

MINUTES

KEY COLONY BEACH CITY COMMISSION REGULAR MEETING

Thursday, June 10, 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 Mary Schmidt and Commissioner John DeNeale. *Also Present:* Attorney Thomas Wright, Police Chief Robert Petrick, Building Official Edward Borysiewicz and City Clerk Vickie Bollinger. Public: 7
2. Approval of Minutes: Variance Hearing May 27, 2010
Regular Meeting May 27, 2010
Budget Workshop June 7, 2010

Approved as written.

3. Special Requests

Oil Spill Update by United States Coast Guard LCDR Michael L. Herring

Mayor Sutton introduced US Coast Guard LCDR Michael L. Herring who gave a presentation about the BP oil spill in the gulf. LCDR Herring was joined by Andrew Van Chau, representing BP.

LCDR Herring's presentation included:

- There is no foreseeable impact to the Keys from the oil spill.
- Tar balls that have reached the Keys were tested and proved to not be from the Deepwater Horizon oil spill. There is no evidence to say there is an increase of tar balls in the Keys. There are probably more reports due to heightened public awareness. A total of 55 samples from the Keys have been tested and none were from the Deepwater Horizon spill. The sources of these tar balls are unknown and will probably remain that way due to the amount of transient vessels in the Gulf Stream.
- The situation is being monitored and assessed continuously by several agencies. This will provide at least a 96-hour notice of any impending impacts to the Keys which is enough time to mobilize resources and respond.
- The Gulf Loop has broken away from the Gulf Stream, and it may or may not reconnect.
- The situation has redefined "worst case scenario" and forced agencies to revise plans to address the possible impacts. The Keys distance from the spill is an advantage for us.
- A shoreline matrix was developed to identify the different types of shoreline and locations. The response will be based on what type of shoreline is impacted and whether the impact is from oil sheen, tar balls, etc. There is no one solution. An assessment will have to be made at the time as how to best respond, prevent and/or clean-up the shoreline.

Andrew Van Chau stated:

- Monitoring is done by using satellites, flyovers and vessel sentry near the Dry Tortugas. It is important to have eyes looking for sheen and special nets are used to detect tar balls.
- Claims offices are open to provide information at 7885 Overseas Highway in Marathon, but to initiate a claim it is best to call the 800 number. Documents needed will vary depending on what type of business is filing the claim. The website is also very helpful.
- BP has received about 8,000 claims and paid \$5.4 million in claims. \$25 million has been paid to state and local governments for response needs, \$25 million paid to the tourism industry, \$500 million in grants to university and research firms to assess the impacts and determine the best recovery plan and for training.

Special Requests – Oil Spill Update - continued

- Citizens can become involved through Volunteer Florida. BP has given \$100,000 to help with volunteer efforts.

The commission, LCDR Herring, Mr. Van Chau, staff and public commented/discussed:

