

# MINUTES

## KEY COLONY BEACH CITY COMMISSION REGULAR MEETING

Thursday, July 9, 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 and Fire Chief John Johnson. *Excused:* Building Official Ed Borysiewicz *Public:* 12

Commissioner Sutton requested to participate and vote by phone.

**Motion:** Made by Vice-Mayor Wovas, seconded by Commissioner Zahn to allow Commissioner Sutton to participate by telephone.

**On the Motion:** Approved by unanimous consent to allow Commissioner Sutton participate and vote by phone.

2. **Approval of Minutes:** Commission Meeting June 11, 2015 Approved as submitted.

3. **Special Request:** None.

4. **Committee and Staff Reports:**

**A. Marathon Fire/EMS** – Chief Johnson stated there were 8 calls to Key Colony Beach in the past two weeks. They consisted of 7 medical calls and 1 public assistance calls.

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

**C. Beautification Committee** – No report

**D. Disaster Preparedness Committee** – Steve Britske stated the generator was tested under full load and worked successfully.

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

**F. Utility Board** – Chairmen Teague stated the chemical testing begins at the plant on Monday. Storm water billing can be added to the property tax bill if the Commission approves. The first year start-up cost for programming will be approximately \$4,500.00. The annual expense is projected to run \$2,000.00.

**Motion:** Made by Commissioner Zahn and seconded by Commissioner Pettorini to authorize the utility clerk to proceed with the implementation of adding the annual storm water bill to the property tax bill of the property owners within Key Colony Beach.

**On the Motion:** Approved by unanimous consent.

The Utility Board was approached by a resident (521 11<sup>th</sup> Street) with a complaint concerning the cracked concrete of their driveway. The Utility Board Chair reviewed the driveway and recommends that the City is under no obligation to make a repair. Mayor Ellis stated that he too had reviewed the driveway. By consensus the Commission agreed no action will be taken. Chair Teague reported that the Utility Board did present their budget package at the budget workshop held Tuesday. Vice-Mayor Wovas asked Mr. Teague to follow up on a back-up panel that was discussed some time ago for the new reverse osmosis system.

**G. Police Department** – Chief DiGiovanni reported there were two reports a found property and an information report. Police also responded to 8 medical and alarm calls for assistance. The Officers assisted the Monroe County Sheriff's Office with 12 cases ranging from domestic violence calls to crash investigations. 32 miscellaneous calls were responded to by the police officers during this time period. Calls consisted of no wake warnings; noise complaints, confiscated fireworks, suspicious persons; vessel assists; bicycle enforcement; courtesy rides home; animal complaints and disruptive customer complaints. Special thanks were sent to Officer Petrick for assisting a resident with their groceries and Sargent Smith for his assistance with a vessel at their dock. The Officers continue their vacation watch order program; daily business checks; traffic enforcement, bicycle and vehicle patrol. As a reminder, those wanting to have a fireworks display MUST apply for a permit with the State through the fire department and it is recommended that application process be done a minimum of 30 days prior to the event. FSS 791. is the Florida Statute covering the fireworks requirements.

**H. Building and Public Works** – Steve Britske explained the boat lift request at 760 12<sup>th</sup> Street. He explained the Building and Code Official has no issue with this request.

**Motion:** Made by Mayor Ellis, seconded by Commissioner Zahn to allow the installation of the boat lift at 760 12<sup>th</sup> Street.

**On the Motion:** Approved by unanimous consent.

Mr. Britske stated that the Commission has two estimates for spahling repairs that are needed on the Causeway bridge. He advised the Commission the Building Department would recommend the bid from Ed Sims Development at a repair cost of \$9,840.00. He explained that the bridges are inspected periodically and are required to be repaired within a set time frame. The bridge will be inspected again in October 2015.

**Motion:** Made by Commissioner Sutton and seconded by Commissioner Zahn to authorize the hiring of Ed Sims Development to make the necessary repairs to the causeway bridge at a cost not to exceed \$9,840.00.

**On the Motion:** Approved by unanimous consent. ”

Mr. Britske provided an update on the scanning project of the building department files and expressed his appreciation for the assistance of Dee Settles and Lyn Paterson with this project. Mayor Ellis requested approval from the Commission and it was granted to purchase a gift card for Dee Settles to show the City's appreciation for all her hard work. He reported the City now has 4 turtle nests on the island, it is anticipated that there should be hatchling activity within the next 20 days. He explained with the addition of Felix Portal to the Public Works staff additional work is getting caught up and that he is able to assist in many areas. Mayor Ellis stated that Mr. Portal will be assisting at the wastewater facility when needed on general maintenance work. The hours worked by Felix or Joe attributed to the wastewater plant will be tracked and funded by the utility budget if the Commission approves.

