

# MINUTES

## KEY COLONY BEACH CITY COMMISSION REGULAR MEETING

Thursday, September 24, 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, Police Chief Robert Petrick, Building Official Edward Borysiewicz and City Clerk Vickie Bollinger. Public: 7
  
2. Approval of Minutes:
  - Regular Meeting September 10, 2009
  - Final Budget Public Hearing September 10, 2009
  - Special Meeting Golf Course September 17, 2009Approved as written.
  
3. Special Requests – *taken during Committee and Staff Reports – Building Department/Public Works*

*Boat Lift – 48,000 Pounds Cradle Lift – 235 15<sup>th</sup> Circle, Larry Dunigan, Owner*

Building Official Borysiewicz stated that the owner applied to replace an existing 20,000 pound boat lift at the end of a T-dock with a 48,000 pound cradle lift. The new lift would be in the same location as the existing one. He said one neighbor had provided a letter stating he had no objection and the other neighbor had provided a verbal “ok” to the contractor. The contractor stated that there had been a misunderstanding. Mr. Dunigan is requesting a 40,000 pound lift with 8 pilings, not a 48,000 pound lift. Mayor Sutton asked that in the future all neighbor comments be in writing and made a part of the building department records. Commissioner DeGraw asked if the eight posts were allowed by city code. Attorney Wright and Building Official Borysiewicz reviewed city code relating to mooring pilings and lifts. Attorney Wright advised that there was no prohibition to the commission approving this lift. The difference is in the definition of mooring piles as opposed to piles for a lift. The contractor said that Mr. Dunigan had a 32 foot Contender boat and he wanted the bigger lift for extra safety due to the exposure along Vaca Cut.

**Motion** – Moved by Commissioner Schmidt, seconded by Vice-Mayor Zahn, to approve installation of a 40,000 pound cradle boat lift at 235 15<sup>th</sup> Circle, Larry Dunigan, Owner. Roll Call Vote: Unanimous approval.
  
4. Committee and Staff Reports
  - A. Recreation Committee – No report.
  
  - 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 Robert Petrick reported 10 vehicles between 300 and 500 10<sup>th</sup> Street had one or two tires punctured with a knife during the overnight hours on Tuesday. He said the Sheriff’s Office reported a similar event behind Walgreens last month. The two departments will work together to find the perpetrators.

Building Official Borysiewicz asked that the Boat Lift request be heard at this time.

Mayor Sutton introduced Brian Schmidt who had asked to address the commission.

Mr. Schmidt stated he was a life long resident and property owner in the Keys and he wanted to set the record straight about the events at the August 27 commission meeting regarding the vacation rental issue. He said there had been a complaint of overcrowding at a rental unit on 4<sup>th</sup> Street managed by his company. He had listened to the recording of the meeting and said that he had discussed the events with his agent, Barbara McKee, who was named at the meeting on August 27. He said Ms. McKee said she had visited the property twice that week and called daily; resulting in the renters stating they felt harassed. He said all parties had tried to resolve the complaint. Mr. Schmidt stated he needed to protect the reputation of his company and agent. In response to questions from Mr. Schmidt, Police Chief Petrick stated that another officer handled this complaint, there was no overcrowding confirmed by the officer, he called Ms. McKee twice and she had responded in a timely manner to both calls, he did not believe Ms. McKee’s behavior “derelict” and did not use that word, and he had no list and no recollections of violations given to Ms. McKee.

Commissioner Vorick stressed that any property manager should meet at the property with any city officer that calls about a complaint. This is emphasized at the property manager/local contact classes given by the city clerk. He said the city should quickly handle these situations and enforce city rules. He suggested that all a procedure be established and it be followed to resolve any rental complaint; that all parties need to work together.

Commissioner Schmidt said that may be where the misunderstanding occurred since the city did not verify Ms. McKee had visited the property.

Chief Petrick responded that he did not ask Ms. McKee to meet an officer at the property, but he did suggest she visit. The Chief stated he was satisfied with Ms. McKee’s responses.

In response to questions from Mr. Schmidt, Building Official Borysiewicz stated he was not involved in this incident, but he has had other complaints at this property and others managed by Ms. McKee. He said when she was called she was responsive, came to the property when asked, and no violations were ever written. The only possible violation was for garbage cans.

In response to a question from Mr. Schmidt, City Clerk stated 481 10<sup>th</sup> Street was not owned or managed by Mr. Schmidt’s company.