- Citizens are paying to take a clean-up/response training class. BP provided funds to the community college for training and they believe they have enough trained responders at this time. The misunderstanding is that the college decided to continue to offer the training if citizens wanted to pay. BP is working with the college and encouraging them and trained responders to work with contractors who will be responsible for doing any clean-up. OSHA requires anyone picking up tar balls to have a 40-hour training class and protective gear. Contractors will be responsible for having trained responders.
- Placing booms in the water is not effective to protect the shore from tar balls because they will float under the boom. To date the best way to address tar balls is to pick them up from shoreline areas. However, mangroves are difficult to clean-up and are more environmentally sensitive. Each situation is different and an assessment will have to be made at the time as to the best way to prevent intrusion in the mangroves or clean-up.
- There is a plan in place and access to equipment such as boom, skimming vessels was confirmed. When needed they will be brought in and deployed. All resources have been identified, but few are in the Keys today. The 96-hour window is sufficient to get needed resources in place to protect the Keys.
- There is no sure way to accurately determine the amount of oil leaking into the gulf.
- Volunteers can do beach clean-up and preparation with a 30 minute safety orientation. The less debris, etc on the shore, the easier and faster the oil clean-up will be.
- It is difficult to provide specific answers due to the variety of different conditions which could impact the Keys. The Coast Guard is satisfied with the response from contractors and the number of trained responders available. NRC is a Ft. Lauderdale contractor that subcontracts with companies that have oil response capability.
- All areas of the Keys will not be impacted at the same time. The 96-hour window to prepare/respond will probably move from west to east over days. This will allow for a planned response along the entire length of the Keys.
- Specific plans and numbers were not available at the meeting, but the information is known and much of this info is available on websites.
- The Keys are a special environment and people are concerned, angry and scared. More detail should be available.
- Monroe County Emergency Management is part of the Unified Command.
- Plans are being continuously adjusted and improved based on lessons learned from the response to date.
- Use of dispersants may not be the best course in all situations, but works well for some areas. This method is being used less. More oil is being collected and burned off.
- Some response is happening 40-50 miles offshore, but again it varies depending on currents and wind direction. Number of miles is not the only consideration.
- Tar balls generally have lost a lot of toxicity so breathing apparatus is not needed for clean-up, but protective gear is required. There is no evidence of breathing problems with tar balls.
- The effects of a hurricane are being considered and included in all plans.
- The food chain is not in the purview of the Coast Guard, but that is being monitored by many agencies such as the National Marine Fisheries, EPA, DEP, FDA, NOAA. Those groups are working together and making decisions based on an abundance of precaution.
- Deepwater Horizon website provides information from all agencies involved.

Special Requests – Oil Spill Update - continued

- The Coast Guard is comfortable with the level of preparedness. If local agencies wish to have a separate plan, they should work with all federal and state agencies to get the required permits and do proper planning.

Mayor Sutton thanked LCDR Herring and Mr. Van Chau for coming, providing information, and answering questions.

Mayor Sutton asked the commission if they would agree to add the topic of Fire/EMS to the agenda and if Item 6, Insurance Update, could be taken next to allow Ms. McAfee to leave if she needed to attend to other business. Commissioners agreed.

Commissioners agreed to a short recess at 10:40 a.m.

Mayor Sutton reconvened the meeting at 10:48 a.m.

4. Committee and Staff Reports – taken after Item 6. Items of Discussion/ApprovalA. Recreation Committee – Vice-Chair Blanche Hines reported:

- Golf Course Manager Daryl Rice attended the committee meeting and reported on improvements, asked for guidance for future improvements, requested additional funding from fee increases and city support, and provided estimated monthly revenues and expenses. The committee expressed appreciation of Mr. Rice's efforts and willingness to share information and ideas for improvement.
- The stand-alone pickleball court has cracks and may be a tripping hazard. The court may need to be resurfaced.
- She will contact the instructor using the tennis courts of the new rules and fees.
- Sunset Park recycle bin needs to be removed. It's broken and being used for trash.
- East Side Park may have a dead palm that should be removed.

Mayor Sutton stated the recycle bin was removed yesterday. He said he spoke with Mr. Rice about renewing the lease. Mr. Rice agreed to provide a response by the end of July.

B. Beautification Committee – No report.

C. Disaster Preparedness Committee – No report.

D. Planning & Zoning Committee – No report.

E. Utility Board – No report.

F. Police Department – Chief Petrick reported there had been one theft of two buckets of driveway sealer from a construction site on 1st Street. He said the Memorial Day weekend was relatively quiet with one noise complaint and an overcrowding complaint which turned out to be an owner not a rental. Citations were issued for rental property issues at a residence on 10th Street. Chief Petrick announced the Kids Fishing Derby will be held next Tuesday, June 15; the last organizational meeting will be Monday at 3 p.m.

G. Building Department/Public Works – Building Official Borysiewicz reported the water pressure at East Side Park and the city entrance has been a concern, but FKAA will resolve that soon. He said that dumpster charges had been questioned at the budget workshop. The city used to contract with Marathon Garbage which required separate trash and landscape bins and charged by weight. This got to be expensive so the city switched to Price Cutters which still provides the cheapest price of those companies checked- Marathon Garbage, Price Cutters, Discount Rock and Sand.

