

**MINUTES**  
KEY COLONY BEACH  
CITY COMMISSION REGULAR MEETING  
Thursday February 22, 2018 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 DeNeale at 9:30 A.M. followed by the Pledge of Allegiance, Prayer and a Moment of Silence for Kevin Hearn

*Present:* Mayor John DeNeale, Vice Mayor Ron Sutton, Secretary/Treasurer Jim Pettorini, Commissioner Jerry Ellis and Commissioner April Tracy. *Also Present:* City Administrator Chris Moonis, City Clerk Kathryn McCullough, City Attorney Tom Wright, Public Building Official Ed Borysiewicz, and Police Chief Kris DiGiovanni. *Excused:* – Assistant Building Official Gerard Roussin, and Fire Chief John Johnson. 32

2. **Approval of Minutes:**

**MOTION:** Motion made by Mayor DeNeale, to approve the minutes of the 01/25/2018 Regular Commission Meeting.

**ON THE MOTION:** Approved by acclimation.

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

Approved adding Amendment No. 1 to the IBTS Agreement under the City Administrator

4. **Special Requests:**

**A. Discussion/Approval of the 7 Meter Bridge Run** - Joe Turgeon, 310 9<sup>th</sup> Street, proposed the 7 Meter Bridge Run be held on March 12<sup>th</sup>, 2018 at 2:00 PM. Mr. Turgeon has received approval for the run from Chief DiGiovanni. He said he does not represent an organization, just a group of people that like to have fun. He stated the Sunset Singers, another non-organization, of mainly non-residents have raised over \$4,000 for the restoration of Sunset Park.

**MOTION:** Motion made by Vice Mayor Sutton, seconded by Commissioner Tracy, to approve the 7 Meter Bridge Run on March 12, 2018 at 2:00PM.

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

**B. Discussion of Drones – Bruce Stoll** Mayor DeNeale asked, in Mr. Stoll's absence, if the discussion should proceed as it has been tabled twice previously. Vice Mayor Sutton stated he would like to proceed. He asked City Attorney Wright if he was correct in understanding the State had pre-empted a City's right to restrict the use of drones. Attorney Wright said that is correct, however, the City could enforce it nuisance laws. Primarily the drones are being used to photograph properties for sale, so it is not being done without the approval of a property owner. Chief DiGiovanni reported to fly a drone in Key Colony Beach a clearance is need from the airport, the drone must be registered on the FAA website, and you have to take a certification class if you are not a pilot. Mayor DeNeale said the Chief can request to see the drone registration and the operators

certification. He requested a page on the City website detailing these requirements. Commissioner Ellis said he would like a procedure established so the City would know the date and time a drone is expected to fly in the area. Mayor DeNeale said that request could be added to the webpage. Mayor DeNeale requested City Administrator Moonis and Chief DiGiovanni put a webpage together for review at the next commission meeting.

C. Addition to Tiki Hut at Havana Jacks – Anthony Peters Commissioner Pettorini spoke on behalf of Mr. Peters, who was unable to attend this meeting, citing his concern regarding the size of the tiki hut being constructed at Havana Jacks. Building Official Borysiewicz reported Havana Jacks was granted a variance, a year and a half prior the Hurricane Irma, to construct a tiki hut 10 feet off the Ocean and 10 feet off the Cabana Club with an 18’6” height restriction. There was a structural pier bar constructed of posts and columns with a roof on top, on the site, which can, by code, be re-constructed to the original footprint following a hurricane. The original footprint being much closer to the ocean. Mr. Borysiewicz approved the pier bar be reconstructed as a tiki hut, on a smaller footprint, complying to all the same restrictions placed on the original tiki hut. He discussed it with the owner of Cabana Breezes who had no objection. Mr. Borysiewicz has all the documents to show Mr. Peters if he would like to see them. Commissioner Pettorini said he would inform Mr. Peters.

