

MINUTES

KEY COLONY BEACH
CITY COMMISSION REGULAR MEETING
Thursday, September 10, 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, Secretary Treasurer Jim Pettorini, Commissioner Ron Sutton and Commissioner Zahn. *Also Present:* Attorney Tom Wright, City Clerk Cathy Henninger, Building Official Ed Borysiewicz, Fire Chief John Johnson and Police Chief Kris DiGiovanni. *Public:* 8

2. **Approval of Minutes:** Commission Meeting September 10, 2015 Approved as submitted.

3. **Special Request:**

4. **Committee and Staff Reports:**

A. Marathon Fire/EMS –Chief Johnson reported there were 4 medical calls, 3 alarm calls and 5 public assists during the past two weeks. On behalf of the Rotary Club he thanked the Commission for the use of Marble Hall for the “Best of Marathon” Event to be held in Marble Hall this Saturday evening.

B. Recreation Committee – No report.

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 – Chief DiGiovanni reported there on two cases still under investigation fire alarm and door alarm. The Key Colony Beach officers assisted Monroe County Sheriff’s Office on 14 calls ranging from a man with a gun, baker act and a vessel check with open panels. Officers handled 11 miscellaneous calls, from a domestic argument to numerous suspicious person calls. The Chief is working with the State contract approved car dealer on the coordination of the purchase of the new police vehicle and installation of the equipment and design work. 5 parking citations were issued during this past month. The watch order program; daily business checks; traffic enforcement; bicycle and vehicle patrols continue as well.

H. Building and Public Works –Ed Borysiewicz reported the public works staff have been preparing the property behind the post office for the installation of the pipe and electric for the new walkway. One turtle nest remains on the island and there hopefully will be hatchlings within the next week or so. 18 code citations were issued in the past two weeks for trash can violations. \$17,800.00 in permit fees were collected for building permits in the past two weeks

I. City Secretary/Treasurer –Commissioner Pettorini stated we are nearing the end of this fiscal year and City finances remain in good shape. He reminded everyone the first public hearing on the millage and budget are tonight at 5:30 p.m.

J. City Clerk- Cathy Henninger reported the next property manager class is September 23rd at 2:30 p.m. Inspections and the support work of the annual vacation, commercial and annual inspections are ongoing. Cathy reported she has received her certification as a

Certified Municipal Clerk. This certification requires custom training for city clerks as well as educational requirements and job experience.

5 **Unfinished Business:** None.

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

A. Coral Lane Repair- Mayor Ellis provided a synopsis of the action steps taken thus far: DEP has given approval to start the project; Army Corp is now requiring approval first; and Army Corp has agreed to expedite the application process.

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

A. Hurricane Evacuation MOU-update-Mayor Ellis stated he has had several conversations with the DEO and Rebecca Jetton. He acknowledged that the demand for building allocations has been very light in recent years. He read the following prepared statement clarifying that he wanted to read the MOU portion in its entirety that has been misquoted numerous times in recent Commission meetings:

In the early 1990's the Legislature established the Florida Key's as an area of critical state concern. The initial Administration Commission rule adopted was to establish a limit on growth through a cap on residential building permits and a study was done to determine the level of human population the natural Keys could withstand without collapsing the ecosystem.

During this time, Key Colony Beach undertook its own infrastructure improvements.

- A. Central sewer improvements
- B. Land for recreation
- C. Protection of endangered species
- D. Protection of mangroves
- E. Storm water improvements

Because of this positive action, Key Colony Beach was given a reprieve on inclusion in the State work plan. The rest of the County operated under the Administration Commission work plan. This work plan was elements of a rule, laying out steps each Keys Government were to take to protect the ecosystem. In step with this, a hurricane evacuation study was developed and by the early 2000's the results were added to address the safety of the population during hurricane evacuation periods. Key Colony Beach being part of Monroe County and included in the evacuation study pulled us into this limitation of development.

It is unknown to me how the allocations were divided up, but Monroe County received 1970; Marathon 300; Key West 910; Key Colony Beach 60; Islamorada 280 and Layton 30.