Committee And Staff Reports – Building Department/Public Works – continued

Dumpsters are used for landscape debris at the golf course, city right of way clean-up, city trash, sewer plant trash, landscaping from Beautification Committee and Gonzalez Landscapers cleaning city property, and unfortunately illegal use by citizens. Building Official Borysiewicz stated that almost all landscape debris is mulched.

Commissioners discussed the city landscape contract and agreed to review it at the next budget workshop. Building Official Borysiewicz will follow-up on two properties reported as needing landscape clean-up – 541 9th Street and 671 10th Street.

H. City Secretary-Treasurer – Commissioner Vorick stated the Check Detail report and May Financial Statements were available for review; and the city is in good financial shape.

I. City Clerk – City clerk stated that final stormwater invoices were mailed, quarterly sewer invoices were being prepared, and preparations were underway for business tax renewals which will be mailed on July 1. She said she will be out of the office Monday through Wednesday next week attending a state TRIM training session.

5. Unfinished Business

Agreements with Tennis Instructors for Use of City Courts

Mayor Sutton stated the documents had been prepared as requested and asked when this program should begin. Commissioners agreed to give reasonable notice of 30 days. Hours when instructors could not reserve the court were discussed. It was agreed to amend the times to allow instruction in the morning hours during the summer only.

Motion – Moved by Commissioner Vorick, seconded by Commissioner Schmidt, to adopt the Tennis Court Agreement with the amendment to restrict reservations in the months of October through May only. Roll Call Vote: Unanimous approval.

6. Items of Discussion/Approval – taken after Item 3. Special Requests

Insurance Review by Deborah J. McAfee, Insurance Agent

Mayor Sutton introduced Ms. McAfee.

Ms. McAfee thanked the commission for the opportunity to work with the city and expressed concern about the oil spill. She encouraged proper training and work conditions for anyone on a response team.

Ms. McAfee stated she worked for Beecher/Carlson who represents Public Risk Management (PRM). PRM now insures city property for fire, wind, flood, equipment, and crime. The current policy broadened the city's coverage, but there are two areas she suggested the city should address. She would like to provide quotes for other types of insurance not currently with her company. The first improvement would be to add coverage for pollution liability should the sewer plant tanks develop a leak. The second is that the city's workers compensation coverage should be broadened to include coverage for possible litigation under the Jones Act dealing with maritime law.

All commissioners agreed to have Ms. McAfee provide quotes. The Utility Board will be asked for recommendations regarding the sewer storage tanks.

7. City Administrator Items For Discussion/Approval

Mayor Sutton stated the city received a letter from Marathon City Manager Hernstadt which stated Marathon's position and providing costs for Fire/EMS service for next year. He will discuss the letter with Attorney Wright after today's meeting. He said he had scheduled a meeting with Mr. Hernstadt for Friday morning to begin negotiations.

City Administrator Items For Discussion/Approval - continued

Commissioners and Attorney Wright discussed/commented:

- Maybe the prior year issue should be addressed first before negotiating for next year.
- Major concern is that the 90-day notice was given to terminate service on September 30.
- Current agreement excludes equipment, administration and building. There is no payment due for these items. The current agreement was negotiated, billings from Marathon were paid, and now they want to interpret the contract differently.
- Alternate services have to be secured if they will not provide it after September.
- A letter should be drafted responding the Mr. Hernstadt's letter.
- County may be able to provide service in an emergency situation. Other options should continue to be explored. The city may need to focus on the transition to another provider.
- City should keep communicating with Marathon to understand this change of position.
- A consensus should be reached on action to take. With the oil spill emergency and possible hurricanes, 90 days may not be enough time to resolve the differences. In light of the timing, the city could request an additional 90 days of service under the existing contract.
- Focus should be on making sure the city has a Fire/EMS service provider on October 1.
- History of the current agreement and the formula used to determine KCB payments was discussed.
- Additional meetings may be needed including joint sessions with their council to resolve all the issues presented in Mr. Hernstadt's letter.

