that citizens installing such cameras be respectful of their neighbors and their privacy. He stated Fishing and Boating Club was working on videos of the canals and a citizen's patrol in response to recent thefts. Mayor Sutton said that Chief Petrick reviewed the laws about video cameras and they are legal as long as they are pointed toward public areas. Commissioner Vorick stated he would ask that citizens use common sense when using video cameras on their property.

Committee And Staff Reports – continued

G. Building Department/Public Works – Building Official Borysiewicz reported:

- The Code Enforcement Board met for two hours yesterday and assessed over \$7,000 in fines and fees.
- The cold water has caused fish kills and problems for turtles. Many iguanas have also died from the cold.
- The Building Department is quiet, but the Public Works staff is busy around the city.

Commissioner Schmidt stated she has had several reports of street lights being out. Chief Petrick stated he will have the night shift officers make a list and then he will call to have them repaired.

Commissioner Vorick stated he had a report of unlicensed contractors replacing water heaters at the Continental Inn. Building Official Borysiewicz said the contractors are licensed and the project was issued a building permit.

In response to a question from Commissioner Vorick, city clerk stated that the staff has been instructed not to make recommendations about contractors or businesses, but they may provide a list of contractors of businesses they have seen working in the city.

H. City Secretary-Treasurer – Commissioner Vorick stated the Check Detail Report and December Financial Statements are available for review in the city clerk’s office and that the city was in good financial condition. In response to Commissioner Vorick’s question, Mayor Sutton estimated the sewer plant repair to be less than \$30,000.

I. City Clerk – City clerk stated stormwater utility bills will be mailed Friday, January 15, 2010 and are due on February 15, 2010. She said the Business Tax renewals were completed and list of those properties that did not renew were given to Code Enforcement.

5. Unfinished BusinessPersonnel Policy Revisions for Vacation Leave

Mayor Sutton stated the commission had agreed to amend the personnel policy regarding vacation leave at the workshop on January 5, 2010. A draft of the proposed language was provided which states the City Administrator will be told the number of days of vacation leave an employee has on that employee’s service anniversary. If the number exceeds 25 days, a plan will be developed for that employee to take the extra days during the next year of service. If the days cannot be used, the city will pay the employees. Commissioners concurred with the draft language. Commissioner Schmidt stated the city should encourage the employees to take their vacation days, to plan around important city projects, and to not accumulate excess days.

The commission directed the city clerk and attorney to prepare a resolution to amend the personnel policy and put it on the agenda for the next meeting.

Commissioner Vorick asked about a disciplinary policy for department heads, which is not addressed in the personnel policy. Attorney Wright stated he had reviewed the personnel policy and that the policy does not address department head disciplinary action. He said the commission could adopt a policy, however, there has not been a problem in the 20 years he has been the city attorney. Mayor Sutton stated that the policy states that department heads report to the city administrator. If he had a problem, he would bring that to the commission for review. Attorney Wright stated the charter gives the commission the authority to fire an employee “without cause” and he advised leaving that as is. Should there ever be litigation after firing an employee; the charter would support the commission’s right to fire. He advised that a paper trail of actions taken to notify the employee and correct any problems is not necessary when the commission has the authority to fire an employee without cause.

6. Items of Discussion/Approval

Closing Old Building Permits – Process and Fees

Mayor Sutton stated that city Code Section 6-8 states that it is the contractor's responsibility to call for final inspection. Old building permits that are still open have become an issue within the last year or two due to the number of foreclosures. The city code states the penalty is \$3 per day. Even though some permits are many years old, the city has only charged \$100 to close them. The fee barely covers the city's costs. Some properties have several open permits and the current owner may not have pulled the permit or even be aware of them.

Commissioners, Attorney Wright and staff discussed/commented:

- Whose responsibility it was and is to get the permits closed: the contractor, owner when the permit was pulled, current owner, Building Department.
- Possibility of providing amnesty for old permits.
- Charging \$100 for first permit and then \$50 for each additional one.
- Current owners and contractors are calling the Building Department to find out about any open permits.

Attorney Wright provided a brief history of why permits are being researched at the time of a property sale. He said this has only been happening for 2 or 3 years and that nobody paid attention in the past—not governments, realtors, or attorneys. The real estate environment has changed and everyone is playing catch-up.

Attorney Wright suggested that the city set a reasonable fee so that the foreclosures and short sale properties can be dealt with quickly. This would be in the city's best interests so those properties could be purchased by new owners who would maintain the landscaping and pay their sewer bills; reducing the number of code cases and liens.

Vice-Mayor Zahn apologized and stated she must leave the meeting to catch a plane.

Building Official Borysiewicz described the labor intensive, manual process he uses to find out what permits are open, since the information is not available on the computer. He said they will work to see if this can be computerized in the future.

Motion – Moved by Commissioner Vorick, seconded by Commissioner DeGraw, to charge \$100 to close the first permit and \$50 for each additional permit for a period of two years. Roll Call Vote: Unanimous approval.

Flood Insurance Coverage for City Hall – Mayor Sutton

Mayor Sutton said the new insurance company pointed out that the city has a gap in flood coverage for city hall. He said the city's agent, Bill Danaher, had reported this a couple years ago and the commission at the time decided not to increase the coverage. The additional cost to increase the coverage is \$2,295.

Attorney Wright advised the city to ask about being underinsured; there may be less coverage than the stated limit on the policy if a disaster should strike. Commissioners agreed that the city should be protected and that there are no other carriers to compare premium costs.

