

# MINUTES

## KEY COLONY BEACH CITY COMMISSION REGULAR MEETING

Thursday, August 13, 2015 9:30 a.m.

City Hall Auditorium

1. **Call to Order, Pledge of Allegiance, Prayer, and Roll Call:** The Regular Meeting of the Key Colony Beach City Commission was called to order by Mayor Ellis at 9:30 a.m. followed by the Pledge of Allegiance and Prayer.

*Present:* Mayor Jerry Ellis, Vice-Mayor Ed Wovas, Commissioner Geraldine Zahn, Secretary Treasurer Jim Pettorini, Commissioner Ron Sutton (by phone). *Also Present:* Attorney Tom Wright, City Clerk Cathy Henninger, Police Chief Kris DiGiovanni, Fire Chief John Johnson and Building Official Ed Borysiewicz. *Public:* 11

Commissioner Sutton requested to participate and vote by phone. He is away due to a required medical procedure. By consensus the Commission authorized Commissioner Sutton to attend and vote by phone.

2. **Approval of Minutes:** Commission Meeting July 9, 2015 Approved as submitted.

Mayor Ellis stated that Representative Raschein will be attending the meeting and the schedule will be adjusted accordingly.

3. **Special Request:** None.

4. **Committee and Staff Reports:**

**A. Marathon Fire/EMS** – Chief Johnson stated there were 7 calls to Key Colony Beach in the past two weeks. They consisted of 2 medical calls; 1 alarm call; 2 public assistance calls and 2 car accidents. He reminded everyone of the tropical storm season and to be prepared.

**B. Recreation Committee** – No report.

**C. Beautification Committee** – Mayor Ellis stated that work will begin on the Waterfront Park area shortly. He stated pipes have been ordered for the drainage required.

**D. Disaster Preparedness Committee** – Ed reported the City has the necessary supplies on hand if needed.

**E. Planning & Zoning Committee** – Cathy mentioned that the next meeting is scheduled for September 16<sup>th</sup> at 9:30 a.m. The Committee is in need of another member or two. Mayor Ellis stated that his priority is finding full time residents who would be willing to serve on this Committee.

**F. Utility Board** – Chairman Teague stated their next meeting is Monday, August 17<sup>th</sup> at 9:30.

**G. Police Department** – Chief DiGiovanni reported on 5 cases: a battery case, retail theft from Circle K; burglary to a vehicle (tools) at Sparky's ; fire at the back door of a home; 8/9<sup>th</sup> Street Canal a floating dock reported stolen, returned to rightful owner. Officers assisted with 6 medical/alarm calls. 31 miscellaneous calls were handled 6 of which were noise complaints; some of the other calls are: verbal warnings to canal snorkelers; verbal warnings in parks (2); suspicious persons or situations (4); palm fronds sparking the power lines at the Breezes; Turtle Cay-5 Cuban refugees landed; dog at large; and resident(s) assistance (8). 41 citations were issued in the past two weeks for vehicle parking issues (7); 22 trailers on the right of way; 8 for 2 trailers on one lot; 2 for parking without a permit, 1 for a loose dog and 1 barking dog. Officers are participating in the Labor Day Impaired Driving Crackdown from August 21 to September 7, 2015. The Commission authorized the placing of the Drive Sober or Get Pulled Over Banner at the

top of the Causeway. The watch order program; daily business checks; traffic enforcement, bicycle and vehicle patrol continue as well.

**H. Building and Public Works** –Ed Borysiewicz stated the new construction at the Breezes is underway. All permits are in order and monitoring of the work is ongoing. A new building permit is anticipated for a property on 13<sup>th</sup> Street. 1<sup>st</sup> Street has a new home under construction. A successful turtle release of 43 hatchlings occurred at Casa Clara this past Friday evening. All 43 hatchlings headed toward the water as hoped. Mangrove trimming will continue on the Causeway shortly. Marathon generously loaned equipment to the City for a portion of the project, the balance will be completed with the City mow trim. Ed requested that Attorney Wright review with him the garbage can language within Chapter 7 of the Ordinances for some possible updates. Ed provided his annual progress report regarding flood plain management, Local Mitigation Strategy (LMS) within the City of Key Colony Beach. Due to his diligence with this program the City and all its residents receive a 10% discount on their property insurance.