Mr. Schmidt stated he will work with the city in good faith to be sure rental properties his company manages comply with city rules. He asked that the questions and answers be made a part of the record: there were no violations and that Ms. McKee was responsive and not derelict. He thanked the commission for their time.

Commissioner Schmidt thanked Mr. Schmidt for coming and said there had been a misunderstanding about the code and requirements for the property manager to visit the property. She apologized and said that she had used poor judgment in naming Ms. McKee. She said she had learned from this experience.

Mayor Sutton thanked Mr. Schmidt.

Commissioners agreed to allow Steve Flood to address this issue.

Mr. Flood, 241 4<sup>th</sup> Street, said he lived next door to this property and that an email Ms. McKee forwarded to the city clerk, and therefore a public record, blamed his wife, Marie, for the problems. He said Ms. Flood was not in the city at the time of this incident. He said residents

should not be disparaged when they complain. He reviewed the events that led him to call Commissioner Vorick with his complaint.

Commissioners and Mr. Flood discussed the events leading up to the complaint of overcrowding plus another complaint about tents at this same property in July. Mr. Flood said he contacted police and code officers from Sunday through Wednesday. The renters came into compliance on Thursday. Mr. Flood stated his complaints should be handled and he has a right to enjoy his property. He said the city's policy is to get compliance with code, not enforcement.

Mayor Sutton agreed that all complaints should be handled quickly and fairly, all parties have learned from this experience, and everyone needs to work together. He said that over the last few years there have been few violations or problems, that things aren't perfect, but we should keep working together to make it better.

Chief Petrick advised that complaints should be made to the Police Department at the time of the violation. He said this situation would have concluded differently if the police were called at the time the renters were first occupying the property.

G. Building Department/Public Works – Building Official Borysiewicz reported that garbage tickets were given out this week and would be today also. He said that Notices to Appear before the Code Enforcement Board had been sent to owners who had not maintained their landscaping. Many calls have been received and most properties will be in compliance by the time the Board meets.

In response to a question from Vice-Mayor Zahn, Mayor Sutton stated that trimming mangroves must be done in compliance with DEP guidelines, including that trimming should be done once a year during October or November and only about 25% can be trimmed. DEP staff has been observed measuring the mangroves this summer. The mangroves will be trimmed per DEP guidelines in the next month or two.

H. City Secretary-Treasurer – Commissioner Vorick stated the city is in good financial condition and that the commissioners should consider what can be done if no one submits a proposal to operate the golf course.

I. City Clerk – City clerk stated approximately two-thirds of the business tax renewals have been completed, many are in process, and that they are to be completed by September 30. Sewer billing will be mailed Friday using a new billing program. She expressed appreciation to Utility Clerk Pat Britske, Assistant Lyn Paterson and Assistant Lois Krause who are hard-working and dedicated to the city and citizens. She said all three are valued employees and she was honored to work with them.

## 5. Unfinished Business

### *Golf Course Operations*

Mayor Sutton stated the golf course lease was terminated last Thursday and the financial settlement completed. The golf course is being run on the honor system and Mayor Sutton said he gets supplies out every morning, puts things away and collects the money every night. He said the ad requesting proposals appeared in last Saturday's newspaper and that proposals are due on September 30 by 10 a.m. Copies will be made for commissioners.

Mayor Sutton suggested a workshop meeting on Tuesday, October 6, 2009 at 9:30 a.m. to review and discuss the proposals. Commissioners agreed.

Mayor Sutton stated that one of the conditions in the lease termination was that Ms. Spano was to remove her personal belongings from the pro shop and public works buildings immediately. He said that he had made several attempts to arrange with Ms. Spano for this

to happen; she had made promises, but none had been kept; and that now she had not returned his calls.

Attorney Wright advised that the city try to contact Ms. Spano and give her 24 hours to remove her things, and if not removed, the city could send them to an impound lot. He also suggested that the city contact her attorney. Commissioners agreed to this plan.

6. Items of Discussion/Approval

*Approval for Park Bench in Gazebo in Memory of Judy Simpson*

Mayor Sutton said that Jim Schmidt had contacted him asking if he could purchase a bench to be placed in the gazebo in memory of Judy Simpson. He said Assistant to the Building Official John Thomson was asked for an estimated cost to build another bench. All commissioners approved this request.

