

**MINUTES**  
KEY COLONY BEACH  
CITY COMMISSION REGULAR MEETING  
Thursday February 28, 2019 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, Assistant City Clerk Becky Todd, City Attorney Tom Wright, Building Official Borysiewicz, Building Official Gerard Roussin, Police Chief Kris DiGiovanni, Fire Chief John Johnson Police Officer Jeff Rodriguez and Officer Jamie Buxton. Excused: City Clerk Kathryn McCullough. Public - 21

2. **Approval of Minutes:** N/A

3. **Agenda Additions, Changes, Deletions:** - Building Official Borysiewicz requested a question of a utility easement in the Vista del Sol subdivision be added under the Building Department.

4. **Special Requests:** None

5. **Committee and Staff Reports:**

**A. Marathon Fire/EMS:** Fire Chief Johnson reported 3 medical calls, 1 internal fire alarm and 1 good intent call since the last meeting. He said the Fire Department is ready for the Key Colony Beach Day parade and the rubber ducky races next Sunday. He said the triangle airport drill went very well. The Marathon Seafood Festival is next week so be alert with the additional traffic in town.

**B. Recreation Committee:** No report.

**C. Beautification Committee:** No report.

**D. Disaster Preparedness Committee:** Building Official Roussin reported he is still waiting on the estimates for the generators for both portable trailers.

**E. Planning & Zoning Board:** No report.

**F. Utility Board:** No report.

**G. Police Department:** Chief DiGiovanni reported found property and a fraud report at the Police Station, a traffic incident on Sadowski Causeway and a parking lot accident on East Ocean drive since the last meeting. The Police Department has responded to 2 medical calls, 2 alarm calls, provided backup to the MCSO 6 times and answered 13

miscellaneous calls. The Police Officers issued 5 traffic citations, 17 traffic warnings, 1 code violation and 3 code warnings. There was 1 text message to the Tipline concerning a dead tree on the side of a house, which was passed on to Public Works. Chief DiGiovanni reported Officer Jamie Buxton completed her field training and is on duty today. The Police Department is now fully staffed. The new Police patrol vessel is scheduled to be picked up today. The decals and equipment will be installed later. Chief also reported the Police Department is ready for the 62<sup>nd</sup> Annual Key Colony Beach Day this Sunday March 3<sup>rd</sup>.

**H. Building Department/Public Works:** Building Official Roussin reported, on the 290 14<sup>th</sup> Street boat lift request, tabled at the last Commission meeting, the width of the canal in this subdivision is defined as distance from the outer edges of the wooden dock to other side of the canal. This boat lift request is in compliance with all requirements and only needs Commission approval. Mayor DeNeale said it seems pretty narrow. Building Official Borysiewicz said it meets the code and there are several other boat lifts on the canal.

**MOTION:** Motion made by Vice Mayor Sutton, seconded by Commissioner Pettorini, to approve a 25K boat lift, with 12' arms, at 290 14<sup>th</sup> Street.

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

Building Official Roussin reported the Public Works crew has been working with Jean Herring and Janie Byland organizing the limited space available for KCB Day this year. They have been painting spots in the parking lots for the booths. There will also be a crew available to pick up the trash and keep the restrooms clean that day.

