

# MINUTES

## KEY COLONY BEACH CITY COMMISSION REGULAR MEETING

Tuesday, August 11, 2009, 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, Building Official Edward Borysiewicz, Police Chief Robert Petrick and City Clerk Vickie Bollinger. Public: 1
2. Approval of Minutes: Regular Meeting July 21, 2009  
Stormwater Workshop with Utility Board July 23, 2009  
Approved as written.
3. Special Requests  
*Boat Lift – 12,000 Pound Elevator Lift – 165 13<sup>th</sup> Street, Walter Davis Jr., Owner*  
Building Official Borysiewicz stated that Mr. Davis received a permit for a 10,000 pound boat lift, but then changed it to a 12,000 pound lift during installation. Mr. Davis is seeking an after-the-fact approval for the 12,000 pound lift. The neighbors have no objection and all codes were followed and permits received.  
**Motion** – Moved by Vice-Mayor Zahn, seconded by Commissioner DeGraw, to approve the installation of a 12,000 pound elevator boat lift at 165 13<sup>th</sup> Street, Walter Davis Jr., Owner.  
Roll Call Vote: Unanimous approval.
4. Committee and Staff Reports – *Disaster Preparedness and Building Department were taken first. All other Committee and Staff Reports taken in order.*
  - A. Recreation Committee – Mayor Sutton said the commission had approved installation of a fence around the pickleball court and that project had been completed last weekend. He reported the resurfacing of the tennis court was put out for bids.
  - B. Beautification Committee – Commissioners recognized the Beautification Committee for their continued work and dedication to making the city beautiful.
  - C. Disaster Preparedness Committee – Building Official Borysiewicz stated supplies have been purchased and the generator was tested.
  - D. Planning & Zoning Committee – No report.
  - E. Utility Board – No report.
  - F. Police Department – *Bid Opening for Police Vehicle – 2000 Jeep Cherokee*  
Chief Petrick stated only one bid was received and it was less than the minimum bid set by the commission. He asked for direction from the commission. Mayor Sutton said they could sell the vehicle to the one bidder for the price he bid, even though it was less than the minimum or the vehicle could be advertised to see if there were any other interested parties. The Mayor suggested selling the vehicle to the one bidder to save cost of further advertising, reducing city costs for insurance, and not have it during hurricane season. Commissioners agreed that selling it to the only bidder was the best option.

Committee And Staff Reports – Police Department – continued

**Motion** – Moved by Mayor Sutton, seconded by Commissioner Schmidt, to sell the 2000 Jeep Cherokee to the only bidder for \$2,555. Roll Call Vote: Unanimous approval.

Chief Petrick reported on a newspaper article regarding open water anchoring. He said he had discussed the law with Attorney Wright who believes the city's ordinance is fine. The state law is aimed at live aboard boaters rather than cruising vessels. Vessels at anchor for more than forty-eight hours would be considered live aboard not cruising.

G. Building Department/Public Works – *Floodplain Management Annual Progress Report*

Building Official Borysiewicz stated the city is required to provide documents to FEMA regarding reports and records about floodplain management. This annual report documents what has been done in the last 12 months and what is planned for the next 12 months for floodplain management in the city. The report must be advertised and also approved by the city commission.

**Motion** – Moved by Commissioner DeGraw, seconded by Vice-Mayor Zahn, to approve the Floodplain Management Annual Progress Report and direct that the report be sent to FEMA. Roll Call Vote: Unanimous approval.

Building Official Borysiewicz reported that there were 3 turtle crawls in the city; two were false and one is still being watched for hatchlings. He said about 40 letters were sent to property owners requesting that landscaping be maintained. Many owners have called and corrected the situation, but 6-8 of them are chronic offenders and the properties are in bad condition. He asked the commission if the city should hire someone to clean the properties and bill the owner.

Commissioners and attorney discussed whether to have the properties maintained or ask the Code Enforcement Board to follow-up on the violations. Attorney Wright advised the commission to consider that if a contractor was hired, they would be going onto private property to work. The commission should declare that there is a threat to the public health and safety prior to hiring a contractor.

Code Board procedures were discussed and commissioners agreed that the Code Board should be brought into the process sooner and used more for these cases. It was also agreed that the LDR and code should be reviewed and changes made to allow the Code Board and city enforcement to take action earlier. This will help to speed enforcement and compliance to keep the city looking attractive.

**Motion** – Moved by Mayor Sutton, seconded by Commissioner DeGraw, to direct the Building Official to have the 6-8 properties cleaned up by a contractor and to bill the owners for the cost. Roll Call Vote: Unanimous approval.

