

**MINUTES**  
KEY COLONY BEACH  
CITY COMMISSION REGULAR MEETING  
Thursday December 8, 2016, 10:00 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 Jerry Ellis at 9:30 A.M. followed by the Pledge of Allegiance and Prayer.

*Present:* Mayor Jerry Ellis, Vice Mayor Ron Sutton, Secretary/Treasurer Jim Pettorini, Commissioner John DeNeale and Commissioner April Tracy. *Also Present:* City Clerk Kathryn McCullough, City Attorney Thomas Wright, Building Official Ed Borysiewicz, Assistant Building Official Steve Britske and Police Chief DiGiovanni, Police Sergeant Lindsay and Assistant Fire Chief Eric Dunford. Excused: Chief John Johnson. Public -22

2. **Approval of Minutes:**

**MOTION:** Motion made by Mayor Ellis, seconded by Commissioner Tracy, to approve the regular meeting minutes of November 10, 2016 and the public hearing minutes of November 10, 2016 and November 22, 2016.

**ON THE MOTION:** Unanimous approval.

3. **Agenda Additions, Changes, Deletions:** Commissioner DeNeale requested County Commissioner George Neugent be added to the agenda to discuss the Tourist Development Council. Mayor Ellis requested the citizens comments from Casa Clara residents and representatives be heard at the conclusion of the Special Requests to allow them to leave the meeting, if they wish, after their comments. Both requests were approved by the Commissioners.

4. **Special Requests:**

A. Request Tiki Hut fee waiver for the KCBCA Coconut Crawl 1/28/2017. Pam Stringfellow announced the Coconut Crawl is a new event for the Community Association. Similar to a poker run, but walking rather than driving, the Coconut Crawl will be contained entirely on Key Colony Beach. Registration for the event will be at the Tiki Hut from 2:00 pm to 5:00 pm.

**MOTION:** Motion made by Commissioner Pettorini, seconded by Commissioner DeNeale, to waive the Tiki Hut fee on 01/28/2016 for the KCBCA Coconut Crawl.

**ON THE MOTION:** Unanimous approval.

B. Request Marble Hall Fee Waiver & Use of Outside Tent for BPW Keysino Night on 01/28/2017. Kristen Brenner requested the fee waiver in addition to allowing a tent at the door, on the Sadowski Causeway side of Marble Hall, to provide seating for those not gambling. City Attorney Wright expressed several concerns including tripping on uneven grass surfaces and if windy the tent blowing over and injuring someone. Chief DiGiovanni expressed concerns involving noise. He suggested using the Waterfront Park tiki and benches in that area for additional seating.

**MOTION:** Motion made by Vice Mayor Sutton, seconded by Commissioner DeNeale, to waive the Marble Hall fee on 01/28/2017 BPW Keysino Night and to allow the use of Waterfront Park tiki hut for additional seating.

**ON THE MOTION:** Roll call vote. Unanimous approval.

C. Request Marble Hall Fee Waiver for Cub Scout Pack 901 on 12/19/2016. Jason Koler requested a fee waiver for the use of Marble Hall for the Pack's Christmas Dinner beginning about 4:00 p.m. on 12/19/2016.

**MOTION:** Motion made by Vice Mayor Sutton, seconded by Commissioner Tracy, to waive the Marble Hall fee on 12/19/2016 for Cub Scout Pack 901.

**ON THE MOTION:** Roll Unanimous approval.

D. Request Marble Hall fee waiver for the Shriners/Keyettes Installation on 01/14/2017. City Clerk McCullough requested the fee waiver in the absence of a representative from the Shriners.

**MOTION:** Motion made by Commissioner Pettorini, seconded by Commissioner Tracy, to approve the Marble Hall fee waiver for the Shriners/Keyettes Installation on 01/14/2017.

