

# **MINUTES**

## KEY COLONY BEACH CITY COMMISSION REGULAR MEETING & PUBLIC HEARING

Thursday, September 8, 2022 – 9:30 a.m.  
City Hall Auditorium & virtually via Zoom Conferencing

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

**Present:** *Mayor Trefry, Vice-Mayor Harding, Commissioner Sutton, Commissioner Ramsay-Vickrey, Commissioner DeNeale.*

**Also Present:** *City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Dirk Smits, City Attorney Janette Smith, Public Works Department Head Mike Guarino, Building Official Lenny Leggett, Chief Kris DiGiovanni, Deputy Fire Chief Cameron Bucek, Code Enforcement Officer Barry Goldman, Administrative Assistant Christine McLeod.*

**Public:** *6 Marble Hall, 8 Virtual*

**2. Citizen Comments and Correspondence:** *Kimmeron Lisle, 200 9th Street, appearing on behalf of the Continental Inn, stated to the Commission that she would like to comment on the proposed Recertification Ordinance No. 2022-473. Mayor Trefry stated that Kimmeron Lisle would be able to make public comment later on during the discussion of the ordinance.*

*There were no additional public comments nor citizen correspondence.*

**3. Approval of Minutes:** *The Townhall Meeting Minutes from May 24, Public Hearing Minutes from August 25, and Regular & Public Meeting Minutes from August 25, 2022, were accepted as written.*

**4. Agenda Additions, Changes, Deletions – None.**

**5. Special Requests:**

**A. Proclamation:** *Childhood Cancer Awareness Week – September 25 to October 1, 2022*

*Mayor Trefry read the Proclamation in support of Childhood Cancer Awareness Week.*

**MOTION:** *Motion made by Commissioner DeNeale, seconded by Commissioner Sutton, to proclaim September 25 to October 1, 2022, as Childhood Cancer Awareness Week.*

**DISCUSSION:** *None.*

**ON THE MOTION:** *Rollcall vote. Unanimous approval.*

## **6. Committee and Staff Reports:**

**A. Marathon Fire/EMS** – Deputy Fire Chief Cameron Bucek reported 3 EMS calls, including 1 fire, 1 fire alarm, and 1 public assist over the last 28 days. Deputy Fire Chief reported that the Fire Station will hold the 9/11 event on Sunday morning starting at 9:00 am with various agencies attending. The Commission had no further questions for the Chief.

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

**C. Beautification Committee** - No report.

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

**E. Planning & Zoning Board** - No report.

**F. Code Enforcement Board** – No report.

**G. Utility Board** – No report.

**H. Police Department** – Staff report submitted. Vice-Mayor Harding asked Chief DiGiovanni if the Police Department has a decibel meter to measure noise. Chief DiGiovanni stated that the topic of decibel meters has come up in the discussion on the noise ordinance but stated, that the Police Department does not have a decibel meter. Vice-Mayor Harding expressed his concerns on the noise ordinance for residents during the night and explained that he has looked at other cities, as well as state and county requirements, and has compiled a summary of findings that he will submit to City Attorney Smits. The Vice-Mayor continued saying that his findings have shown that everyone has gone to the dB rating, and suggested that after review the city should consider acquiring decibel readers. Mayor Trefry stated that City Attorney Dirk Smits can address the topic during his legal report. Vice-Mayor Harding further commented on the Intervention Class in the Chief's report and asked if the officer could provide feedback to the Vice-Mayor. Chief DiGiovanni explained the changes in the Intervention class and stated that the officer will reach out to the Vice-Mayor.

**I. Building Department** – Staff report submitted. No additional questions.

**J. Public Works** – Staff report submitted. Vice-Mayor Harding asked Public Works Department Head Mike Guarino if the HAM radio station is up and running. Public Works Department Head Guarino confirmed that the tent is set up and that they are waiting for one more radio to come in, but that they were able to talk to Tennessee. Vice-Mayor Harding explained that this was the last step for the Storm-Ready Certification and he will start with the application.