*Building Official Borysiewicz left the meeting after his report.*

H. City Secretary-Treasurer – Commissioner Vorick reported the Check Detail Report and July Financial Statements were available for review. He said the general funds and sewer funds are in good financial condition.

I. City Clerk

City clerk stated all reimbursements from FEMA had been received for the storms in 2008 and the final close-out is scheduled for this week. She stated she will be out of the office next week and will return Monday, August 24.

5. Unfinished Business

*Increase of One Cent for Sales Tax to Fund Wastewater, Stormwater, and Reuse Water*

Mayor Sutton stated that the county had asked the city to support a voter referendum to increase the sales tax. The funds are to be used for wastewater, stormwater or reuse water projects. The sales tax will remain in effect for 20 years from the effective date. He said the plan provided at the previous commission meeting is the only option being discussed. The county has requested a letter of support that this issue be put on the ballot for referendum. He asked if any commissioner wanted to make a motion on this issue. No motion was made.

*FDOT Improvements at US 1 and Sadowski Causeway*

Mayor Sutton stated Attorney Wright sent a letter to FDOT asking that they be responsible for any changes to the sprinkler lines and the planter where the city sign is located. No response has been received. Commissioners agreed to wait for a response from FDOT before taking any action on the request that the city donate the land needed for the ramp to be ADA compliant.

*Stormwater Utility Draft Ordinance*

Mayor Sutton stated the draft ordinance had been revised as agreed at the stormwater workshop and requires residential properties to pay \$60 and commercial properties \$120 for stormwater next year. In the following fiscal year this payment will appear on the tax bill. Commissioners directed the city clerk to prepare this ordinance for first reading at the next commission meeting. They agreed that a letter will be sent along with the sewer bill explaining the stormwater utility and that a separate bill would be sent.

6. Items of Discussion/Approval

*Mittauer Contract for Stormwater Improvements for FY2009-2010*

Mayor Sutton stated that South Florida Water Management District may provide a grant for stormwater in the next fiscal year. The contract with Mittauer will provide for design, permitting, and construction oversight for injection wells and drains on the west side of the island. The Mayor reviewed the cost of the contract for 4-6 wells which would total \$31,000. In response to a question about the current project on 1<sup>st</sup>-5<sup>th</sup> Streets, the Mayor recommended the city pay to have 2.5 feet of pipe and rock installed on each driveway where needed for added safety for drivers. This was not in the original scope of the work, but the CDBG grant had money available to complete this. Commissioners discussed the engineering design, possible need for this work in future projects, cost of about \$495 per driveway, engineers should have foreseen this problem, and desire for safety of residents and visitors.

**Motion** – Moved by Commissioner Schmidt, seconded by Commissioner DeGraw, to extend the pipe under the driveways by 2.5 feet on each side in place of the swale. Roll Call Vote: Unanimous approval.

In response to a question, the Mayor said that the cost per well for engineering of \$4,000 is about the same as it is for the current project. Mittauer was hired for the current project because they helped apply for and get the CDBG grant.

**Motion** – Moved by Commissioner DeGraw, seconded by Vice-Mayor Zahn, to approve the contract with Mittauer & Associates, Inc. for design, permitting, and construction oversight on the stormwater system at a cost of \$4,000 for each well, \$6,000 for permitting, and \$1,000 for construction oversight and authorize the mayor to sign for the city.

Commissioner Vorick asked that the motion be amended to include a cap of \$31,000 for this contract expense. Commissioners agreed.

*Items of Discussion/Approval - continued*

**Amended Motion** - Moved by Commissioner DeGraw, seconded by Vice-Mayor Zahn, to approve the contract with Mittauer & Associates, Inc. for design, permitting, and construction oversight on the stormwater system at a cost of \$4,000 for each well, \$6,000 for permitting, and \$1,000 for construction oversight, but a total of no more than \$31,000 and authorize the mayor to sign for the city. Roll Call Vote: Unanimous approval.

*Establishing a Swimming/No Boating Area along the Shoreline – Commissioner Vorick*

Commissioner Vorick stated that property owners along the ocean front are concerned about swimmers along the shore. He recommends establishing a swimming area with no boating allowed for public safety.

Commissioners discussed possible signage, boater education to stay out of the area, how to enforce these rules, lack of any report of injuries, the state statutes regarding boat regulations and designated swimming areas, and the role of Florida Fish and Wildlife Commission.