**Motion:** Made by Commissioner Zahn, seconded by Commissioner Pettorini approving the annual progress report on the Local Mitigation Strategy for Key Colony Beach.

**On the Motion:** Unanimous approval by consent.

Mobilitie – right of way project- This is a public utility company, telecommunications infrastructure company looking to install a 30-35 ft. tall utility pole with an attached small panel antenna in a public right of way. Mayor Ellis tabled this discussion until additional information is gathered.

**I City Secretary/Treasurer** –Commissioner Pettorini stated that the financials of the City remain in good shape. He stated going forward he will be meeting with the accountant and the city clerk for some additional information to begin tracking trends and to offer an objective review with what if any corrections need to be made. He acknowledged the general fund does not generate a large amount of income and that that was a consideration in the increases to fees during the workshops.

**Mayor Ellis introduced Representative Raschein who joined the meeting at this point.**

Mayor Ellis stated given the serious nature of this portion of the meeting he will read a prepared statement.

*Key Colony Beach currently has 154 dwelling units. Our close review of the units is that there might be 119 units that could be developed over the next 8 years.*

*To hold our city harmless we need the 154 units even knowing that 119 or less might be all that would be developed, to do less would put us (the City of Key Colony Beach) in harms way.*

*The MOU agreement would make us a partner to a plan that has no guarantee but for certain would put us (the City of Key Colony Beach) in the middle of a **Takings Lawsuit** as co-partners with the State. We would have little to gain but a lot to lose.*

*At the end of 8 eight years it will be a moot point as no development will be permitted.*

*If **Florida Statute 380.0552 Florida Keys Area of Critical Concern** is enacted by the Legislature, there will be funds available to purchase privately owned parcels. Should it pass then the path we are suggesting will not put our City in harms way.*

*We are not opposed to the State's plan to control development, but there must be flexibility and common sense to recognize when no threat exists to positive growth. Our full time residents are on the decline in spite of our growth development. You might not understand this **not** knowing our city, but it is true.*

*We have been left to grow or not grow in the absence of **ROGO** and our **Parcel Owners** have had no reason to believe they could not develop their land. With this in mind I feel we have no authority to take these parcels off line to development.*

*So in summary, we cannot join the State of Florida in a partnership that would certainly cause bankruptcy. The remaining 8 eight year plan is a State Plan and the State will have to deal with the outcome.*

*Mayor: Jerry Ellis*

Representative Raschien stated that the pamphlet titles the Florida Keys Environmental Stewardship Act of 2016 is a work in progress. She stated the big picture is how the building out of the Keys impacts the area of critical concern. She stated she is committed to a solution that works for each area from Key West to Ocean Reef. She acknowledged each City has their own unique situation and circumstances. She confirmed the meetings held in cities throughout the Keys were organized mainly by the DEO agency to speak with municipalities to get their buy in. She did not see it as a purposeful snub of the City of Key Colony Beach that they did not reach out or stop here. She proposed to host a conference call on Monday afternoon (August 17<sup>th</sup>) with the DEO, Bill Wilson and Bill Killingsworth and the Commission and the consultants if the Commission chose. She reiterated that she believes there is a solution and she is committed to it. She acknowledged that Key Colony Beach does warrant special consideration. Mayor Ellis stated the City needs to allow the DEO to state their case. He recommends tabling the discussion and see what can be worked out. Vice-Mayor Wovas asked who would be attending the meeting. He asked would Jessie Pannuchi be in attendance at the meeting. Representative Raschein stated her staff was working on the time and attendees and it was anticipated that he would be involved if available. Vice-Mayor Wovas stated his concern over the agreement of 8/27/12 carries very specific language, language that states everyone who signs alleviates the State of financial liability. He states it was written that way by the State. The driver for this MOU was hurricane evacuation with the standard being 24 hour full evacuation of the Keys. The Key Colony Beach Comprehensive Plan of 1991 reflecting full build out predates the 2012 MOU and it is recognized that Key Colony Beach for a CAT I met the 13 hour evacuation and for a CAT III 17 hour evacuation. Vice-Mayor Wovas stated for the State to suggest the MOU was tied to evacuation times is hogwash; the City of Key Colony Beach already meets the standard. He stated April 29, 2013 Pumpkin Key was made exempt from ROGO. The DEO has an agreement not to cooperate or resolve or work with made an exception for Pumpkin Key. Vice-Mayor Wovas state he is completely against this. He reminded Representative Raschein that the City hired consultants at an expense of \$200,000.00 trying to unwind ourselves from this with very little cooperation from the DEO. The DEO had agreed to give the City an agreement, which they never gave the City. Mr. Bill Killingsworth implied we need to find a way to cooperate that we have been given grant funds. He reminded Representative Raschein that she previously commented that there have been several good meetings and in 12/2014 encouraged the City to stay in the MOU. In 1/2015