Building Official Roussin said in January 2018 the Florida Building Code required 1 additional board foot above the flood elevation in any given area. It is anticipated, in 2020, that will increase by another 1 or 2 feet. Contractors are asking if the finished roof height of the building can be increased. This issue is being addressed by the City of Marathon and Monroe County. Monroe County is considering a proposed 38' to 40' height. He said he is looking at a proposed 35' for Key Colony Beach as the condos are at 35'. City Administrator Moonis recommended 37' as the new flood plain maps are not yet available. City Attorney Wright said there are various areas within the City that are at different heights. He cautioned to be aware of all the impacts when considering changing the height requirements. Mayor DeNeale asked if the height could be tied to the base flood elevation rather than ground level. Building Official Borysiewicz answered that was tried many, many years ago but the center of the island is at elevation 6 and the ocean front is VE 13. The result was roofs going up, up and up. This caused issues so the City went with the center of the road elevation to keep things looking uniform. He said variance requests are already being submitted on the new permits just issued because the contractors cannot make it work out with the habitable space for any type of roof. Right now it will be handled by the variance procedure. Vice Mayor Sutton said this has come up in the past. When he built in 2002 he had to change his roof line to stay under 30'. Therefore he doesn't have the pitch that was originally designed. He said that an increase in height might not work on the Causeway, where there are smaller homes, but in the area of the larger homes it would be a good idea. Mayor DeNeale requested a staff workshop to work out a recommendation to the Commission. City Administrator Moonis said he would have a report prepared for the Commission.

Building Official Roussin reported all the building permits submitted to the State have been approved with the exception of one. That lot went through a zoning change years ago. The State just needs documentation of that change.

Building Official Borysiewicz explained the Vista del Sol subdivision extends from Sunset Park to the vacant lot just past Vice Mayor Sutton's home. There is the normal 25' right of way measured from the center of the road. In that subdivision there is also an additional 17' utility easement. The City Commission and the Building Department permitted 6 or 7 houses to go across the easement with a wall or fence to be aesthetically pleasing. A few houses, built on the corner of 12<sup>th</sup> Street and Coury Drive, where the homeowners decided to put the wall on the 17' easement so there would be no issues in the future. There is currently a building permit where the applicant would like to put a wall or fence on the property line. He spoke to Dave Evans, Wastewater Plant Operator, who would have no issue as long as the wall or fence was not built over a manhole. City Attorney Wright recommended anytime a permit is issued to go over an easement that a condition be added for the property owner to be responsible for the expense if the wall or fence had to be removed for any reason. Commissioner Tracy asked how that would work if there was a gate and a driveway in the easement. Mayor DeNeale said it should be consistent and asked if it should go the Planning and Zoning. City Attorney Wright said that would be a policy decision. It could even be sent to the Utility Board. Commissioner Tracy said she would be more comfortable if the request went before Planning and Zoning. Commissioner Trefry agreed. City Attorney Wright said the City required the easement to be that wide because of the pre-existing sewer lines. The City is not relinquishing the easement so if something is built there the City will still have access. Secondly, the City should not be responsible for rebuilding a wall knocked down for access to the sewer line. Joey Raspe, Planning and Zoning Chair, said it never hurts to go before the Board, however, this has been approved in the past with no problems.

**MOTION:** Motion made by Mayor DeNeale, seconded by Vice Mayor Sutton, continue allowing obstructions in the Vista del Sol subdivision easement with the requirement the property owner allow the City continued access with no liability to reconstruct any obstruction in the right of way.

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

**I. City Secretary/Treasurer:** Commissioner Trefry reported the City is still basically on track with the budget. Approximately 90% of the ad valorem taxes have been collected. Expenses are in line with those budgeted for the year. There was a loss in January of \$162,337, however year to date the City is \$425,574 on the plus side. Commissioner Trefry said she is cautiously optimistic the City will begin receiving the funds from FEMA and will end the fiscal year in good shape.

**J. City Clerk:** Assistant City Clerk Becky Todd announced the Iberia Bank credit cards arrived yesterday. She activated them and they are ready for the Commission's next trip to Tallahassee. Beverly has mailed out the renewal letters for the long term trailer parking permits. Pat is mailing past due notices to those utility customers that have fallen behind. 479 vacation rental licenses have been issued this year. This time 2 years ago there were 544 vacation rental licenses. There are 71 long term licenses compared to 122 long term licenses prior to Hurricane Irma. The next property manager's class will be March 26, 2019. Call City Hall if you are interested in registering for the class.

Commissioner Tracy asked if the new Police Officers could attend the class. Becky Todd answered she has the Officers on the list and will remind them as the class gets closer. Mayor DeNeale said it is a good course for everyone to take.