**K. City Secretary/Treasurer** – No report.

**L. City Clerk** – Staff report submitted. The Commission had no additional questions.

**M. Code Enforcement Officer** – No Report

**N. City Administrator Dave Turner** – Report submitted. The Commission had no additional questions.

**a) City Hall Update:** City Administrator Turner reported that the Building Department is currently reviewing the drawings and that concerns over the electrical systems have been brought to his attention where possible downsizing of items could occur. Building Official Leggett confirmed that this is the only item of concern at this point. City Administrator Dave Turner stated that he will contact the Architect Firm for a meeting to go over the concerns and to provide possible cost saving ideas. The City Administrator further stated that downsizing for cost efficiency has been done before on the proposed building plans and this will be the last step in the process.

*City Administrator Turner updated that he met with the banks for funding, in addition to one grant being in the process and working with FEMA. The City Administrator reminded everyone that ad-valorem monies cannot be used for building and that no taxes will be raised now, or in the future to pay for the building. Commissioner DeNeale stated that after budget discussions he is convinced the city is fine and if monies would have to be borrowed, the city could handle the finance cost. Commissioner DeNeale further expressed his confidence in the city and finances. Mayor Trefry supported Commissioner DeNeale's views.*

## **7. Commissioner Items for Discussion/Approval:**

**8. Approval of Warrants – none.**

## **9. ORDINANCES & RESOLUTIONS**

### **A. Ordinances - First Reading**

**a) Legal proof of Publications:** *Legal proof of publications were accepted.*

**b) Ordinance No. 2022-473 Building Recertification:** *An Ordinance Of City Of Key Colony Beach, Florida, Relating To The Establishment Of A Certification And Recertification Process For Existing And Future Multistory Structures By Adding Section 6-37, As Authorized By Florida Law; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For Inclusion In The Code Of Ordinances; Providing For Severability, Repeal, Codification, And An Effective Date.*

*Mayor Trefry presented the first reading of Ordinance No. 2022-473.*

**MOTION:** *Motion made by Vice-Mayor Harding, seconded by Commissioner Ramsay-Vickrey, to approve the first reading of Ordinance No. 2022-473.*

**DISCUSSION:** *Kimmeron Lisle, 200 9<sup>th</sup> Street, spoke on behalf of the Continental Inn. Kimmeron Lisle asked on clarification on the term of multi-story structures. Vice-Mayor Harding explained that the reference goes to the Senate Bill that was approved by the Governor, which states three stories and above. The Vice-Mayor further explained that the city's ordinance supports and implement the procedures of the state, which is three stories and above. Vice-Mayor Harding confirmed that 2-story structures will not be subject to the ordinance. Vice-Mayor Harding further explained the background behind the state ordinance and also stated the possibility of the ordinance being edited at a later date. Commissioner Ramsay-Vickrey explained that the City Commission worked with the legal team and that the wording in the amendment reads that the City Commission "adopts the regulations" and "as authorized by Florida Law" which clarifies that the city follows state law. Kimmeron Lisle thanked the Commission.*

*Mayor Trefry stated that normally citizen comments are recognized in the beginning of the meeting, however, she will make an exception due to the importance of the topic.*

*Mike Yunker, General Manger of Castillo De Sol Condominium, asked if amendments made to the state ordinance will be covered in the local city ordinance. Mayor Trefry stated that it would have to be seen what the amendments are but the answer would be yes with no guarantees.*

**ON THE MOTION:** Rollcall vote. Unanimous approval.

**c) Ordinance No. 2022-479 Chapter 2 Amendment:** *An Ordinance Of City Of Key Colony Beach, Florida, Amending Chapter 2, Article VII, Sections 2-86, 2-88, And 2-93 Of The Code Of Ordinances Of The City Of Key Colony Beach Related To Meetings Of The City Commission; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability, Repeal, And Codification; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.*

*Mayor Trefry presented the first reading of Ordinance No. 2022-479.*

**MOTION:** *Motion made by Commissioner Sutton, seconded by Commissioner Ramsay-Vickrey, to approve the first reading of Ordinance No. 2022-479.*

**DISCUSSION:** *None.*

**ON THE MOTION:** Rollcall vote. Unanimous approval

## **10. Commissioner's Reports or Comments**

**Commissioner DeNeale** thanked the Commission for covering during his absence last week. Commissioner DeNeale further stated to remember 9/11 and that everyone had loved ones affected by the event.