Motion – Moved by Commissioner Schmidt, seconded by Commissioner DeGraw, to increase the flood insurance coverage limits for city hall to \$500,000 with a premium increase of \$2,295. Roll Call Vote: Unanimous approval.

*Sparky's Landing Roof – Commissioner Vorick
(Taken during Agenda Item 4D)*

*Permitting of Private Video Cameras – Commissioner Vorick
(Taken during Agenda Item 4F)*

7. City Administrator Items For Discussion/Approval

Survey for Stormwater Project

Mayor Sutton said he talked to the project engineer, Mike Tibble, who estimated the cost of the survey at about \$4,000. Four estimates were received; three from \$9,100 to \$10,500. The fourth estimate was for \$4,000. Commissioners agreed that the preference was for a local contractor and the low estimate was from Lawrence Frank Land Surveying, LLC in Islamorada. Mayor Sutton said that Mr. Frank was the surveyor for the projects on 9th and 10th Streets and on 1st – 5th Streets. He said Mr. Tibble talked with Mr. Frank about the work and his estimate and is satisfied with the estimate and previous work completed.

Motion – Moved by Mayor Sutton, seconded by Commissioner Schmidt, to hire Lawrence Frank Land Surveying, LLC to complete the survey for the 2010 stormwater project at a cost of \$4,000. Roll Call Vote: Unanimous approval.

Volunteer Luncheon

Mayor Sutton stated the city has always held a luncheon for city volunteers and ask for the commissioner's support to have one this year. All commissioners concurred and recognized the valuable service provided by our committees and volunteers. The date will be February 19, 2010 at noon. Vice-Mayor Zahn will be asked to coordinate this event.

8. Ordinances and Resolutions

1st Reading – Ordinance 413-2010 Amending the Comprehensive Plan Capital Improvements Element

Attorney read by title only Ordinance 413-2010.

Motion – Moved by Commissioner DeGraw, seconded by Commissioner Vorick, to approve the 1st Reading of Ordinance 413-2010 Amending the Capital Improvements Element of the Comprehensive Plan. Roll Call Vote: Unanimous approval.

9. Commissioners' Reports or Comments

Commissioner DeGraw stated he had received complaints about the tennis courts not being available for residents because someone was giving lessons.

Mayor Sutton stated he was also made aware of this and offered to discuss the commission's concerns with the person involved. It seemed the person is giving lessons over a period of hours which prevents others from using the courts. Commissioners agreed to have the Mayor talk with the person to see if the concerns could be resolved informally.

Commissioner Vorick commended everyone for their efforts at getting the word out to citizens about conserving water during the sewer plant repairs. He offered to research use of an automated phone message system for future needs and report back.

Commissioner Schmidt suggested the commission research allowing commissioners to participate and vote by phone when they cannot be present. Commissioners ask Attorney Wright to research state laws and regulations and report back. She stated she had reports of speeding on the Causeway. She asked about the boats on trailers parked at the marina on the Causeway and said that she had received complaints about those. Chief Petrick and Building Official Borysiewicz stated that the issue was investigated and there were no violations. Commissioner Schmidt suggested that anyone unhappy with the reduced hours at the post office write to Representative Ileana Ros-Lehtinen. She announced First State Bank was helping the Red Cross in their efforts to help with the disaster in Haiti. Mayor Sutton said that many organizations were helping and he had provided a list to all commissioners. The Mayor and Commissioner DeGraw stated they have already emailed Rep. Ros-Lehtinen about the changes at the post office and all commissioners encouraged citizens to speak up.

10. City Attorney Report – Thomas D. Wright

Attorney Wright stated there is no pending or threatened litigation. He commended the commissions, current and past, and city staff for the decisions and actions that have resulted in very little litigation or legal issues during the more than 20 years he has been city attorney.

11. Approval of Warrant 1209 Expenses for the Month of December

Motion - Moved by Commissioner Vorick, seconded by Commissioner DeGraw, to approve Warrant 1209 for the Month of December 2009 in the amount of \$212,700.74. Roll Call Vote: Unanimous approval.

12. Correspondence & Citizen Comments

City Clerk reported on one email from Andy Forberg who asked that the portable toilets at Sunset Park be placed somewhere less noticeable.

Mayor Sutton stated he had discussed this with Gail Cortelyou of the Community Association and they will try to place it just inside the entrance behind some plants.

Citizen Comments

Gary Kline, 280 11th Street, stated he discovered there are three open permits for his residence which have been open for many years; the contractor is gone leaving him to resolve the issues. Mayor Sutton stated that unfortunately it is the current homeowner's responsibility to get the permits closed and pay the fees.

Bill Fahs, 521 10th Street, stated that Building Official Borysiewicz told him that state laws requires an owner to hire a licensed contractor to make repairs to the property if the property is being sold or is leased. He asked the commission to have the attorney review this to ensure that Mr. Borysiewicz's interpretation is correct. If it is correct, then the commission should take action. He said he is qualified to make his own repairs and it is unfair to force him to hire a licensed contractor.

Commissioners commented that it is unfair, but it is state law not a city ordinance and not subject to commission control. Commissioners asked Attorney Wright to review the laws with Building Official Borysiewicz.

John DeNeale, 670 10th Street, commented that he was in the military and moved every 2-3 years. He said it was common for families to buy a place, fix it up with resources available on the base, and then sell it at a higher price. He suggested if the law is being interpreted correctly, the city should go to our state representatives and ask them to review it.

The meeting adjourned at 12:00 noon.

Vickie L. Bollinger, City Clerk

Note: A mechanical recording has been made of the meeting of which these minutes are a part, and a copy is on file in the office of the City Clerk, as a public record.