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

A. Marathon Fire/EMS - No report.

B. Recreation Committee – No report.

C. Beautification Committee – Patti Trefrey, Beautification Committee Chairperson, reported the Committee met with Chris Moonis and Corky Spehrley last week. Mr. Spehrley agreed to modify his plan for Sunset Park to eliminate the paver dance floor and to reduce the parking area to maintain green space while still adding 28 more parking spaces. Mr. Spehrley also agreed not to remove any surviving trees or shrubs without the approval of the Beautification Committee and not to install brick pavers along the walking paths. Based on these modifications the Beautification Committee recommended approving the proposal for the Sunset Park restoration. City Administrator informed the Commission this is only for Phase 1 and parts of Phase 2 of the original proposal and is contingent on Corky Spehrley obtaining the donations of dollars and volunteer labor.

**MOTION:** Motion made by Mayor DeNeale, seconded by Commissioner Pettorini, to approve the Sunset Park restoration plan recommended by the Beautification Committee.

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

Corky Spehrley explained part of the initial restoration of Sunset Park will be laying sewer lines for the restrooms, to be constructed next year, on the Condo side of the park. Commissioner Ellis said the portable restrooms used to be placed there until the Condo Association strongly objected, after which the restrooms were moved to the other side of the park. He asked if the Condo had been advised of this plan. Commissioner Tracy said a portable restroom cannot be compared to a permanent structure. Mayor DeNeale requested City Administrator Moonis and Corky Spehrley get input from the Condo and report back to the Commission.

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

**E. Planning & Zoning** – No report.

**F. Utility Board** – Mike Alexander, Utility Board Member, advised the Commission it is the recommendation of the Utility Board not to waive sewer fees as requested by several Condos and individual property owners. Research showed Islamorada, Marathon and Key West had similar requests and all opted not to waive the sewer fees. Mr. Alexander said any waiver of fees would also have a negative effect on the Wastewater Budget. The operational costs of the sewer plant are essentially the same regardless of the number of users. Vice Mayor Sutton agreed with the Utility Board recommendation. Commissioner Ellis stated the approval of the State Revolving Loan for the sewer plant improvements was based on the revenues generated by the operation of the plant.

**MOTION:** Motion made by Mayor DeNeale, seconded by Commissioner Pettorini, to accept the recommendation of the Utility Board not to waive sewer fees.

**ON THE MOTION:** Motion approved by acclamation.

**G. Police Department:** Chief DiGiovanni said Officer Jefferson Rodriguez arrested 2 felons for possession of a firearm. The 2 suspects were causing some disturbances on 5<sup>th</sup> Street and on 10<sup>th</sup> Street. Arrest warrants have been issued. Officer Rodriguez also recovered most of the stolen jewelry. Since the last meeting the Police Department responded to 6 fire or alarm calls, assisted the Monroe County Sheriff's office 7 times and answered 6 miscellaneous calls. Chief DiGiovanni continues to interview applicants for the upcoming open positions. Chief DiGiovanni has been covering Lindsay Birklund's shift. The Department is gearing up for Key Colony Beach Day. Mayor DeNeale thanked Officer J. C. Smith for the assistance he provided when a resident's wife had been transported to the hospital.

**H. Building Department:** Building Official Borysiewicz reported the Public Works crew are escorting representatives from FEMA, IBTS and the insurance companies to inspect City buildings, vehicles and equipment. Estaban and Alan are taking care of the sewer plant. There are some repairs being done to the sludge box. This takes quite a bit of time and coordination. Gerard is taking the Building Official exam. Mr. Borysiewicz asked approval of an 8 post, 32K boat lift at 205 15<sup>th</sup> Circle. He has letters from the neighbors on both sides stating there is no objection to the lift.

**MOTION:** Motion made by Vice Mayor Sutton, seconded by Mayor DeNeale, to approve an 8 post, 32K boat lift at 205 15<sup>th</sup> Circle.