**Commissioner Sutton** gave an update on the 10<sup>th</sup> Street Stormwater Project. Commissioner Sutton updated that the contractor reported that materials are backordered 4-6 weeks. Commissioner Sutton continued saying that he informed the contractor that the city is working with a grant and that the project needs to be moving along. Commissioner Sutton explained that the contractor indicated that the permit for the wells has not been received yet. Commissioner Sutton confirmed he will contact Mittauer Associates to get an update, since the monies need to be used by December.

**Vice-Mayor Harding** updated that he continues to receive questions on the flood panel grant and is continuing working through on that. The Vice-Mayor further updated that two mitigation improvement grants are being worked on and were submitted September 1<sup>st</sup> to the State. Vice-Mayor Harding explained that the grant applications are for the Lift Station control boxes and for erosion control. The Vice-Mayor further updated that there is an additional grant opportunity for environmental protection and will give further updates on what is needed. Vice-Mayor Harding informed that he had talked with City Attorney Smits about formal training on Sunshine Law and suggested that City Administrator Turner and City Clerk Gransee to be included on it as well.

**Commissioner Ramsay-Vickrey** updated that she has been offered monies for marine related conservation efforts for the City of Key Colony Beach and has been working with City Administrator Dave Turner on the acceptance for those monies for that use. Commissioner Ramsay-Vickrey further informed that she met with Chief DiGiovanni on the Manatee Conversation efforts and using some of those new marine related conservation funds towards that. The Commissioner continued saying that yesterday was National Manatee Day and that all can make

*an effort to maintain a slow speed in the canals. Commissioner Ramsay-Vickrey reported that watercraft accidents account for up to 20 - 25% of all manatee death and one out of every four carcasses bear evidence of 10 or more watercraft strikes. Commissioner Ramsay-Vickrey further reported talking with Chief DiGiovanni about fundraising opportunities for the animal shelter. The Commissioner informed meeting with Teresa Tupper, Vice-President from Safe-a-Turtle, on potential purchases with the marine related conservation funds to purchase magnets, or window clings, for beach facing window units to remind and alert visitors to close blinds or turn the lights off during turtle season. Commissioner Beth Ramsay-Vickrey continued saying that she is excited for the presentation from County Director for Emergency Operations Shannon Wiemer.*

***Mayor Trefry** welcomed Code Enforcement Officer Barry Goldman to the City. Mayor Trefry asked Chief DiGiovanni if boats were still patrolling the canals and monitoring Shelter Bay for no-wake violations. Chief DiGiovanni reported that canals are still being patrolled in addition to monitoring Shelter Bay for no-wake violations. Chief DiGiovanni informed that it takes four hours to patrol the entire city and his officers try to patrol as much as they can. Mayor Trefry further reported that herself, as well as City Clerk Gransee, will be attending the advanced WebEOC meeting.*

***11. City Attorney Dirk Smits** reported on the Sunshine Law education, public records, and ethics training and stated it should not take a long time to complete. Mayor Trefry stated that she would like to schedule another Sunshine Ethics Training for everyone that sits on a Volunteer Committee, in particular new committee members. City Clerk Gransee stated that she believes the last Ethics Training class took place sometime early in 2022 but said she would double check on the date, and also invite the new members to complete the class. Commissioner DeNeale stated that the State Attorney used to run the training and asked Attorney Dirk Smits if he could check with him if he will start it up again.*

*City Attorney Smits introduced Janette Smith as a new member to his law firm. Janette Smith introduced herself to the Commission and gave her background including having 15 years of local government experience including being a Master Municipally City Clerk, having worked with the State Attorney's Office, and having worked for multiple counties and cities. City Attorney Smith further stated that she is looking forward to working with the city and bringing her knowledge and experience to assist the city. The Commission welcomed Janette Smith.*

