

MINUTES

KEY COLONY BEACH CITY COMMISSION REGULAR MEETING

Thursday, January 28, 2010, 9:30 a.m.

City Hall Auditorium

1. Call to Order, Pledge of Allegiance, Prayer, Roll Call – The Regular Meeting of the Key Colony Beach City Commission was called to order by Mayor Sutton at 9:30 a.m. followed by the Pledge of Allegiance and Prayer. *Present:* Mayor Ron Sutton, Vice-Mayor Geraldine Zahn, Commissioner Jeff Vorick, Commissioner Seneca “Tucker” DeGraw and Commissioner Mary Schmidt. *Also Present:* Attorney Thomas Wright, Police Chief Robert Petrick, Building Official Edward Borysiewicz and City Clerk Vickie Bollinger. Public: 15
2. Approval of Minutes: Emergency Meeting January 11, 2010
Public Hearing Comprehensive Plan CIP Update January 14, 2010
Regular Meeting January 14, 2010

Approved as written.

3. Special Requests

Request for City-wide Garage Sale – Amy Prumo

Ms. Prumo stated she was organizing a city-wide garage sale for the cities of Key Colony Beach and Marathon for the 3rd Saturday in February. She asked the commission to waive the fees for homeowners in the city. In response to questions she said this was not a charity fundraiser, and she would coordinate the event, advertise, provide maps, compile lists of participants and distribute the materials.

Commissioners applauded her efforts and initiative and encouraged her to work with another organization to promote her efforts such as GLEE or the garbage service. However, they agreed that as presented, the fees should not be waived. They felt it would be unfair to other city residents who could not participate that weekend, and would have to pay for a permit. Any city resident who wanted to participate could come to city hall and get a permit.

Marketing Key Colony Beach by Email – Byron Hestevold

Mr. Hestevold stated that the Greater Marathon Chamber of Commerce had produced a DVD to market the Marathon area. The DVD could be mailed or emailed to various groups around the country to encourage tourism in this area. He suggested the city could provide a list of email addresses to send the DVD to or the city could produce a DVD to promote Key Colony Beach. The DVD could be made with the volunteer help of high school students proficient in this technology.

Commissioners thought this was a good idea and hoped that the Chamber DVD included promotion of KCB. Commissioner Schmidt suggested the students could also do a project involving the history of KCB. She said some of the long-time residents could be interviewed and pictures taken through the years could be included on the DVD.

(Agenda Item 6 – Items of Discussion/Approval – Open Building Permits taken now.)

4. Committee and Staff Reports

A. Recreation Committee – No report.

B. Beautification Committee – No report.

C. Disaster Preparedness Committee –No report.

Committee And Staff Reports – continued

D. Planning & Zoning Committee – No report.

E. Utility Board – No report.

F. Police Department – Chief Petrick stated all street lights had been checked and are working properly. He said he has been filling in for officer vacation and training and is out of the office more than usual. If you need to speak with him, please leave a message and he will get back to you.

G. Building Department/Public Works – Building Official Borysiewicz reported Public Works staff has been busy doing landscape maintenance at Sunset Park and golf course.

H. City Secretary-Treasurer – Commissioner Vorick stated the city is in good financial shape.

I. City Clerk – City clerk reported many stormwater utility fee payments have been received. A few citizens have asked questions, but there have been few objections. Payments are due February 15, 2010. She said there was an increase in the number of unpaid wastewater bills this quarter; second notices with late fees are being prepared.

5. Unfinished Business

Irrigation System at the Golf Course

Mayor Sutton stated all the commissioners have been working on this issue. Golf Course Manager Daryl Rice has requested the city purchase a programmable system to regulate the water pressure in the irrigation system at a cost of about \$15,000. This was not a budgeted expense, but contingency funds or Infrastructure money could be used. The Mayor said that he would like to try less expensive options before spending that much money, that he had spoken to Daryl, read the reports, and suggested two additional relief valves be installed at a cost of \$300-\$400 each. These valves may adequately fix the problem until all golf course improvements could be discussed and budgeted for next year or when grant money was available. He said the city course was a fun family oriented park and not intended to be maintained as a country club.