the City received a vacant lot pilot with was fraught with problems. The City responded to that pilot proposal and did not hear back from the DEO. Vice-Mayor Wovas stated the only communication from Mr. Pannuchi was a note dated 6/2015 stating let's keep talking. Vice-Mayor Wovas stated he is opposed to this MOU and the DEO has not been forthright to the City and that it has been a one way conversation. Vice-Mayor Wovas stated in the spirit of cooperation he will support the Mayor, but after Monday without a positive outcome he will call for a vote to withdraw at the next meeting. Representative Raschein stated that it is a liability issue for all of the Keys, Mayor Kolhage and many others. Her recommendation is to have everyone put their thoughts together for Monday's meeting. She will coordinate the call in number and schedule the meeting for late afternoon. The legislature will be in session on the redistricting of the congressional maps at noon that day. Mayor Ellis stated we owe it to each other to work this out. He will plan to attend the meeting in person. Commissioner Pettorini stated he views the DEO has run amuck and he feels Representative Raschein should be an advocate for the City. Commissioner Zahn stated at the time of the signing of the MOU the request was made that everyone of Monroe County should be cooperative and on board. In that spirit the City Commission signed the agreement. She questioned the large amount of commercial property in development being allowed now defies logic. Vice-Mayor Wovas asked if the Commissioners will be allowed to participate or just listen by phone. Representative Raschein stated as long as everyone takes turns participation should be allowed. Vice-Mayor Wovas asked Representative Raschein to encourage the DEO to put the meat on the bone and to step up her relationship. Mayor Ellis thanked Representative Raschein for attending and for coordination of the call. Representative Raschein reminded the Commission that we all know the history and that we should concentrate on moving forward. Attorney Wright stated that he is surprised and distraught over the situation. He acknowledged the City has never been under ROGO and sees this as incredibly unfair. He stated the States intrusive and oppressive over-regulation of this City is the most he has seen in 25 years as city attorney. He stated that he and then Mayor Zahn traveled to Tallahassee to work on this issue of vital importance to no resolution. Representative Raschein stated we should stay targeted and focus on a solution. She stated she will contact the City with the conference call in number and time as soon as they are set.

**J. City Clerk-** Cathy Henninger stated there is a property manager class scheduled for September 23<sup>rd</sup> at 2:30 p.m. \$2,700.00 was collected in July on boat trailer parking and \$2,800.00 from paid code citations. The commercial, vacation and long term inspections are underway as well as the administrative support for those licenses.

5 **Unfinished Business:** None.

6. **Items for Discussion/Approval:**

A. WWTP-2015 Vice-Mayor Wovas – The Utility Board and the Commission are advancing toward the improvements needed at the plant. The joint meeting of the Utility Board and the Commission reviewed the options and approved various improvement projects as proposed by the engineering firm. Vice-Mayor Wovas stated the Commission now has the option of approving the signing of the contract proposal from Mittauer Engineering at a cost of \$500,000.00. Vice-Mayor Wovas stated his recommendation is to get the loan application filed with DEP as soon as possible. Treasurer DeNeale of the Utility Board has been in contact with Tim Banks of the DEP to clarify what is needed and when. Treasurer DeNeale did not see where the Mittauer document included their assistance with the loan application. Vice-Mayor Wovas stated the contract does cover the preparation of the revolving loan application, which will include planning, permitting and construction expenses. In addition, the contract covers the engineering design and permit application, topographic survey,

geotechnical investigation, construction bidding services, construction administrative services and start up assistance. Attorney Wright was asked to review the contract prior to signature.