*Mayor Trefry asked if a discussion is needed on the proposed noise ordinance. City Attorney Smits stated that the question is whether to enforce it as it sits first. City Attorney Smits cited part of the ordinance and the wording of prima facie evidence. The City Attorney explained the meaning behind the wording and procedures that follow. City Attorney Smits further stated that the ordinance as it sits does not require a decibel meter or calibration of a decibel meter. City Attorney Smits explained that issues have occurred with calibration equipment where cases had to be dismissed. The City Attorney stated that calibration equipment leads to more difficulties to prosecute and he feels that currently the Code, or Police Officer, can go to scene and readily observe violations. City Attorney Smits further stated that all that is needed is a witness to observe and issue a citation, and the question comes to how to enforce the ordinance.*

*Mayor Trefry stated that she was not part of the discussion a few weeks ago due to sickness and was not able to describe why the noise ordinance has come before the Commission. Mayor Trefry*

*explained that a couple of months ago a department head meeting was being held where Chief DiGiovanni had voiced concerns over the decibel levels. Mayor Trefry explained that in the past when the Police Department has expressed gaps in an ordinance that kept it from enforcement, the Commission addressed it, and the ordinance was changed, or a new one written. Mayor Trefry explained that this is how the process started and that under legal advice the decibel level was taken out of everything. Mayor Trefry further stated that she believes that the current noise ordinance is fine and that if it is too difficult to implement a decibel level, it strictly comes down to enforcement of the code and existing ordinance. Chief DiGiovanni asked City Attorney Dirk Smits what reference he was citing prior, which the City Attorney explained was State Law reference of the city's code and statues. Chief DiGiovanni stated that he would like to review the reference and further stated, that with the new Code Enforcement Officer and Property Managers accessible through CitizenServe, it will make the older code work better now than in the past. Chief DiGiovanni agreed with the Mayor and stated that new "tools in the officer's toolbox" will help. Chief DiGiovanni referenced House Bill 60 which deals with someone being anonymous and explained, that the officers do receive anonymous calls which makes it hard to follow up on complaints. Chief DiGiovanni further explained the difficulties with anonymous calls as well as his officer's commitment. Mayor Trefry stated she understands Chief DiGiovanni but wanted to make sure the other Commissioners understood how the noise ordinance came onto the agenda. Mayor Trefry further explained the background behind the proposed noise ordinance and resulting work edits that followed. Mayor Trefry stated that more research and diligence has to be done before drafts are being presented in the future. Mayor Trefry asked the Commission on input on the issue at hand. Commissioner DeNeale thanked Chief DiGiovanni for his work on the ordinance. The Commissioner stated that the City of Key Colony Beach is different compared to other cities and that out of 1,500 plus residences 600 are vacation rentals. Commissioner DeNeale further stated that on some streets every other house is a vacation rental and residents that live here are an outdoor society. The Commissioner further explained the challenges of houses being close together, noise violations, and older windows that do not have new sound proofing. Commissioner DeNeale continued saying that he believes that the current ordinance works, however, he has not seen many write-ups for noise complaints. Commissioner DeNeale recalled his personal observations on how noise complaints are being handled and expressed his support for the current ordinance. Commissioner DeNeale thanked Chief DiGiovanni for doing a great job and suggested the possibility of writing more citations so Property Managers are made aware of the problem. Commissioner DeNeale further stated that this is the Police Departments right and not the Commissioners. Commissioner DeNeale also thanked Code Enforcement Officer Goldman for his work*