**Motion:** Made by Vice-Mayor Wovas, seconded by Commissioner Zahn to authorize the utilization of public works staff at the wastewater plant on an as needed basis for general maintenance work with tracking of the hours and funding from the utility budget.

**On the Motion:** Roll Call Vote: Unanimous approval.

**I City Secretary/Treasurer** –Commissioner Pettorini stated that the financials of the City remain in good shape. He requested that the quarterly summary review normally

scheduled for the next meeting be postponed until the August 13<sup>th</sup> meeting. He stated the first budget workshop went quite well and complimented the department heads for their budget presentations. He stated the next meeting is scheduled for July 31<sup>st</sup> at 9:30 a.m. He reiterated the focus is on saving money. Commissioner Pettorini and Commissioner Zahn provided positive feedback on the efforts of Kathryn, Cathy and Melanie in the format of the budget package for this series of meetings.

**J. City Clerk-** Cathy Henninger stated the City has been approved for two new FRDAP grants of \$50,000.00 each. They were applied for last year and are designated for East Side Park and the Waterfront Park area behind City Hall. The most recent property manager class was well attended with 33 attendees (1/3 of which were new managers). Once the budget workshops are complete, two public hearings will be held for a review of the new budget for FY 15/16.

5 **Unfinished Business:** None.

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

**A.** Code Violations – Vice-Mayor Wovas stated he would like to see the code of ordinances enforced consistently and timely. He noted trash cans and unkept properties specifically. Mayor Ellis stated we have not been proactive in our enforcement of violators. A suggestion of Bill Knickman, 9<sup>th</sup> Street is to fine the property managers for vacationer infractions. Vice-Mayor Wovas suggested the procedures should be revisited. A daily log kept by law enforcement and code enforcement could be considered. Carole Teague 11<sup>th</sup> Street stated residents need to keep Marathon Garbage informed of any special circumstances as to heavy trash pickup needs etc. John DeNeale 10<sup>th</sup> Street stated the Beautification Committee is to monitor properties within the City and prepare a list for the Code Enforcement Officer to follow up on as needed. Steve Britske stated as a new code enforcement officer he will be glad to inspect and issue tickets as appropriate on a weekly basis.

**B.** Petition for Variance (FLA014720) –Vice-Mayor Wovas provided the following information on this topic for clarity: Under the broad discussion of Wastewater /sewer plant projects, there are two separate projects currently being progressed by the Commission that I will discuss today.

One is commonly referred to as AWT2015, which is the state of Florida mandated requirement for all municipalities to bring their wastewater nutrient discharge into ground water in compliance with Florida legislature rule making. Responsibility for managing compliance is the Florida Department of Environmental Protection.

This regulation has been advancing since 2010 however; the effective date was delayed until January 1, 2016 to give each non-compliant community additional time to make the required improvements to their sewer treatment plants to allow for controlled expenditures without making the improvement expense burdensome. The regulation specifically states the maximum permissible nutrient discharge to ground water. The key non-compliance issues for the city are Phosphorus and Nitrogen neither which meet the new requirement. The city has known of this requirement since 2010. Additionally, U S Water Company, the contract-operator for the city's sewer plant issued a report dated November 2012 that identified the needed improvements, made appropriate recommendation and notwithstanding three (3) separate reference in the report that the city based on current operation cannot comply with the AWT 2015 requirements, nothing was done to bring the sewer plant into compliance to meet the January 1, 2016 mandatory date. Upon learning of this situation earlier this year, a decision was made by the

Commission to take directly responsibility. Two consulting Engineers each were requested to provide their assessment of this new finding and to provide their recommendation for achieving compliance. In the case of both, the conclusion was that the city would not be able to achieve compliance for at least 2 more years given the improvements that are required. Since failure to meet the January 1 deadline can be seen by FDEP as a conscious decision to not comply with this statutory requirement including lacking good-faith effort,, FDEP has the ability to assess fines and/or force the city into a Consent Decree.