**ON THE MOTION:** Unanimous approval.

### **3. Agenda Additions, Changes and Deletions:**

A. Monroe County Commissioner George Neugent thanked the Commissioners for the opportunity to speak. Based on a question from Islamorada Mayor Deb Gillis, Commissioner Neugent began researching why the Tourist Development Council (TDC) treated funding requests from municipalities differently than requests from the County. The answer, after extensive research and speaking with the County legal department, was 'because that's the way we've always done it'. A change in policy is necessary to make TDC funding more available for municipalities and non-profits. Currently, to be approved for funding, a municipality must put up 100% of a cost to be reimbursed 50% of a cost. Commissioner Neugent wants to propose, by resolution, 2 or 3 changes in TDC policy to the County Commission no later than April 2017. To give this initiative more 'oomph' Commissioner Neugent requests the City of Key Colony Beach join in on the resolution. Mayor Ellis stated it is the TDC requirements that exclude the smaller municipalities from obtaining TDC funding. Key Colony Beach businesses have been collecting the TDC bed tax from its inception but has never received any dollars in return. Commissioner Neugent said the TDC is currently collecting more money than it can spend due to its onerous requirements for applying for funding. As an example Crane Point Hammock needs approximately \$750,000 to refurbish a building, however, they would first have to pay for the refurbishment before being reimbursed. Mayor Ellis thanked Commissioner Neugent for his presentation and said the City looks forward to assisting with his initiative.

B. Comments from Casa Clara Residents. Mayor Ellis invited the Casa Clara residents to speak, reminding them City Ordinances set a 3 minute time limit for public comment. Allan Danoff introduced himself as a Casa Clara owner since 1990. He thanked the Commission for hearing his request to find R. L. James in violation of the Florida building code. He knows the Commissioners have received letters from many residents. One thing the Commissioners may not know is the R. L. James attorney has written to each of the letter writers threatening to sue each one of them personally. Mr. Danoff finds this appalling. Mayor Ellis thanked Mr. Danoff for his comments and asked City Attorney Wright if he wanted to make any comments concerning Mr. Danoff's comments. Attorney Wright made it clear this is public comments only. It is not a hearing. He further stated code issues are initiated by the Building Official. It is beyond the jurisdiction of the Commission to find a violation of the building codes or to hear a code enforcement matter. The Code Board exists for that purpose and solely for that purpose.

Mayor Ellis invited the next speaker with public comments to step to the podium. Belinda Bacon, Attorney for the Casa Clara Condo Association, introduced herself. She has been working with the Association since 2010, which began as an investigation of the work performed by general contractor R. L. James, Inc. between 2007 and 2009. The Association hired Richard Slider, a structural engineer, who reported he found building code violations that would make the structure unstable. She stated these code violations would not have been obvious to Building Official Borysiewicz. Mr. Slider had to perform destructive testing to find the violations. Mr. James, on behalf of R. L. James, Inc., has denied any liability. The trial is not yet finished. It is a bifurcated case and only the liability portion has been heard. Ms. Bacon said, during the liability portion of the trial, the jury found R. L. James, Inc. had violated the building code, or should have known they violated the building code on Building 3. Daniel Levin, Attorney for R. L. James, Inc., introduced himself. Mr. Levin said, over the last couple of weeks, the Commissioners should have received copies of the letters he wrote to Casa Clara owners in response to their correspondence with the City Commission. He also reported Florida Statue 553.1781 only allows a local jurisdiction to issue fines to a license holder, a registrant or a certificate holder. R. L. James, Inc. is none of these. Mr. Levin agrees with Attorney Wright, this is not an issue for the City Commission, it is an issue only the courts can decide. He further stated the jury did not find R. L. James, Inc. committed any material violation of the Florida building codes.

5. **Committee and Staff Reports:**

**A. Marathon Fire/EMS** – Deputy Fire Chief Eric Dunford reported 6 responses to Key Colony Beach since the last Commission meeting; 1 public service call, 3 fire alarms and 2 medical calls.

**B. Recreation Committee** –

1. Approval to appoint Ted Fischer to the recreation committee for a 2 year term. No recreation committee member present. Item tabled.

**C. Beautification Committee** – No report.

**D. Disaster Preparedness Committee** –No report.

**E. Planning & Zoning Committee** –No report.

**F. Utility Board** – No report.

**G. Police Department** – Sergeant Birkland said there have been 3 reports, 7 medical/alarm calls, 16 Sheriff Department assist calls and 11 miscellaneous calls since the last meeting. The Police Department also issued 3 code enforcement warnings and 6 traffic warnings in this time period. The boat parade is Sunday December 11, 2016.

**H. Building and Public Works** –

1. Building Official Borysiewicz reported the owner of 761 11<sup>th</sup> Street would like approval 20,000 lb boat lift with 12 foot arms. The property owners on either side have not objections to the 20,000 lb lift.

**MOTION:** Motion made by Commissioner Pettorini, seconded by Commissioner DeNeale, to approve a 20,000 lb boat lift with 12' arms at 761 11<sup>th</sup> Street.