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

**I: City Secretary/Treasurer:** Commissioner Pettorini said he read a report that said FEMA has distributed funds of \$8.5M unfortunately none to Key Colony Beach. He stated the City, at the 1/3 part of the Fiscal Year, is ahead revenues, however the City is also way ahead on expenses, mostly attributed to the impact of Hurricane Irma. Mayor DeNeale said Congressman Curbelo is contacting FEMA, in Washington DC, concerning hurricane relief funding. Also our State Representatives are tracking all of the work orders the City has submitted to FEMA.

**J. City Clerk:** - City Clerk McCullough thanked Bill Fox for repairing the bocce ball courts, the shuffle board courts and the horse shoe pits. She also thanked the Fishing and Boating Club for funding those repairs. The renewal letters for the long term boat parking permits have been mailed. A sympathy card was mailed to Roberta Hearn from the City Commission and Staff.

**K. City Administrator:**

Agenda Addition: City Administrator Moonis requested a 30 day extension to the IBTS contract which will allow ample time to prepare an RFQ to publicly request these services. Due to his accident he was not able to address this in a more timely manner.

**MOTION:** Motion made by Mayor DeNeale, seconded by Vice Mayor Sutton, to extend the IBTS contract for 30 days.

**Discussion:** Mayor DeNeale reported IBTS has just been contracted by the City of Marathon. City Administrator Moonis indicated IBTS has also had a preliminary meeting with Monroe County as it relates to housing. Commissioner Ellis asked if IBTS was actually needed for another 30 days. City Administrator Moonis answered it is needed under the emergency services contract to continue to get all the damage assessments and FEMA inspections completed.

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

1. Approval of Concrete Slab in 7<sup>th</sup> Street Park: City Administrator Moonis indicated he made an “executive decision” to approve a small concrete pad behind the restrooms in the 7<sup>th</sup> Street Park. Vice Mayor Sutton informed the Commission that he received a request from Robert Willey, which he passed to Mayor DeNeale. Mayor DeNeale ‘blessed it’ with the caveat it receive approval from the Recreation Committee. Mayor DeNeale said he thought this fell under the purview of the City Administrator.

2. Hurricane Recovery Update: Gerard Ducote, IBTS, introduced himself along with Eric Cruz and Norry Lynch. Norry Lynch is reviewing the City insurance policies. He reported the FEMA site inspectors are here thru next week documenting the Hurricane damages. The preliminary damages were submitted to FEMA timely. He also said FEMA has agreed to a volunteer plan whereby volunteer hours and donated materials can be used against the match due from the City. FEMA asks records be kept of all volunteer hours in addition to all receipts for materials purchased. Mr. Ducote said everything is going great and they are a little ahead of where other people have been at this point in the process. Vice Mayor Sutton asked if FEMA has given any time estimate on when the money spent on debris removal will be reimbursed. Mr. Ducote replied FEMA has been very tight with time lines. All they will say is it is being processed. City Administrator Moonis stated all the required information for the reimbursement of debris removal has been uploaded to the FEMA portal. He said his best guess is the debris removal reimbursement will be received within 60 days from today. Commissioner Ellis asked if the FEMA inspection of City Hall will be a ‘rubber stamp’ of the report prepared by IBTS. City Administrator Moonis answered the 38 page IBTS report has also been uploaded to FEMA. The local program manager has approved the report. The report was prepared using the Exactmate program which is recognized as the premier product used

to identify damages. FEMA was happy to hear the Exactomate program was used for the estimate of damages. He said the FEMA inspectors are here to confirm the legitimacy of the reports which were submitted. Mayor DeNeale said FEMA has already asked for a test bore.

3. Review of City Hall Status and Recommended Future Action: City Administrator Moonis reported Hurricane Irma effected the City in 6 categories; A. Debris removal; B. Emergency Protective Measures, C. Roads and Bridges, D. Not applicable to City E. Buildings and Equipment, F. Utilities and G. Parks, Recreational Facilities and Other Items. He said, with the assistance of IBTS, multi-million dollars have been identified as potential reimbursements. He did report \$2.4M had been submitted for debris removal. The City should be reimbursed for anywhere from 75% to 90% dependent on when the debris was removed.