Attorney Wright said the commission should consider that the waterfront properties are private and those owners may apply to the state for a designated swimming area. Since there are no public beaches the city could not justify a designated swimming area. This may not be a local government issue, but a private one.

Commissioners agreed no action would be taken by the city.

*Trauma Star Helicopter – Commissioner Schmidt*

Commissioner Schmidt stated her report was informational. The county now has two helicopters for medical emergencies; one is a private company, the other Trauma Star owned by the county government. Hospitals will call the private company for transport unless instructed otherwise and residents will be responsible for the cost. The issue is very political, but voters did approve keeping Trauma Star which does more than transport patients between hospitals. Commissioners discussed the political situation and encourage citizens to support Trauma Star which is lower cost alternative to the private company.

7. City Administrator Items For Discussion/Approval

*Update on East Side Stormwater Project*

Mayor Sutton reported the stormwater project is progressing well and may be completed ahead of schedule. The city has permits from DEP to move the water lines and the contractor is coordinating with FKAA to move the water lines this week. The project completion is estimated for mid-September.

Mayor Sutton stated that he received an email from Glen Boe's office regarding the dredging project. Last year the permit was put on hold to resolve the issue of mitigation. The city offered to install markers in Shelter Bay to protect the seagrass which would have been paid by the County Boating Improvement Fund. Now it has been long enough that the ACOE wants a new benthic survey and we are awaiting a response about mitigation. The Mayor said he would continue to follow-up on this project.

Mayor Sutton said that before the budget workshops, the City of Marathon said they were not going to budget any money for fire hydrants. However, they may be changing their minds. The Assistant Fire Marshall has informed the city of the possible change and the city must decide if we want to change our budget. Hydrants could be installed on 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 7<sup>th</sup> Streets at an estimated cost per hydrant of \$5,500. Commissioners agreed this is a safety issue and that Infrastructure Funds could be used for this purpose. Next fiscal year revenues are estimated to exceed expenditures, so adding this expense would have no effect on the tax rate. Commissioners directed the city clerk to include \$25,000 for fire hydrants on the budget worksheets to be presented at the first public hearing on September 3, 2009.

8. Ordinances and Resolutions

*Resolution 2009-02 Miscellaneous Fee Schedule*

Mayor Sutton stated the only change was the addition of the fee for the Administrative Variance for Sheds in the amount of \$50.00.

**Motion** – Moved by Commissioner Vorick, seconded by Vice-Mayor Zahn, to adopt Resolution 2009-02 Miscellaneous Fee Schedule. Roll Call Vote: Unanimous approval.

9. Commissioners' Reports or Comments

Commissioner Vorick suggested that the city administrator ask FKEC for notification of scheduled power outages before they happen. This could be a safety issue for citizens.

Commissioner Schmidt said that Trauma Star was for all residents of the Keys not just property owners, but long term renters also.

Vice-Mayor Zahn stated she had attended a Florida Keys Scenic Highway meeting and recommends the city become a supporting member of the organization for a cost of \$50.00. All commissioners agreed this was a worthwhile project to help increase tourism and agreed to become a member.

Mayor Sutton stated Monroe County will hold a commission meeting tomorrow to discuss support for FIRM to fight the rate increase. He encouraged citizens to go and show community support for this effort.

10. City Attorney Report – Thomas D. Wright

Attorney Wright stated he reviewed a copy of an injunction from a lawsuit between owners of a duplex. The owners could not agree on party wall issues and had made several attempts to involve the city in this private matter. He said that if more of these disputes happen, he may recommend at some time in the future that the city pass an ordinance to deal with these party wall agreements.

Attorney Wright reported that real estate sale prices dropped 32% and the number of transactions dropped 27% since last year. This may be an indication of further decreases in assessed values in the city.

11. Approval of Warrant 0709 Expenses for the Month of July

**Motion** - Moved by Commissioner Vorick, seconded by Commissioner DeGraw, to approve Warrant 0709 for the Month of July 2009 in the amount of \$332,487.61. Roll Call Vote: Unanimous approval.

12. Correspondence & Citizen Comments

City clerk stated: One letter was received from S. Colleen Repetto, Executive Director of FIRM thanking the commission for the pledge of \$2,200 to in fighting the proposed windstorm insurance rate increase. One email from Tom Tucker requesting additional boat patrols on the east side of the island to enforce no wake restrictions.

Citizen Comments - None

The meeting adjourned at 11:20 a.m.

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Vickie L. Bollinger, City Clerk