All commissioners agreed that Mr. Rice had made big improvements at the course and everyone was happy with the new management. They wanted to be sure Mr. Rice knew they supported him and wanted to work with him to resolve this issue. Commissioners acknowledged Mr. Rice's frustration with the irrigation system: the amount of effort required to operate it, to maintain it, and the costs of repairs. Commissioners agreed to install 2 new valves to see if that reduced the problems, to monitor it in case additional steps need to be taken, and to discuss this during the next budget cycle.

6. Items of Discussion/Approval

Golf Course Expenses – Commissioner Vorick

Commissioner Vorick stated he had discussed course conditions with Mr. Rice. He said he encouraged Mr. Rice to share his ideas and plans with the Recreation Committee and to provide information about improvements and costs. These could all be discussed during the budget workshops. Commissioner Vorick stated the golf course was a special feature of our city and recommended the commission take more interest in the activities, needs and expenses. Commissioner Schmidt expressed support for Mr. Rice and recommended he be allowed to manage his business as he chose and the commission should be more hands off in the day to day operations of the golf course.

*Items of Discussion/Approval - continued**KCB Marina Clean-up – Commissioner Vorick*

Commissioner Vorick thanked the Mayor and Building Official for getting the houseboat back in the water. He stated some additional clean-up may be needed and he asked the Building Official to visually inspect the marina for a possible violation of city Code 6-56(b) which states goods or materials should not be stored so as to create a nuisance.

In response to a question, Chief Petrick stated he asked about the boats being stored at the property and was told they are rentals. Keeping rental boats is a legal use of the property. There was a brief discussion of whether other boat storage was a legal use. Attorney Wright advised that before further discussion of the property and its uses, the property owner should be notified and be given an opportunity to be present.

Open Building Permits – Commissioner Schmidt – (Item taken after Special Requests)

Commissioner Schmidt stated there was a recent court decision that may be relevant to this issue. She questioned whether city code allowed a new permit to be issued if there was already an open permit for the property and whether a permit could be transferred to a new owner without written permission. She suggested that the code and recent commission decision was a hardship for contractors and the issue should be revisited. Commissioner Schmidt said she felt the current policy was too punitive.

Attorney Wright, in response to a question, stated that commissioners would have to decide if their personal situation with open permits would be a conflict for them or prevent them from making a fair and impartial decision.

Commissioners, Attorney, staff, contractors (Artic-Temp, Dana's, Marathon A/C), and citizens commented/discussed:

- Fault for this situation is shared by city, contractor, owners. Focus now needs to be on how to remedy the situation.
- Fees could be reduced/eliminated, amnesty could be given for a definite period of time.
- All Florida cities and counties are dealing with this issue, not just KCB. This does not involve Title Insurance, but is involved in the closing process when a property is sold.
- Need a balance between cost of cleaning this up and the fees imposed.
- County charges \$52 to research plus hourly fee until all permits are closed. Marathon charges \$10 per permit, but they are not getting many inquiries.
- These permits may involve life-safety issues; and the city may have more problems if the permit is closed without an inspection.
- The current system – contractor must call for final inspection, automatic extension of permit, fee of \$3 per day – was established by the commission in 1993.
- New construction or major renovations require a clean-up bond, so those permits have been closed; the contractor gets a refund of the bond.
- Biggest problem is with air conditioning. There is lots of A/C work in our environment. A/C replacement may require a different breaker be installed which requires a licensed electrician. It cannot be done by the A/C contractor; they are not licensed electricians. Many owners are unaware that they have the wrong sized breaker.
- Contractors are having a difficult time in this economy and no one wants them to suffer.
- Contractors are professional and comply with regulations. All permits deal with life safety issues and A/C contractors should not be singled out. KCB officials are good to work with. Owners are told about the breakers, but they don't always call an electrician. Any fees should be reasonable and amnesty given for some period of time.
- The Building Official knows the code and enforces it.
- A notice should be sent to all owners about the issue and how to resolve it.
- Research is taking a lot of staff time and these costs should be recovered.