#### **K. City Administrator:**

##### **1. Request for Qualifications (RFQ) for City Hall Architectural & Engineering**

City Administrator Moonis requested permission to begin preparing an RFQ for the City Hall Architectural & Engineering. He reported both the FEMA process and the Legislative process are to a point where an RFQ should be going out in the next 45 to 60 days. The Commission agreed by consensus.

**2. FEMA Status of Projects** City Administrator Moonis reported the initial debris removal project is pending final FEMA review. The project will then come back to the City for one last review. After it goes back to FEMA it will be obligated and sent to the State of Florida for funding. The funding should take about 3 weeks after it reaches the State. There are 2 more debris removal projects moving steadily through the FEMA review process. Notification has been received from the State that mold remediation project is ready to be deposited into the City's bank account. The whole process of money flowing back to the City has begun. An emergency protective measures project, reimbursed at 100%, is in final development with the CRC. The trailer project is in a state called PDI completion. The documentation for this, the contracts and payments for the trailers, etc., are being gathered for the local PDGM to send to Washington. The building safety inspections required by the electric co-op, has been obligated for about \$50,700. The Sadowski Causeway bridge project is pending final receipt by the State of Florida. The Sadowski Causeway washout project is at the same step. City wide road repairs has been fully developed and are moving to the CRC for completion. The Wastewater building flood project is still being worked on. The Police units and contents are pending final FEMA review. Public works vehicles are also pending final FEMA review. Public works equipment is pending the State of Florida final review. KCB City Hall is pending (unintelligible) submission, which means all the last pieces of the City Hall project are being gathered before starting the review process. The swales are still under development with the CRC. The wastewater lift stations are in same situation as the swales. The Parks and the Golf Course are pending insurance and FEMA mitigation. Commissioner Pettorini asked for City Administrator Moonis' best estimate of the amount of funds to be received within the next 60 days. City Administrator Moonis answered \$2M should be obligated within 60 days with the City receiving the funds within the next 90 days.

Vice Mayor Sutton reported receiving a telephone call from a contractor concerning bringing in another engineer to evaluate City Hall. The contractor asked if Vice Mayor Sutton would be present during the evaluation. Vice Mayor Sutton said he felt he was put in a spot he shouldn't be in. He said there should be a procedure for this to go through the City Administrator. City Administrator Moonis reported several people have approached him to engineer the building. He wants to be open to City residents wanting to help, however, he cannot have everyone wanting to design and inspect City Hall. City Engineer Darryl Osborne has not been responsive, nor has the City's Co-Engineer. He has, therefore, reached out to an engineer he knows on a personal basis and professional basis. This person had a home on 11<sup>th</sup> Street, sold it, now has a home on Duck Key, but is working to repurchase on KCB. He is a registered Professional Engineer with his own

business for over 40+ years. This is how City Administrator Moonis is proceeding, because “FEMA requires this and FEMA requires that”, until the City has an A&E person on staff. This engineer, under Florida Law, has the ability to work on one singular project without a Florida license. He has applied for a Florida license and he has a group membership in Criterion Engineers who are licensed in Florida. City Administrator Moonis said this is how he is going to proceed, without objection, until there is an official Architectural Engineer on board. There are reports that have to be done and City Administrator Moonis needs someone to do that. Vice Mayor Sutton said his question was whether the Administrator was aware there was going to be an engineer on site on Tuesday and did he approve it? City Administrator Moonis answered yes. He is trying to be open and mindful of other people in the Community. He does not have a closed door to anyone’s opinion. Commissioner Tracy asked who made the inquiry. City Administrator Moonis answered the contractor is Ed Sims. Commissioner Pettorini asked if the City didn’t already have an engineering report. City Administrator Moonis answered there is a cost estimate engineering report and a report from the CFA Group, out of Miami, which prompted the City to vacate the center part of City Hall. Mayor DeNeale asked if it was fair to say the City has been working in line with what the FEMA representatives have been telling us and that our contractors have been helping us to get through this process. City Administrator Moonis answered yes, to the first part of the question, the City has been working in line with FEMA. On the second part of the question he said it depends on which contractor you are talking about. This will all get flushed out when we get there. He said it is hard to sit here 16 months later and not know whether to repair or replace. Mr. Moonis reported he is open to have contractors and/or engineers give their opinions. Let’s gather all the information. Mayor DeNeale stated the point is he doesn’t want people to think this is all being done in a vacuum.

