

**MINUTES**  
KEY COLONY BEACH  
CITY COMMISSION SPECIAL MEETING  
Wednesday May 10, 2017 9:30 A.M.  
City Hall Conference Room

1. **Call to Order and Roll Call:** The Special Meeting of the Key Colony Beach City Commission was called to order by Mayor DeNeale at 9:30 A.M.

*Present:* Mayor John DeNeale, Vice Mayor Ron Sutton, Secretary Treasurer Jim Pettorini, Commissioner Jerry Ellis, and Commissioner April Tracy. *Also Present:* City Attorney Tom Wright, City Clerk Kathryn McCullough, Building Official Ed Borysiewicz and Police Chief Kris DiGiovanni. Public. 1.

2. **Review of Exhibit B of the Independent Contractor Agreement with Christopher Moonis:** Mayor DeNeale turned the discussion over to City Administrator Moonis who directed attention to Exhibit B of the Independent Contractor Agreement. He asked City Clerk McCullough for insight concerning the development of the Exhibit. She reported an Ad Hoc Committee was formed at the direction of the Commission and chaired by Attorney Wright. Attorney Wright stated he drafted the exhibit. City Administrator Moonis said it was very well done and addressed the issues that should be included in the City ordinances. Attorney Wright questioned why that would be necessary. City Administrator Moonis said the City Charter defines the city administrator role but not the specific duties of the administrator. In his experience, duties are enumerated in a city administrator ordinance. Vice Mayor Sutton said it is in the Charter. Mr. Moonis said he might not have understood it, however, the Charter says whatever duties are designated by the City Commission. It does not enumerate those duties. Vice Mayor Sutton stated the Charter is written giving wide scope to the duties of the City Administrator. As this is new for the City it may be better to work through this for now, rather than write an ordinance. Commissioner Pettorini agreed. He stated this could be considered at the end of the first year of the contract. The Commission would be in a better position to determine what changes might be needed.

City Administrator Moonis asked if there was anything that needed to be enumerated in the contract agreement, when compared to the sample ordinances that were included in the agenda package. Vice Mayor Sutton indicated the only item is time, it is not stated what time the Administrator would be in the office. He would suggest in the AM hours. Attorney Wright reminded the Commission City Administrator Moonis is an independent contractor. As such, the Commission cannot dictate hours because then Mr. Moonis could be considered an employee under IRS regulations. Attorney Wright stated it is inevitable the City will want a full time administrator. It has been his opinion, from the beginning, that it will not work to have the City Administrator as an independent contractor. City Administrator Moonis asked if he could post a schedule on the calendar. He tries to do that for a week out, but sometimes that is not possible as priorities change. Attorney Wright agreed he could do that, however, the City cannot dictate his hours. Mayor DeNeale said both he and Vice Mayor Sutton are in the office every day and see Mr. Moonis there every day.

Vice Mayor Sutton addressed personnel, and advised if there was a need to terminate an employee, that would be done by the Commission. Mayor DeNeale liked the examples given where the Administrator has the authority to suspend an employee, but a termination must be approved by the Commission. City Administrator Moonis said if he found areas not in the current job responsibilities he would bring those to the Commission. City Attorney Wright said if the Administrator felt constrained, by something not in the scope of the contract, it would be appropriate to amend the contract. Attorney Wright continued that at such time the Commission decides to morph this into a permanent position is when it would be appropriate to codify the position. Mayor DeNeale likes the Finance Chairperson aspect of City Administrator Moonis' attachment as it refers to the budget, the execution of the budget and the purchasing aspects of the position. City Administrator Moonis stated there currently are no purchasing guidelines in the City. If a purchase is over a certain threshold, say \$250, a purchase order should be issued. City Attorney Wright said a lot of these items could be adopted by policy rather than an ordinance. Vice Mayor Sutton stated when he was Administrator anything over \$250 had to be approved by him. Commissioner Ellis asked the City Clerk how often invoices went over \$250, not often, so don't try to fix something that's not broke. City Administrator Moonis will discuss the purchasing limit at the next Department Head meeting.