Mr. Moonis reported the total estimated cost to repair City Hall is \$2.3M. The book value of the building, based on insurance records, is \$1.3M, however, the depreciated value is \$692K. Using FEMA's rule for more than 50% damaged, i.e. the book value of the building vs the estimated cost of repair, the percent damaged is 177%. There are a few options; 1) the structure can be elevated, 2) the structure can be relocated and demolish the existing building, or 3) it could be flood proofed, because this is a nonresidential government structure. Commissioner Ellis interjected "or you could leave the building alone and fix it". That option should have been listed. Mr. Moonis agreed. Commissioner Ellis said, if the damage is below 50%, then the building will be repaired and it will not cost \$2M to do it. Anyone can walk through this building and see there is only drywall damage. Commissioner Ellis continued that he had requested an estimate to replace the drywall. He did not indicate the dollar amount of the estimate but he did say it was low. Mayor DeNeale said the City is using an approved data base to calculate the repair costs. FEMA will throw out any cost estimate if different data bases from different sources are used. Mr. Moonis continued saying the estimated cost of repair is \$2.3M. The building must be repaired and elevated to BFE (basic flood elevation) plus 1' to get FEMA money. Mr. Ducote explained because of the elevation certificate FEMA will require mitigation to assist with the cost of repairs. Mitigation means the building must be elevated to meet the flood plain. He said FEMA, in addition to repair dollars, will provide funding for mitigation. Commissioner Ellis said this only applies if you are going after FEMA money. If you are not going after FEMA money this does not apply to anything. Mr. Ducote responded that by definition City Hall is a critical facility. Per FEMA a critical facility cannot be constructed in a 500 year flood plain. There is no where in Key Colony Beach that is not in a flood plain. FEMA and NFIP (National Flood Insurance Program) will provide assistance to help the City meet the mitigation requirements. These requirements are set so in a similar event much less damage will occur to your structure. The FEMA inspection team will be here on Monday. The IBTS team has prepared cost of foundation repair, and a general estimate of what elevation costs might be. IBTS does not think the building can be elevated. Mayor DeNeale said this is all part of an 8 step process. At the end of the 8 step process a decision can be made to keep the building the way it is. Going through the process does not obligate the City to anything. The main concern he hears, speaking to residents, is they do not want the City to approve something the City is not able to pay for. Vice Mayor Sutton said the only way he could approve demolishing the building is if there is a signed commitment from FEMA guaranteeing the payment of 'X' amount of dollars. He said he would also

need assurance it is legal to locate a new structure in the 'waterfall' park. Commissioner Ellis completely agreed with Vice Mayor Sutton. Mr. Moonis said regardless of what Commission decides, this building is 3 to 4 feet below the base flood elevation. The probable cost to elevate the building is estimated to be about \$1M, add the cost of repair puts the total cost at between \$2.9M and \$3.9M. Estimating receipt from FEMA of \$2M and 12 ½ % from the State would be \$362,000, which would leave the City with the cost of the remaining 12 ½ % or \$362,000. The State legislature has been petitioned for additional funding. The Department of Economic Opportunity (DOE) may be funding CBDG grants from Federal funds allocated for disaster relief. There are also loan programs, which after a 5 year review, can be converted to a grant. The purpose of this update is to keep the Commission informed. And for the Commission to direct the City Administrator to continue to investigate all options from do nothing through build a new facility, including who is going to pay for what.

Commissioner Ellis made a motion to instruct the Administrator to discontinue any more work on this until it is determined if the City is in the 50% bracket. Motion died for lack of a second.

The City Administrator will continue to investigate all options, including funding, relative to City Hall.