**3. Fence at Sunset Park** City Administrator Moonis reported the Commission agreed to a fence installed on the City side of the property. There will be a donation from the Key Colony Point. He proposed a high end commercial ultra-aluminum powder coated picketed fence, approximately 75’ in length, with a lockable gate, for \$2,343.75. Public Works will install the fence. Commissioner Tracy asked where the gate will be. City Administrator Moonis answered it will be approximately 10’ from the observation deck. Mayor DeNeale asked if the City would be auguring the holes. Building Official Roussin answered yes, 12” holes about 1’ deep filled with concrete. Commissioner Trefry asked if the gate would be locked for the majority of the time. City Administrator Moonis answered yes.

**4. Increase in Building Official Salary** City Administrator Moonis explained Gerard Roussin has done yeoman’s work since being appointed Building Official and has satisfied all the professional licensing requirements. City Administrator Moonis also evaluated what building inspectors and building officials are paid in the local market. He recommended Building Official Roussin’s pay be increased, effective the next pay period, by \$5 per hour. The result is approximately \$95,000 per year. Building Official Borysiewicz reported, since he was hired 2 years ago, Gerard has received certifications for building inspector, electrical inspector, plumbing inspector, combination 1 and 2 family building inspector and the most difficult fire safety inspector.

**MOTION:** Motion made by Vice Mayor Sutton, seconded by Commissioner Pettorini, to increase Building Official Roussin salary \$5 per hour effective with the start of the next payroll period.

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

**5. Legislative Update** City Administrator Moonis provided the Commission with the Legislative Bill Summary effective February 1, 2019. The Legislative session will begin on March 5, 2019. There are 11 preemption bills on local home rule authority as of February 1<sup>st</sup>. Preemption is where the Legislature continues to try to erode home rule powers. One of the main preemption issues is the City's right to regulate vacation rentals. There are 9 mandate bills which are mostly unfunded mandates in Section 2. Section 3 deals with building and construction, permit fees, retention and fire safety and prevention. There are 4 or 5 bills in Section 4, Economic Development. There is a section on Elections, Public Records and Sexual Harassment. There are sections on Finance and Taxation, Housing, etc. etc. City Administrator Moonis will send out the updated list on Friday. Mayor DeNeale said he would like to know where Lobbyist Jerry Paul, Senator Flores and Representative Raschein stand on each one of the bills. City Attorney Wright reported it appears the strategy in the Keys is to get a 'carve out' from the Legislature, as it appears inevitable AirBnB will prevail and divest local government of the ability to regulate vacation rentals. Islamorada currently has a carve out in the Statute that pertains to governments in areas of critical state concern that have a rental system based on the valuation of property. If the valuation of property stipulation can be removed then the carve out would cover all the Keys.

**6. Commissioners Open Discussion:** None

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

**A. Critical Area of State Concern 2023** Mayor DeNeale said the City of Islamorada is concerned we are not talking, as a County together, on bills. Islamorada is very concerned about the bill sharing the cost of takings cases with the State. The concern is it adds liability to the municipalities and the municipalities were not consulted about it. Mayor DeNeale said City Attorney Wright and City Administrator Moonis need to be involved with this. City Attorney Wright pointed out the article states the liability of local government is based on the implementing authority of ROGO. Key Colony Beach has avoided adopting a ROGO for years. He is concerned this legislation could put liability on the City that it currently does not have. Mayor DeNeale reported Islamorada is not pushing KCB to side with them on the bill, but to be involved in the discussion. City Attorney Wright said KCB may also want to encourage property owners to develop their property before the State cutoff of development. Commissioner Tracy asked, if the City notified vacant property owners once or twice a year, if it would help the City's legal position. City Attorney Wright answered it would be a good idea if it protected the City from liability or not. It would be an important service to the property owners. City Attorney Wright said the City does not have a ROGO, it does not have a limitation on issuing building permits but that could change in 2023.