The MOU

The current draft provides for the City of Key West to transfer annually (by July 13th) any unused (90 allocations) to the other local Governments based upon the Local Governments ratio of vacant land. Our ratio is 0.81%. However, the driving force behind this agreement is to distribute transient building units to Local Governments for exchange of residential building units on a one for one basis. This is a pilot program that will conclude in 24 months from its start. The proposed allocation rule allows for a total of 233 hotel units to three pilot communities.

The following I will read verbatim from the MOU:

Under Part Three: Miscellaneous

"Liability: as this MOU represents only the parties acknowledgment of the data input variable in its hurricane evacuation model, nothing in this MOU shall be construed to impose any liability on the State of Florida, DEO, the Divisions or the Local Governments.

Termination: Any party may terminate this memorandum of understanding at any time, with or without cause."

While this MOU would not be my choice of redistribution of residential units and the distribution of the transient units, the DEO has taken this path. My suggestion would be that the DEO should trade these units direct with each City/County that might have a need for transient units and receive in exchange residential units. These residential units then could be re-distributed to the cities based on need. This would allow for the market to determine where the units are needed. The original allocations would remain intact.

Thank you-

Jerry Ellis

Mayor

Mayor Ellis stated he personally thinks we can work with the state to meet our building requirements. He acknowledges that at there will be lots left at the end of the 8 years.

8. Ordinances and Resolutions-

Resolution 2015-10 Building Permit & Business License Fees Attorney Wright read Resolution 2015-10 by title only. He clarified the only aspect being addressed in this resolution is the clarification of the new business tax license fees for FY 15/16.

John Ambrosio, owner of four (4) vacation properties in Key Colony Beach spoke in opposition to the new Business Tax License fee in place for vacation properties. He referred to the State code and suggested the fee increase does not meet the reasonable test. He stated the City of Marathon has a flat license fee of \$500.00 for vacation rental licenses. He stated the State Code 166.221 should be reviewed by the City attorney to determine if the statute is being followed.

Mayor Ellis in response read the following prepared statement: *Key Colony Beach welcomes the rental businesses within our City. We expend a lot of energy and resources to make our visitors feel at home here. This benefits owners of rental properties as these visitors generally come back to vacation and rent again.*

In a comprehensive review of the income sources to the City, the Commission reviewed all possible avenues. The focus was on a balance of ad-valorem tax, business and permit fees. The license fees were reviewed by type at the June workshop as well as fines. It was determined the license fees (administrative cost portion) had not been updated to reflect a true cost recovery in a number of years. The amenities/services provided by the City include police and fire protection and infrastructure expenses such as parks and roads.

The Commission during the budget process gave thoughtful consideration to the vacation rental licenses as well as all the licenses granted by the City. The Commission in its deliberations determined the equitable way to assess the administrative portion of the fee is thru the square footage of the rental property. In reviewing the fees, all units regardless of size had been charged the same fee, without regard to infrastructure impact. This did not seem fair as units with higher square footage not only generally collect high rents but also has a greater impact on our infrastructure.

Our 2016 budget reflects a 24% increase within our three major departments, police; building and public works, all directly impacted by our visitor population.

On the Motion: Unanimous approval by consent.

9. Warrant for August 2015 - Mayor Ellis asked for approval of the Warrant for August in the amount of \$246,968.50.

Motion: Made by Commissioner Sutton, seconded by Commissioner Zahn to approve the warrant for August in the amount of \$246,968.50.

On the Motion: Unanimous approval by consent.

10. Commissioner Reports & Comments: Commissioner Zahn congratulated Cathy on her achievement of the status of Certified City Clerk.

11. City Attorney Report: No report.

12. Correspondence and Citizen Comments: Cathy reported that the City received emails

during the past two weeks from the following: Barbara McKee voiced her complaint concerning the trash can citations being issued by the City; Matt Slater, 1st Street & Jenny Czachur complaints on the business license fee increase and Sal Salavaria, 8th Street inquiry on the submerged dock pipes from a dislodged dock. Cathy reminded all in attendance that the First Public Hearing on the Budget is this evening at 5:30 pm. The second Public Hearing scheduled for Monday September 14, 2015.

Meeting adjourned at 10:05 a.m.



Respectfully submitted,
Cathy Henninger, City Clerk, CMC

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