

MINUTES
KEY COLONY BEACH
CITY COMMISSION REGULAR MEETING
Thursday September 13, 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 and Prayer.

Present: Mayor John DeNeale, Vice Mayor Ron Sutton, Secretary/Treasurer Patti Trefry, Commissioner Jim Pettorini and Commissioner April Tracy. *Also Present:* City Administrator Chris Moonis, City Clerk Kathryn McCullough, City Attorney Tom Wright, Police Chief Kris DiGiovanni, Building Inspector Ed Borysiewicz and Building Official Gerard Roussin. *Excused:* Fire Chief John Johnson. Public - 12

2. **Approval of Minutes:** The minutes of the August 9, 2018 Public Variance Hearing and the August 9, 2018 Regular Commission Meeting were approved by acclamation.

3. **Agenda Additions, Changes, Deletions:** N/A

4. **Special Requests:**

Hurricane Irma Proclamation. A Proclamation recognizing employees, volunteers and storm contractors on the one year anniversary of Hurricane Irma was read by Mayor DeNeale. The Proclamation was approved by acclamation.

5. **Committee and Staff Reports:**

A. Marathon Fire/EMS: No report.

B. Recreation Committee: No report.

C. Beautification Committee: No report.

D. Disaster Preparedness Committee: Building Official Roussin reported the generator is fully functional. A successful load test was run.

E. Planning & Zoning Board: No report.

F. Utility Board: No report.

G. Police Department:

Chief DiGiovanni said there were 3 reports since the last meeting; a criminal mischief on 8th Street; an information report reference a suspicious letter and a death investigation on 9th Street. There were 2 medical calls. The Police Department also assisted the Monroe County Sheriff's Office 26 times and responded to 12 miscellaneous calls. The Police Officers issued 2 traffic citations and 37 traffic warnings. Officer Nicholas Niemic is

doing well on his own. Sgt. Griffith will retire at the end of November. The Chief is accepting applications.

Chief DiGiovanni recognized Sgt. JC Smith and Officer Niemiec for the great job they did on September 1st. These Officers assisted the Monroe County Sheriff's Office and the Florida Wildlife Commission by boarding a FWC vessel and assisted in the capture of a fleeing felon that jumped into the water after a vehicle pursuit.

Chief DiGiovanni requested everyone watch the weather as this is the peak of hurricane season.

H. Building Department/Public Works:

1. Extension of Permit No. 9597, 660-670 9th Street.

Building Inspector Borysiewicz requested an extension of Permit 9597. It is a duplex on 9th Street. The job started on March 7, 2017. The permit was valid until June 7, 2018. The fine is 10% of the original permit fee including impact fees, which calculates to \$2,165 per month. Anna Hubicki, representing Rudy Krause Construction. The company, located at the 26.5 mile marker, suffered significant damage due to Hurricane Irma. Mr. Krause sheltered his employees, who lost their homes, in his home. He volunteered the use of his equipment to the Fire Department. This job has been delayed due to the loss of employees because of housing. Rudy Krause Construction is working diligently on this house and is doing the best he can at this time. Ms. Hubicki said there have been several executive orders setting aside 360 days for permits such as this. She is requesting that time frame for this permit. She is also seeking a waiver of fees. Vice Mayor Sutton said the extensions were granted for a year from Hurricane Irma and it has been a year. He also asked how much more time is needed to complete this home. Mr. Krause answered completion is about 6 months out. Building Official Borysiewicz reported Mr. Krause is a new contractor in Key Colony Beach. He said, by ordinance, only the Commission can extend a permit and/or waive the penalties. City Attorney Wright recommend the Commission consider extending the permit, and waiving the penalties, for 90 days. If the project is not complete by then, the contractor can come back before the Commission.

MOTION: Motion made by Mayor DeNeale, seconded by Vice Mayor Sutton, to extend permit No. 9597, and waive the penalty until January 10, 2019.

ON THE MOTION: Commissioner Pettorini, yes; Commissioner Tracy, no; Vice Mayor Sutton, yes; Commissioner Trefry, yes; Mayor DeNeale, yes. Motion carried.

2. Approval of 24,000# Elevator Boat lift at 300 14th Street. Building Official Roussin reported there is an approval letter, for this boat lift, from one neighbor. Mr. Gentile, owner of 300 14th Street, also owns the property on the other side. It is before the Commission because it is over 16,000# with 14' arms, not 12' arms.

MOTION: Motion made by Mayor DeNeale, seconded by Commissioner Pettorini, to approve a 24,000# boat lift with 14' arms at 300 14th Street.

ON THE MOTION: Roll call vote. Unanimous approval.

3. Approval of a 30,000# 4 Post Boat Lift at 44 7th Street. Building Official Roussin reported having a letter from one neighbor approving the boat lift and verbal

approval from the neighbor on the other side. It is before the Commission because it is over 16,000# and it is a 4 post lift.

MOTION: Motion made by Vice Mayor Sutton, seconded by Commissioner Trefry, to approve a 30,000#, 4 post boat lift at 44 7th Street.

ON THE MOTION: Roll call vote. Unanimous approval.