Mayor DeNeale said he found nothing in the sample ordinance that is not covered in the job description. Commissioner Pettorini stated he views Mr. Moonis as the 'Chief Operating Officer' responsible to the Board of Directors, in this instance, the Commission. There are key operating areas he will be responsible for. If not done, you are gone, if you do those things you stay, if you do those things well we adjust your finances accordingly. He would like to see that type of approach where the City Administrator is managing the departments to a set of goals and objectives. Commissioner Pettorini said Mr. Moonis has to help the Commission to set goals and objectives, i.e. what does the Commission want the City to look like, not only today but going into the future. The City has historically been reluctant to spend a dollar, relying heavily on volunteers. Also, he does not like the way wage increases are handled. Staff should be held accountable to a set of goals and objectives and wage increases should be tied directly to that goal. City Administrator Moonis stated most of his success, in other municipalities, has been based on performance driven goals that are measurable, that meet up with the Comp Plan and that meet up with Commission planning meetings. There will be annual staff employee evaluations. He would like goals set, issuing key success points, that can be measured and go thru him and the entire staff, then set objectives that match those goals. He continued that is down the road, but the movement needs to be in that direction to continually energize the organization. Mayor DeNeale said under the City Administrator contract he is required to provide the Commission with a report of his activities. It was decided that report would be presented at the second commission meeting of the month.

City Administrator Moonis cited a section of the proposed ordinance which states, "He shall hire and, when he shall deem it necessary for the good of the service, shall suspend any employee under his supervision. Upon suspending any employee, he shall report the suspension to the City Commission and recommend discharge if he deems discharge desirable. No employee shall be discharged except by action of the Commission". He asked if that addressed Vice Mayor Sutton's concern. Vice Mayor Sutton agreed if there was documentation the employee had been counseled with no improvement, the City Administrator could suspend the employee and bring it to the Commission. City Attorney Wright asked if the Commission wanted to delegate hiring an employee to the Administrator.

Vice Mayor Sutton said that should read, recommend approval to hire to the Commission. City Administrator Moonis agreed and asked if the Commission was agreeable to that. Commissioner Ellis said he cannot remember anytime there was a suspension of an employee. During his time as Administrator, an employee was encouraged to resign rather than have it go before the Commission to be dismissed. The point he is driving at is, if it festers to a point where the Administrator suspends an employee, maybe this employee should resign. City Attorney Wright expressed concern about bringing the discussion of employee termination to a Commission meeting as it may result in law suits. He suggested the decision could be made by the Mayor and the Administrator. Vice Mayor Sutton disagreed. He stated the entire Commission hires the person, the entire Commission should dismiss the person. City Attorney Wright reported he will research Sunshine exceptions. In his legal opinion the discussion of employee grievances or terminations should not be discussed in open Commission meetings. It would just cause the City to be sued. City Administrator Moonis presented a hypothetical situation where an employee (no one currently on staff) is visibly drunk and operating a piece of City equipment, he would suspend the employee immediately. Or if an employee seriously verbally abuses a citizen, that needs to be dealt with immediately and not wait until the next Commission meeting to discuss it. Vice Mayor Sutton asked if he means suspend or terminate. City Administrator Moonis said at least suspend. City Attorney Wright asked what would be the next step, hopefully not an open Commission meeting. He will research Sunshine for exceptions. Commissioner Ellis again stated during his administration an employee was encouraged to resign. And in one situation, the City was able to help an employee find another job. He stated that is the way the situation should be handled. Vice Mayor Sutton asked what if the employee refused to resign. Mayor DeNeale observed everyone is in agreement, it just needs to be determined how to handle it in compliance with the Sunshine regulations. City Attorney Wright suggested adopting a policy to consult with the Mayor before a termination, if there is no exception in the Sunshine. City Attorney Wright also noted the Administrator can talk to all the Commissioners, individually, with no violation of the sunshine. Vice Mayor Sutton restated he does not want an employee fired by the Administrator. City Administrator Moonis said, in the interim, he would call all five Commissioners before taking any action. He added he does not foresee this happening. The Commission agreed with this on an interim basis.

City Administrator Moonis called attention to the International City/County Management Association (ICMA) Code of Ethics included in the agenda packet. This is an international association that is extremely cognizant of this code of ethics. The Association asks every member of the ICMA to subscribe to this code of ethics. "This does not need to be enumerated anywhere at this time, however, this is how I do my job." He asked the Commission to take time to read the code of ethics. This code was actually included in his prior contracts. Vice Mayor Sutton complimented Chris on his performance and wants that publicly on the record. Mayor DeNeale agreed. Building Official Borysiewicz asked to understand the purchasing thresholds. It is his understanding the City Administrator can spend \$2,500 without Commission approval. Projects over \$25,000 must go out to bid. And the Department Heads can approve spending up to \$250. The Commission agreed these are the purchasing thresholds. Mayor DeNeale thanked everyone for coming. It was a great discussion.

The meeting adjourned at 10:20 p.m.

Respectfully submitted,



Kathryn L. 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.**

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