Items of Discussion/Approval – Open Building Permits - continued

- Inspection fee was included in the building permit fee. Charge only for failed inspections.
- Contractors do a lot of A/C work in the city, are responsive especially in case of health issues, and always try to comply with rules. Current fees are overwhelming. Contractors contribute to local economy, support employees and families, and should not be put out of business by these fees.
- Contractors will spend a lot of time finding out about these open permits, contacting owners, doing inspections and working with Ed. Additional fees will be a hardship. More communication is needed between the parties in the future to solve this problem and prevent a recurrence.
- If permit is for something that no longer exists, it is closed without further action.
- Licensed contractors know that inspections are required for all permitted work.
- Code states inspections should be done every 30 days. Code should be reviewed and amended so checks and balances are in place. Make better use of computers.
- Allow at least a year for amnesty or resolution since many owners are here only part of the year and will be leaving in a couple of months.
- Solution must be fair to the owner, contractor, and city. There are problems with the processes involved. The processes involved should be studied and a new policy established to deal with each process.
- No need to rush a decision; there are a lot of issues to think about.
- An interim policy should be established if there is no decision today. Real estate closings are scheduled and the open permits must be dealt with.

Mayor Sutton stated the commissioners seemed to agree that the policy should probably be changed, but there are many issues to consider. He suggested a special meeting be held. Commissioners commented that it needed to be soon to be fair to all parties. They agreed that the current policy would be used until a special meeting is held.

Motion – Moved by Mayor Sutton, seconded by Commissioner Vorick, to hold a special meeting on Monday, February 1, 2010 at 1:00 p.m. to discuss open building permits. Roll Call Vote: Unanimous approval.

7. City Administrator Items For Discussion/Approval – None

8. Ordinances and Resolutions

2nd 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 Schmidt, to adopt Ordinance 413-2010 Amending the Capital Improvements Element of the Comprehensive Plan. Roll Call Vote: Unanimous approval.

Resolution 2010-01 Amending Personnel Policy for Vacation Leave

Attorney read by title only Resolution 2010-01.

Motion – Moved by Vice-Mayor Zahn, seconded by Commissioner Vorick, to adopt Resolution 2010-01 Amending the Personnel Policy for Vacation Leave. Roll Call Vote: Unanimous approval.

9. Commissioners' Reports or Comments

Commissioner Vorick reported on his research of an automated telephone calling system to notify residents/owners whenever the commission felt it was needed, such as the recent request for water conservation due to the sewer plant repairs.

Commissioners' Reports or Comments - continued

Commissioner Vorick said a web-based system called PowerCall charges 16 cents per call. The set-up fee of \$300 would be waived. He had a demonstration of the system and said it was easy to use, felt it was cost effective, and may be a good tool for commission and staff.

Commissioner Schmidt stated she received several comments that residents were disappointed in the way the city looked with issues such as: trailer parking, landscape maintenance, condition of seawall, docks falling down, and contractors working on Sundays.

10. City Attorney Report – Thomas D. Wright

Attorney Wright stated he had reviewed the state statutes regarding permits pulled by Owner/Builders who wish to lease their properties or sell them. He said he agreed with the Building Official's interpretation that in the case of lease or sale, the owner must hire a licensed contractor. He said the city must comply with the state law. The law further states that if anyone working on a building for the owner, like a friend, must be employed by the owner, taxes withheld and paid, covered by worker's compensation insurance and all other regulations met. Commissioners discussed the statutes. Attorney Wright stated the statute was clear that in the case of lease or sale, a Florida licensed contractor must be used.

Attorney Wright stated that there was a 2003 Attorney General's Opinion regarding participation by telephone. It states that a commissioner may participate and vote by telephone if: 1) a quorum of the commission was physically present and 2) there was an extraordinary circumstance that prevented the member from being present. He said the Opinion states that "extraordinary circumstance" is illness of the member or any other reason approved by the commission. The Opinion discusses "scheduling conflicts" and states that the commission must decide if the scheduling conflict rises to the level of "extraordinary circumstance." City clerk was directed to provide copies of the opinion to all commissioners.

11. Correspondence & Citizen Comments

City Clerk reported three items were received related to the tennis courts:

Email from Marianne Melielo offering support of the tennis pro giving instructions at the tennis court. She may extend her visit to KCB since she has located other tennis players.

Letter from Paulette Sheagren offering support of the tennis pro for herself and her son stating this is a fun physical activity; and there are few activities for school children in KCB.

Email from Bill Knickman asking about the tennis pro operating a business in the city.

Clerk stated she responded to all stating the city does not object to lessons being given, but we have received complaints that lessons are being given for hours at a time preventing others from using the courts. The tennis pro has been contacted several times by the Mayor and Recreation Committee stating the city's objection to her operating her business on the city's tennis courts. She has notified the city that she is moving the lessons to other locations.

Citizen Comments – None

The meeting adjourned at 12:20 p.m.

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.