The city engaged Mittauer and Associates a Jacksonville, FL. engineering firm to assist. Two initial steps were taken. The first was to formally Petition FDEP for a Variance to the AWT regulation and in lieu thereof, gain FDEP acceptance to utilize Total Maximum Daily Loading data to measure compliance with AWT. This would not require any physical plant improvements to bring the city in compliance but instead would utilize a broader statistical base to measure nutrient discharge so that on a longer-average period, the city could demonstrate it was meeting compliance. FDEP provided an "unofficial" opinion that this request would not be approved since it was essentially a request to deviate from the legislature-approved regulation and would be contrary to FDEP currently defending itself in several courts against several petitioner claims that AWT-2015 standard in their current form are not restrictive enough. (Later in the meeting, the commission approved a motion to withdraw its Petition for Variance). Concurrent with the Variance Petition and not known how FDEP would rule, the city proactively authorized the immediate installation of new data recording instrumentation that will now allow for accurate and timely readings of nutrient discharge levels of Phosphorous and Nitrogen (and) chemical feed pumps that will allow for the introduction of Alum and Carbon which have the neutralizing effect on Phosphorous and Nitrogen. To make these improvement, the city was required to obtain a three-month extension to its existing Operating Permit so that we could use the reading results to demonstrate to FDEP of the city's commitment to compliance and to build a foundation with FDEP for their recognition of the city's efforts. FDEP granted the 3-month temporary permit modification. It is the city's utmost desire to convincingly demonstrate to FDEP that the city is actively pursuing compliance and to this end, additional significant capital improvements to the sewer plant (projected to cost in the \$ 2 million+ range) will be included in the FY 15/16 budget that begins October 1, 2015. Through these actions the city is hopeful of reaching an amicable agreement with FDEP that will grant additional time to the city to bring itself in compliance with AWT 2015, without any fines or a Consent Decree.

AWT 2015 aside as though it did not exist, the city is facing some extensive and costly improvements to the sewer treatment due in part to obsolescence of technology, major components having reached their life expectancy and general overall maintenance issues of several critical structure elements. This work is represented under the category of WWTP-2015 and represents the \$2 Million+ expenditure mentioned above. To quantitatively identify these needed improvements, Mittauer was engaged to examine each operating element of the current sewer plant, assess its current operating condition and provide a "Master Plan" of needed improvements, supported by a definitive in-progress process with each segment of improvement building on the prior improvement, with each element supported by market-place cost estimates. Work on the Master Plan has been underway for several months and is nearing completion. A Joint Meeting of Mittauer/City Commission/Utility Board will be held on Tuesday July 21, 2015 to review the results of this

broad examination of current operations. These findings will become the basis for capital improvements authorized in the FY 15/16 Budget that not only will bring the plant to current operating technology but will also assist ultimately, with AWT compliance. Some of the required improvements will center on: replacing influent screens and supporting structure, denitrification system, membrane replacement and UV disinfectant upgrades. Separate and apart from these improvements, the method for a permanent solution to the disposal of sewer plant solids is a component of the July 21 meeting. The objective is to retire the existing drying beds by implementing an on-site bio solids dewatering system.

**Motion:** Made by Vice-Mayor Wovas, seconded by Commissioner Ellis to authorize Mittauer to withdraw the variance petition application at this time.

**On the Motion:** Roll Call Vote: Unanimously approved.

**C. Consultants Briefing –MOU next steps-** Mayor Ellis stated he is in weekly contact with the consultants on the vested building rights issue and the MOU. He reported the consultants continue to work diligently toward resolution.

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

A. Ethics Training July 16, 2015 9:00a.m.-1:00 p.m. Marathon Government Center required of all elected officials annually.

8. **Ordinances and Resolutions- Second Reading –Ordinance 445-2015** Election Qualifying Date –Attorney Wright read the ordinance by title only. He explained this is to allow for the change in the qualifying period to match the one time change to the election date for the City.

**Motion:** Made by Commission Zahn, seconded by Vice-Mayor Wovas to approve the Ordinance 445- 2015 Election Qualifying

**On the Motion:** Approved by unanimous consent of the Commission.

**Second Reading Ordinance 440-2015** Amending Comp Plan Water Supply Plan

**Motion** made by Commissioner Zahn and seconded by Vice-Mayor Wovas to adopt the Ordinance 440-2015 amending the infrastructure conservation and capital improvement elements of the comprehensive plan to coordinate the South Florida Water Management District’s Lower East Coast Water Supply Plan update.

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

9. **Warrant for June 2015**

**Motion** made by Vice-Mayor Wovas, seconded by Commissioner Sutton to approve the warrant in the amount of \$392,189.00 for the month of June 2015.

**On the Motion:** Unanimous approval by consent of the Commission

10. **Commissioner Reports and Comments:** None.

11. **City Attorney Report:** Attorney Wright stated that there is no pending litigation or issues for the City at this time.

12. **Correspondence and Citizen Comments:** Cathy reported on an email from Peter LeCompte on boat speeds in the canals and noise complaints. Sal Salavarrie emailed requesting action on a noise complaint on an owner who yells at their neighbors on the canal side. Bill Knickman expressed his thanks to all the volunteers and committee members in making the Kids Fishing Derby such a success this year. John Ambrosio

stated he feels the vacation rental license fee increases are too high. Paul Cole stated that he too lets boaters know if they are going faster than idle speed down the canals.

Meeting adjourned at 11:30 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cathy Henninger". The signature is written in a cursive style with a large initial "C".

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.**

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