7. City Administrator Items For Discussion/Approval

*Update on East Side Stormwater Project*

Mayor Sutton reported the stormwater project is completed and that there is \$10,300 of grant money still available. He said that he and Building Official Borysiewicz noticed that during a hard rain that some of the pea rock in the swales is washed into the pipes. This will eventually fill the pipe making them ineffective. Also, the grates are made from steel and are rusting. Mayor Sutton said that BAT Construction has agreed to put grates on the pipes in the swales to stop the pea rock from getting in and to wire brush and paint the grates for \$10,300. This will be done in the next two weeks and makes full use of all the money from the grant. After this is done, the CDBG staff will come to inspect and finish the paperwork.

Norman Walsh asked about landscape debris clogging the grates. Building Official Borysiewicz stated that the grates are inspected weekly and the wells monthly, but that it is hoped that property owners will assist in keeping the grates clear.

Mayor Sutton stated he had received a call from Orion Bank stating that they are being audited by the federal government. The bank did not comply with regulations regarding filing of paperwork in a timely fashion. He said the bank manager assured him the city's funds are still fully insured, the bank will be operating as usual, and this matter will be resolved by the first of the year.

8. Ordinances and Resolutions

*2<sup>nd</sup> Reading Ordinance 412-2009 Adding Chapter 15 Stormwater Utility System*

Attorney read by title only Ordinance 412-2009.

**Motion** – Moved by Commissioner DeGraw, seconded by Commissioner Schmidt, to adopt Ordinance 412-2009 Adding Chapter 15 Stormwater Utility System. Roll Call Vote: Unanimous approval.

9. Commissioners' Reports or Comments

Commissioner DeGraw stated that the brick path from the bike path to the monument was completed. He thanked the Community Association for funding this project. He said the family was also appreciative and that a bench will be added soon.

Commissioner Schmidt stated Vice-Mayor Zahn would lead the Relay for Life team and that if citizens noticed an increase in mosquitoes they should call the Mosquito Control Board. She stated concern over the Animal and Fowl chapter in our ordinances and requested this be reviewed. She suggested that the ordinances should specifically prohibit exotic species as pets. Mayor Sutton said that this could be added as an agenda item for the next meeting.

Vice-Mayor Zahn stated she would lead the Relay for Life team and that the Community Association had agreed to help.

10. City Attorney Report – Thomas D. Wright

Attorney Wright stated that the city received a letter regarding the incident involving the swale. He said the letter was from the attorney representing the claimant stating he had withdrawn. Attorney Wright stated that in his experience, the case was at an end. Therefore, there is no pending or threatened litigation.

11. Correspondence & Citizen Comments

City Clerk stated two emails were received from John Kearns, 48110<sup>th</sup> Street. The first email asked what happens if a commissioner moves out of the city during their term. He also suggested the commissioners do not give themselves a raise or refuse payment next fiscal year due to the economic condition. The second email suggested that the Police Report should not be biased and only discuss problems created by renters. He said residents create as many problems and the entire truth should be reported.

Mayor Sutton stated that he had responded to Mr. Kearns saying that a commissioner must live in the city. Regarding the stipend, the Mayor said that commissioners had already agreed not to take an increase this year which is shown in the budget recently approved.

Chief Petrick stated that he believed the police issue was related to the noise complaint that was improperly handled by the Sheriff's Office dispatch. He said this is a training issue for dispatchers. The occupants were the owner and guests, not renters, and occurred during a holiday weekend. In response to a question, Chief Petrick said an officer did respond to the incident involving the golf cart. By the time the officer arrived, the golf cart was gone. However, the officer did follow-up to try to ensure it did not happen again.

Attorney Wright stated that a commissioner did not have to be a full time resident of the city, but did have to be an elector in Key Colony Beach.

Citizen Comments

Lyn Mapes, 13<sup>th</sup> Street, thanked the Mayor for all his efforts to keep the canal behind his home open and navigable. Mangroves are encroaching and he said the Mayor pursued trimming them with everyone all the way to the state level including Rep. Ron Saunders. He said the Mayor did everything possible to resolve the issue and he appreciated all the hard work even though the mangroves will not be trimmed.

Mayor Sutton thanked Mr. Mapes and said he did try, but DEP staff did not agree with the city's position and he was unable to convince them to change their position.

The meeting adjourned at 10:50 a.m.

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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.