**7. Commissioners Open Discussion:** Commissioner Pettorini reminded everyone even though there are no candidates up for re-election, there will be ballot with 2 referendum questions on March 13, 2018. It is important for everyone to vote. There is a sample ballot posted in the post office and on the doors to City Hall. There are also sample ballots available in the office.

**8. Items for Discussion /Approval**

**A. Stormwater Project – Vice Mayor Sutton** informed the Commission that after numerous attempts Slazar Construction and Plumbing Inc. still has not produced the performance bond for the 12<sup>th</sup> Street Stormwater Project. Commissioner Ellis also tried to contact them. He did find out the employee who made the presentation at the last Commission Meeting has been terminated. The telephone was 'slammed down' on him the last time he tried to call them. Commissioner Ellis apologized to the Commission for causing a one month delay in the project. Vice Mayor Sutton suggested a motion to reject the Slazar bid and to offer the project to the next low bidder, Toppino and Sons. He asked Attorney Wright if it would be proper to keep the \$11,225.90 bid bond. Attorney Wright will look at the bid and make a claim if the requirements have not been met. Mr. Ted Bentley, 980 Shelter Bay Drive, suggested rather than 'reject the bid' the better wording would be 'non-performance'. Attorney Wright agreed with Mr. Bentley.

**MOTION:** Motion made by Vice Mayor Sutton, seconded by Commissioner Tracy, not to proceed to contract based on non-performance by Slazar Construction and Plumbing, Inc. and to make a claim against the bid bond.

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

**MOTION:** Motion made by Mayor DeNeale, seconded by Commissioner Pettorini, to accept the second lowest bid from Toppino and Sons in the amount of \$321,637.

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

**9. Approval of Warrants:**

**MOTION:** Motion made by Commissioner Pettorini, seconded by Vice Mayor Sutton, to approve Warrant No. 012018 in the amount of \$511,605.30.

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

**10. Ordinances and Resolutions:**

**A. Resolution 2018-01 Adopting the Multi-Jurisdictional Local Mitigation Strategy**

**MOTION:** Motion made by Vice Mayor Sutton, seconded by Commissioner Pettorini to approve Resolution 2018-01 Adopting the Multi-Jurisdictional Local Mitigation Strategy after changing the Department of Community Affairs to the Department of Economic Opportunity.

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

**11. Commissioners Reports or Comments: - None**

**12. City Attorney Report** - Attorney Wright reported the Campbell case is still a pending matter and the City is cooperating on the discovery requests.

**13. Citizen Comments and Correspondence** Mayor DeNeale reported all Commissioners received an email from Paul Cole expressing his concern about the building and some other issues. Mayor DeNeale asked for Commissioner comments on the email. Commissioner Ellis said Mr. Cole's points are well taken, they are common sense points. Commissioner Ellis would like to see Mr. Cole in attendance at the next meeting. Vice Mayor Sutton said he has received Mr. Cole's emails and appreciates his comments. However, he will not respond to his emails to avoid a violation of the Sunshine laws. Vice Mayor Sutton does forward the emails to the City Clerk as Mr. Cole does not.

Ron Teke, 290 10<sup>th</sup> Street, asked for help understanding why it would cost \$2M to repair City Hall. He has been a builder for 40 years. He doesn't see it costing more than \$10,000 to repair. Eric Cruz, IBTS, said although it only looks like cosmetic damage, there are foundation failures, wall failures and roof failures. The repair costs are calculated taking all these failures into consideration.

Corky Spehrley, 520 12<sup>th</sup> Street, asked if the damages to Marble Hall could be separated from the rest of the building? Mr. Cruz replied that is possible. Mr. Spehrley asked if Marble Hall was safe. Mr. Cruz answered no to the roof and to the walls. The floor is safe. Asked again about the roof, Mr. Cruz replied there is no steel in the roof, it is all wooden rafters.

The meeting adjourned at 11:10 A.M.

Respectfully submitted,



Kathryn McCullough, City Clerk