*City Attorney Smits stated that it is the Police Officers discretion to warn but also as equal to cite. City Attorney Smits further explained the discretion Police Officers can yield. The Commission, as well as Chief DiGiovanni, had further discussion on noise violations and how they are being resolved. Mayor Trefry explained the amount of resources that are being spend on vacation rentals and enforcement. Mayor Trefry further stated that she would like everyone to be proactive and not reactive. Mayor Trefry continued talking about her observations in how vacation rentals are being rented and the constant turnover. The Mayor explained that every house on her street is a short-term rental and she observes the same frustrations as other residents. Mayor Trefry stated that she*

wants to move forward from here as a team and be proactive instead of reactive. Mayor Trefry further stated that she agrees with Commissioner DeNeale on the thought of issuing more citations and the need to do something. City Attorney Smits continued explaining the responsible parties and suggested keeping a log on properties of noise complaints which Vice-Mayor Harding agreed with. Chief DiGiovanni stated that this has been discussed, and with the help of the Code Enforcement Officer the issues can be identified, since the Police Officers are also there for safety, security, and to keep crime rates low. Chief DiGiovanni further explained how the Code Officer helps the Police Department and that they are excited to work with Code Enforcement Officer Goldman.

Mayor Trefry stated that the 24/7 contact was not stressed at the Property Managers Class and that this requirement has to be brought to the Property Managers attention. Chief DiGiovanni stated that Code Enforcement Officer Goldman has addressed issues with incorrect Property Managers. Code Enforcement Officer Barry Goldman reported that small citations will not be issued to the renters, but the property owner instead, and explained the reasoning behind it.

Mayor Trefry updated that the City Attorney's will be breaking out legal fees for code violations and the building department.

City Administrator Dave Turner asked Chief DiGiovanni to reiterate how to contact the Police Department and the Code Enforcement Office. Chief DiGiovanni explained that the city is using the Monroe County Dispatch for calls and stated their non-emergency number as 305-289-2351. The Chief explained that the dispatch will not take anonymous complaints and for residents to leave their name. Chief DiGiovanni explained that Officers will also be able to act as a witness when appearing at Code Enforcement Hearings. Code Enforcement Officer Goldman stated that residents can contact him during the day at City Hall at 305-289-1212 extension 4, and during the night to contact the nighttime dispatch. Chief DiGiovanni gave the number for boat trailer access as 305-432-0086.

Commissioner Ramsay-Vickrey stated that it has been a great conversation and asked if a fact sheet was available on the city's website with all rules and regulations, which Mayor Trefry confirmed. Mayor Trefry stated that in the past renters had to sign a fact sheet as part of their rental agreement. Chief DiGiovanni explained that in the past renters had been cited, but with the new protocol of properties being cited, change will happen with better results.

Mayor Trefry stated that in the past records have shown that citations were issued for boat trailer violations but were never paid with no way to collect on them.

Vice-Mayor Tom Harding explained that all local cities surrounding Key Colony Beach have noise ordinances which include dB readings and that his background experience is that the dB readers are easily calibrated. Vice-Mayor Harding continued saying that this is an objective measurement compared to personal noise acceptance. The Vice-Mayor further stated that it says nowhere that lawns cannot be mown at 7:00 o'clock, and stipulations go toward a specific power tool with most of the cutoff being at 9 or 10 o'clock with other local cities. Vice-Mayor Harding stated that the wording should be changed if more work is being done on the ordinance. Mayor Trefry stated that she has no problem with lawn mowing, as long as it is not commercial or on a Sunday. Vice-Mayor Harding agreed that there is distinction for commercial and residential in other cities, and further stated that he can give City Attorney Smits a summary of findings for surrounding cities. Vice-Mayor Harding continued explaining that the State of Florida does not include regulations on noise since it presents a violation of a constitutional right and has delegated the right to do so to the

*cities. Vice-Mayor Harding clarified that he does not like the new proposed ordinance for the fact of not being allowed to mow the lawn at 7 o'clock at night, and further stated that enforcement seems to be the issue with the current ordinance. Chief DiGiovanni agreed and stated that with the new tools provided it should be easier to get to the violator of the home. Commissioner Ramsay-Vickrey expressed her agreement and stated that keeping a log of the addresses is the solution.*

*City Attorney Smits had nothing further to add.*

**12. Adjourn:** *The meeting adjourned at 10:35 A.M.*

*Respectfully Submitted,*

*Silvia Gransee*

*City Clerk*

**ADOPTED:** *September 22, 2022*

*Silvia Gransee*

*City Clerk*