**ON THE MOTION:** Unanimous approval.

2. Building Official Borysiewicz reported the owner of 77 7<sup>th</sup> Street would like approval of 14,000 lb 4 post boat lift. The property owners on either side have no objections to the 4 post lift.

**MOTION:** Motion made by Commissioner Pettorini, seconded by Commissioner DeNeale, to approve a 14,000 lb 4 post boat lift at 77 7<sup>th</sup> St.

**ON THE MOTION:** Unanimous approval.

3. Building Official Borysiewicz requested approval to replace a 15,000 lb boat lift with a 20,000 lb boat lift at 200 14<sup>th</sup> Street. The property owners on either side have no objections to the 20,000 lb lift.

**MOTION:** Motion made by Commissioner Pettorini, seconded by Vice Mayor Sutton, to approve replacement of a 15,000 lb boat lift with a 20,000 lb boat lift at 200 14<sup>th</sup> Street.

**ON THE MOTION:** Unanimous approval.

Building Official Borysiewicz reported TLC, the general contractor, is on site at the sewer plant. The surveyor has laid out all the pilings for the project. Marathon Seawall has driven 69 of pilings to refusal. The engineer and staff met with the contractor to discuss the first draw request. Mr. Borysiewicz also met with the engineer for the stormwater project to get all the papers for that project in order.

Assistant Building Official Britske reported the dock at the rear of City Hall has been completed in time for the boat parade. With the waterside trimming and clean up at the bridges done the mangrove trimming is now complete. Mr. Britske also reported that every single Christmas light was on during his last drive through the City.

Commissioner DeNeale complimented Utility Clerk Blanca Kulig for the weekly updates on the sewer plant. He thanked Public Works and the Beautification Committee for the new starfish design and for 'saving' the Christmas lights this year.

**I. City Secretary/Treasurer** – Commissioner Pettorini said there is nothing new to report since the last meeting.

**J. City Clerk** - City Clerk McCullough thanked the Commissioners and Attorney Wright for the very enjoyable Christmas dinner the other evening. She also extended best wishes to all for a Very Merry Christmas and a Happy New Year.

6. **Unfinished Business:** N/A

7. **Commissioners Open Discussion:**

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

A. Mayor Ellis requested approval of the new website be tabled until the next meeting. Mayor Ellis reported the City is in the process of upgrading the internet connection to a new higher speed Comcast connection. The current connection is a complimentary municipal program which is extremely slow. The City is also transferring telephone service to Comcast. This will not only provide additional services for the City, the switch from AT&T will also save about \$1,200 a year.

B. Discussion of Gluntz New Year's Eve advertised hours of celebration. Mark Mistie, Gluntz Ocean Reach Resort General Manager, requested the Commission extend the hours for outside entertainment from 10:00 p.m. to midnight on New Year's Eve. Commissioner Tracy asked if Commission approval was necessary for inside entertainment after 10:00 p.m. Mayor Ellis answered inside entertainment does not require Commission approval.

**MOTION:** Motion made by Commissioner Pettorini, seconded by Vice Mayor Sutton, to allow outside entertainment until midnight on New Year's Eve, 12/31/2016.

**ON THE MOTION:** Roll call vote. Unanimous approval.

9. **City Administrator Items for Discussion/Approval:** N/A

10. **Ordinances and Resolutions:** N/A

11. **Warrant Approval:** N/A

12. **Commissioner's Reports or Comments:**

Vice Mayor Sutton wished everyone a Happy Holiday Season and a Merry Christmas. Commissioner DeNeale said he enjoyed the Christmas Dinner and wished everyone a Happy Holiday.

13. **City Attorney Report:** Attorney Wright said he also enjoyed the Christmas Dinner. He will see everyone next year.

14. **Correspondence & Citizen Comments:**

Grace Reeber, 500 4<sup>th</sup> Street, asked permission to have a "Dog Walk" around the golf course on Saturday February 11, 2017 to raise money for the Florida Keys SPCA. Dogs from the shelter will participate in the walk in addition to any resident that would like to bring their pet. A \$10 donation to register a dog for the walk will go directly to the SPCA. All walkers will be provided doggie cleanup bags. All Commissioners agreed permission was not necessary for this function. Ms. Reeber also thanked the Commission for the new No Wake Signs and the Manatee signs.

The meeting adjourned at 10:20 A.M.



Respectfully submitted,  
Kathryn McCullough, 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.**