4. Approval of a 30,000# 8 Post Cradle Lift at 2 7th Street. Building Official Roussin has approval from one neighbor and the City is the other neighbor. It is before the Commission because it is a 30,000# 8 post cradle lift.

MOTION: Motion made by Commissioner Trefry, seconded by Mayor DeNeale, to approve a 30,000# 8 post cradle lift at 2 7th Street.

ON THE MOTION: Roll call vote. Unanimous approval.

Building Inspector Borysiewicz reported a permit was approved for JRC Construction to install a kitchen at Havana Jacks restaurant in the same foot print it was in before Hurricane Irma.

Building Inspector Borysiewicz is addressing the 50% rule with Sunset Beach Club and Ocean Front Apartments. In both of these Condominiums some want to repair and some want to demolish and completely rebuild. Both Condominiums have problems separating the building value from the land value. He has asked both Condominiums to provide private appraisals, per building, for the value before Hurricane Irma and a cost estimate to bring the building back to before Hurricane Irma conditions so the City can make the 50% rule determination. Mr. Borysiewicz will have the City Attorney review all the figures before he makes that determination. City Attorney Wright explained Key Colony Beach Club, and maybe Ocean Front Apartments, are cooperatives rather than condominiums. In a cooperative the owner has a stock certificate in the Corporation that owns the entire project. Then they have a leasehold agreement to occupy their unit. They don't own the unit. Their ownership is a percentage interest of the entire building. The FEMA 50% rule is a problematical issue. Attorney Wright has written Mr. Borysiewicz a memorandum on the 50% rule, which was run past the FEMA Coordinator. This is going to be a difficult issue to work through.

Building Inspector Borysiewicz reported there are 24 building permits left. People are still purchasing vacant lots and asking how long they have to build. Some want to wait a year or two. It's a very difficult response to give. Mr. Borysiewicz understanding is the City will issue permits until it is out of allocations. The City will then continue to issue permits so the City would not be stopping an owner from improving their property, it would be the State. Mr. Borysiewicz is asking if this is the City's position. City Attorney Wright said this stance would be frowned upon by the State. There are sanctions the State can impose against the City. He said this should be worked out with the State in advance. Mr. Wright does not think the City should adopt a policy, at this point, to issue permits when the State says we can't. City Administrator Moonis said this is a bigger policy issue. He would like to take it to that level and have a policy discussion in the future. Attorney Wright reported Representative Holly Raschein is interested helping with this. Mayor DeNeale reported the City Lobbyist met with the Department of Economic Opportunity (DEO) and he is just waiting to hear back. Vice Mayor Sutton

agreed a policy decision should be made. He said Mr. Borysiewicz is trying to prevent the City from being sued. Vice Mayor Sutton suggested a building permit should be issued, after the allocation is exhausted, but the project not started until the permit is approved by the State. Mayor DeNeale said he has discussed the Memo of Understanding (MOU) with Julie Dennis of DEO. She agrees the City is not under the Rate of Growth Ordinance (ROGO) and has never been under ROGO. He said it is 'first come, first served' for permits in Key Colony Beach.

I. City Secretary/Treasurer: Commissioner Trefry said she has no report for this meeting. She will have the August financial reports for the next meeting. She has found there are 270 homesteaded properties in Key Colony Beach. She has not yet received a dollar value of these properties.

J. City Clerk: City Clerk McCullough reported she has been wearing 2 hats as Utility Clerk Pat Hyland is on vacation in Italy. Pat has reported she saw the Pope yesterday. Becky has a property manager class this afternoon. She and Gerard have been very busy with rental license renewals and inspections. Ms. McCullough and her staff are looking forward to relocating to the office trailers.

K. City Administrator: City Administrator Moonis told the Commission he provided a proposal from Shelter Bay Marine for the purchase of a Patrol Vessel in the amount of \$22,930. There are Infrastructure Funds designated for this purchase.

MOTION: Motion made by Vice Mayor Sutton, seconded by Mayor DeNeale, to approve the purchase of a Key West 203 FS 20' vessel in the amount of \$22,930.

ON THE MOTION: Roll call vote. Unanimous approval.

City Administrator Moonis gave the Commission the details for the purchase of a 2019 Yamaha engine to power the vessel just approved. This engine is State Contract priced at \$12,814.03.

MOTION: Motion made by Vice Mayor Sutton, seconded by Commissioner Trefry, to purchase a 2019 Yamaha F150XXB in the amount of \$12,814.03 from Millers Boating Center.

Discussion: Mr. Cole, 8th Street resident, asked if the City has looked at forfeited boats rather than purchase new. Vice Mayor Sutton told Mr. Cole forfeited boats are not always that good. This boat is being purchased for the Police Department and it must be safe and reliable. The dealer is in Marathon if any problems arise with the boat. The boat is warranted and the dealer will provide the service. Vice Mayor Sutton explained the City has been putting money away for several years for the purchase of this boat. The City is not spending money it does not have for this boat. Mr. Cole again encouraged the Commission to look at forfeited boats. Tom Tucker, 1st Street resident, applauded the City for purchasing a new boat. When the Police Department is out on the water they deserve something that is safe and reliable. He said when a used boat is purchased you have no idea what you are getting. He said the Commission is making a very good decision. Chief Johnson asked the disposition of the existing boat. City Administrator Moonis said it will be used within the Public Works Department to trim mangroves, replace 'no wake' signs and other water uses. Chief Johnson said he was going to suggest it be donated to the fire department if the City had no use for it.