Commissioners agreed that Mayor Sutton meet with Mr. Hernstadt and provide him a letter with copies to the Marathon Council Members stating the city's objection to paying additional amounts for the three years listed in the letter, asking if Marathon would continue negotiation regarding next year's agreement without payment of the arrearage, and requesting an additional 90 days to resolve the issues.

Mayor Sutton stated he had been researching the cost of starting our own department and had received estimates from Clyde Burnett and the retired Assistant Chief in Islamorada. These two estimates varied on several points. He said he had spoken with a retired fire chief who is now doing consulting work named Jim McEvoy. This man was found through Jim LaRue, LaRue Planning & Management, the city's consultant for comprehensive planning. Based on discussion with Mr. LaRue about our city, Mr. McEvoy agreed to reduce his usual hourly fee from \$110-\$120 to \$75. Commissioners agreed that hiring Mr. McEvoy to help develop a plan and cost for having our own department was a good idea and a necessary expense.

Motion – Moved by Commissioner Vorick, seconded by Vice-Mayor Zahn, to spend up to \$5,000 and hire Jim McEvoy as consultant for development of a plan and cost for a city Fire/EMS Department. Roll Call Vote: Unanimous approval.

8. Ordinances and Resolutions

1st Reading – Ordinance 416-2010 Amending Chapter 5 Boats, Boat Trailers, Marine Facilities, and Waterways, Section 5-43 Elevator Lifts

Attorney read by title only.

Motion – Moved by Commissioner Vorick, seconded by Commissioner DeNeale, to approve the 1st Reading of Ordinance 416-2010 amending Section 5-43 Elevator Lifts.

Commissioners discussed how to attach reflective material on the marine buoy referred to in subsection 3. It was agreed to amend the subsection to require the marine buoy to be white, but not require reflective material on the buoy.

On the advice on Attorney Wright, subsection 10 was left as presented to include references to riparian lines.

Ordinances and Resolutions - continued

It was agreed that subsection 9 should be deleted.

Motion – Moved by Vice-Mayor Zahn, seconded by Commissioner Schmidt, to amend Ordinance 416-2010 as follows: Subsection 3 to include the marine buoy must be white, but does not need to have reflective material and Subsection 9 is to be deleted. Roll Call Vote: Unanimous approval.

On the Original Motion as Amended – Roll Call Vote: Unanimous approval.

9. Commissioners' Reports or Comments

Commissioner Schmidt stated she had met with FKAA to discuss the sewer plant operations contract. FKAA would like a commissioner to come to their Board meeting to express the city's interest in getting a proposal from them to be a contract operator. There was a short discussion about contract operations and commissioners agreed Commissioner Schmidt should attend. She stated she had talked to three county commissioners and they expressed support for developing a proposal to provide Fire/EMS service to the city. She hopes to have some cost figures by the end of the month.

Commissioner Vorick requested commission and staff support to remind citizens of garbage rules and regulations.

Commissioner DeNeale asked staff to get information about reading and use of the new water meters being installed by FKAA. Building Official Borysiewicz will follow up.

10. City Attorney Report – Thomas D. Wright – No report.

11. Approval of Warrant 0510 Expenses for the Month of May

Motion – Moved by Commissioner Vorick, seconded by Vice-Mayor Zahn, to approve Warrant 0510 for the Month of May 2010 in the amount of \$230,943.74. Roll Call Vote: Unanimous approval.

12. Correspondence & Citizen Comments

City clerk reported email received from:

Ron Teke, 290 10th Street, expressing frustration with Marathon's request for additional payments for Fire/EMS service and suggested the city should research starting our own department.

Commissioner Schmidt stated she had received an email from William Packer requesting the city take action to order or reserve oil barriers.

Citizen Comments - None

The meeting adjourned at 12:10 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.