Joey Raspe, 12<sup>th</sup> Street resident, asked to confirm nothing has changed with the letter he has allowing him to build on his vacant lot. Building Official Borysiewicz answered Mr. Raspe has a building right because he demolished a house. But he is not sure if it will

still be guaranteed in 2023. City Attorney Wright said, based on his legal opinion, Mr. Raspe would be fine, even after 2023, as it is a replacement not a new structure.

**8. Approval of Warrant:** N/A

**9. Ordinances and Resolutions**

**A. Ordinance 457-2019 Amending Chapter 12, Recreation Committee Membership (Second Reading)**

City Attorney Wright read the ordinance by title only.

**MOTION:** Motion made by Vice Mayor Sutton, seconded by Commissioner Tracy, to approve ordinance 457-2019 Amending Chapter 12, Recreation Committee Membership

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

**B. Ordinance 258-2019 Amending Chapter 1, Code Board Membership (Second Reading)**

City Attorney Wright read the ordinance by title only.

**MOTION:** Motion made by Commissioner Tracy, seconded by Vice Mayor Sutton, to approve the 258-2019 Amending Chapter 1, Code Board Membership.

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

**C. Ordinance 459-2019 Amending Chapter 14, Utility Board Responsibilities (Second Reading)**

City Attorney Wright read the ordinance by title only.

**MOTION:** Motion made by Commissioner Tracy, seconded by Commissioner Pettorini, to approve the ordinance.

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

**10. Commissioner Reports** Commissioner Tracy reported Hot Dogs in the Hut was a really nice event. She thanked the anonymous donor for his generous contribution. Mayor DeNeale said Happy Birthday to KCB. The Key Colony Beach Day festivities on March 3, 2019 will be a great occasion.

**12. City Attorney Report:** City Attorney Wright reported no pending or threatened litigation at this time.

**13. Citizen Comments and Correspondence:** Assistant City Clerk Becky Todd reported a follow up email from Marie Sweeny concerning parking in the City. City Administrator Moonis reported Chief DiGiovanni has been working on the issue with Ms. Sweeny.

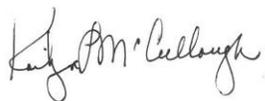
Dale Watkins, 411 10<sup>th</sup> Street, reported her neighbor at 421 10<sup>th</sup> Street, has 2 large dogs which lunge at her small dog. Last year she installed a privacy fence, by permit, between the properties, so she could enjoy her property. This year the problem is dog poop. They have large dogs and there is so much dog poop the smell is offensive. She contacted the owner to no avail. She contacted the Police Department, there is no ordinance. She said there should be an ordinance. She contacted the property owner, Tammy Stevens, and received her permission to go onto the property to clean up the dog poop. She picked up all

the dog poop. Not once did the tenant, Mr. Miller, say thank you or anything else to her. When she had approached him about it previously he said he did not care. She reported she is a widow from Maryland and only gets to come down for 2 or 3 weeks a year. She would like to enjoy herself when she comes to visit. Something should be done. Mayor DeNeale asked Ms. Watkins to email her pictures to City Administrator Moonis. City Attorney Wright reported there is a City ordinance requiring owners to keep their property sanitary. Mayor DeNeale said he has already started researching this with Chief DiGiovanni and Building Official Roussin.

Building Official Roussin reported the food trailer has been removed from the Gluntz property as of last night.

The meeting adjourned at 10:55 a.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kathryn McCullough".

Kathryn McCullough, City Clerk

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