ON THE MOTION: Roll call vote. Unanimous approval.

6. Commissioners Open Discussion: N/A

7. Items for Discussion /Approval

A. KCB Tipline: Mayor DeNeale reported the KCB Tipline, to report code violations has been implemented to be used to report code violations. It will be monitored 24/7. It is NOT an emergency line. The specifics will be posted on the City website and will be sent out via email blast. It can be used anonymously by dialing *67 before making the call. It will receive telephone calls, text messages and emails. This has worked very successfully in other cities around Florida.

9. Approval of Warrants:

MOTION: Motion made by Commissioner Tracy, seconded by Commissioner Pettorini, to approve Warrant No. 818 in the amount of \$348,531.75.

ON THE MOTION: Roll call vote. Unanimous approval.

10. Ordinances and Resolutions:

A. Ordinance No. 456-2018 Amending Chapter 12, Parks & Recreation, Section 9, Limitation on Use of Park Properties, First Reading: City Attorney Wright read the ordinance by title only. City Administrator Moonis reported the purpose of the ordinance is to adopt additional rules for the use of Sunset Park. Sunset Park will be open from 6 am to sunset. Special events must be registered with City Hall 48 hours in advance and are subject to approval. Dogs must be leashed and cleaned up after. Swimming, snorkeling or wading in the park is prohibited. No persons are allowed into the water at any time. No fishing is permitted from on the water's edge or the observation deck. No shrimp, crab or lobster trapping/netting is permitted from the water's edge or the observation deck. Entry into the water from the observation deck is prohibited. Docking is prohibited. No floating vessels shall launch or port from the water's edge, including but not limited to boats of any kind: kayak, jet-ski, paddleboard, surfboard or windsurfing board. City Administrator Moonis also reported an amendment to this same section, subset c, to read "Use of tennis or pickle ball courts owned by the City of Key Colony Beach shall be limited to the time 7:30 am to sunset each day unless otherwise posted". Back when the pickleball meetings were going on, it was the recommendation of the City Administrator to restrict the hours pickleball may be played on City owned courts.

MOTION: Motion made by Vice Mayor Sutton, seconded by Commissioner Trefry, to approve Ordinance No. 456-2018 Amending Chapter 12, Parks & Recreation, Section 9, Limitation on Use of Park Properties, as amended to include subset c.

Discussion: An 8th Street resident objected to pickleball starting at 7:30 am. He said when pickleball starts at 7:30 he wakes up at 7:30. He would prefer pickleball start at 9:00 am. Paul Cole, 8th Street resident, said there are several 'official' sunsets. He suggested official sunset should be described using the Federal Government guidelines for sunset. Commissioner Pettorini observed that at Sunset Park you can look at the water but you cannot go into the water. Mr. Moonis said that was correct. Commissioner Tracy said she has an issue with all the things we can't do. Vice Mayor Sutton reported Sunset Park is not a sanctioned beach by Florida Law. He said if the City allows people in the water the City is liable. Commissioner Tracy asked then why are people not allowed to fish. Vice Mayor Sutton said that had been allowed but there was so much debris and trash left around the City said no fishing. Mayor DeNeale said the dock is an

observation dock, it is not a swimming pier and it is not a fishing pier. Commissioner Tracy asked if you can barbecue in the park. Mr. Moonis said barbecuing is not prohibited in the ordinance. Commissioner Trefry said she lives on 8th Street and she was not thrilled with pickleball being moved from 7th Street to 8th Street, but with the restricted hours she felt it was a fair compromise.

ON THE MOTION: Roll call vote. Unanimous approval.

11. Commissioners Reports or Comments: Commissioner Tracy said she is still upset with the Sunset Park restrictions. Commissioner Tracy also reported the Health Department, along with FWC, will be conducting classes on September 19 and September 24, on the ways to capture iguanas and the proper disposal of iguanas. Participants only need to attend one class. Hopefully these participants will then help others in the community that are having an iguana issue. City Administrator Moonis reported there are 10, new and used, iguana traps available for citizens to borrow. Mayor DeNeale reported that today at 5:05 pm will be the first budget hearing.

12. City Attorney Report: No report.

13. Citizen Comments and Correspondence: City Clerk McCullough reported receiving a telephone call from Susan McKee of 631 8th Street who is against gravel and/or rocks in the retention pond. She would also like the City to hire a professional to plant sod in the retention pond area to insure it is done correctly. Mr. Cole, 8th Street resident, said the hydro seed was a disaster. Mayor DeNeale suggested the shower at Sunset Park be removed so people don't think they can go into the water. Mr. Moonis said it would be a nice place for a fountain. He will look at having that done.

The meeting adjourned at 10:55 a.m.

Respectfully submitted,



Kathryn McCullough, City Clerk