**Motion:** Made by Vice-Mayor Wovas, seconded by Commissioner Zahn to authorize Mayor Ellis to sign the contract with Mittauer Engineering for up to \$500,000.00.

**On the Motion:** Unanimous approval by consent.

Vice-Mayor Wovas stated that once this portion is underway his role will diminish and that he and Jim Teague have discussed this transition.

#### **7. City Administrator Items for Discussion/Approval**

Trailer Parking Update and funding- Mayor Ellis stated the trailer parking area is in need of additional trees and irrigation to complete the project. \$4,000.00 is needed to purchase trees and purchase and install irrigation (RO water). This funding can be allocated from infrastructure funds.

**Motion:** Made by Vice-Mayor Wovas, seconded by Commissioner Sutton to authorize an additional expenditure of up to \$4,000.00 from infrastructure funds to purchase trees and irrigation for the trailer parking area.

**On the Motion:** Unanimous approval by consent.

Commissioner Zahn asked if there was reason that the combination lock could be reinstalled on one of the gates to the lot. Mayor Ellis stated he wanted control of the coming and going within the lot which is why a key is required. He explained the design of the lot is not set for one way in and would require that both gates be locked in the same manner. He stated if the key system does not work it can be looked at for other solutions.

B. Consultants update- addressed above.

#### **8. Ordinances and Resolutions-**

##### **First Reading Ordinance 437-2015 Use of Fireworks.**

Attorney Wright read Ordinance 437-2015 by title only.

**Motion:** Made by Commissioner Zahn and seconded by Commissioner Pettorini to approve Ordinance 437-2015 Use of Fireworks.

**On the Motion:** Unanimous approval by consent.

##### **First Reading Ordinance 446-2015 – Administrative Fee**

Attorney Wright read Ordinance 446-2015 by title only.

**Motion:** Made by Commissioner Sutton, seconded by Vice-Mayor Wovas to approve Ordinance 446-2015 Administrative Fee.

**On the Motion:** Unanimous approval by consent.

##### **First Reading Ordinance 447-2015 Utility Late Fee Procedures**

Attorney Wright read Ordinance 447-2015 Utility Late Fee Procedure by title only.

**Motion:** Made by Commissioner Pettorini, seconded by Vice-Mayor Wovas to approve Ordinance 447-2015 Utility Fee Late Procedure.

**On the Motion:** Unanimous approval by consent.

**9. Warrant for July 2015** – Warrant amount for the month of July is \$328,667.00. Mayor Ellis called for approval of the warrant.

**Motion:** Made by Commissioner Zahn, seconded by Commissioner Pettorini to approve the warrant for July in the amount of \$328,667.00.

**On the Motion:** Unanimous approval by consent.

**10. Commissioner Reports & Comments:** Commissioner Zahn expressed to Commissioner Sutton the best wishes of everyone for a successful surgery and a speedy recovery. Vice-

Mayor Wovas requested that the Commission be in consensus going into the meeting with the DEO on Monday of recognition of all of our building rights. All the Commissioners by consent agreed.

11. **City Attorney Report:** No report.

11. **Correspondence and Citizen Comments:** John DeNeale, 10<sup>th</sup> Street suggested the Commission have the # of permits issued for new builds on average over the last years for the meeting on Monday. Mayor Ellis stated that the consultants have all of that data. Cathy reported the City received emails from Tom Tucker, 1<sup>st</sup> Street (Code Board meeting notifications & maintenance of City property near the tennis courts); Mr. Wissman, visitor complimenting Joey Boucher and the police officer ( sinking vessel); Greg Burke, 8<sup>th</sup> Street (noise level from sewer plant); Sherwood Danoff & Dee Sleight opposing new business license fees; Mrs. Sims, 10<sup>th</sup> Street (clarification on fish carcass disposal); Mrs. Sampson, 11<sup>th</sup> Street & a Property Manager garbage citation complaint.

Meeting adjourned at 11:10.

Respectfully submitted,



Cathy Henninger, City Clerk

**Note: These minutes are unofficial and have not been formally approved by the Commission. The approval will be at the next scheduled Commission meeting.**