

MINUTES
KEY COLONY BEACH
CITY COMMISSION REGULAR MEETING
Thursday September 12, 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 April Tracy, and Commissioner Kimmeron Lisle. *Also Present:* City Administrator Chris Moonis, City Clerk Rebecca Todd, City Attorney Tom Wright, Building Official Gerard Roussin, Assistant Building Official Ed Borysiewicz, Officer Jamie Buxton, Fire Chief Johnson, Public Works Supervisor Greg Lawton. *Excused:* Police Chief DiGiovanni. Public - 22

2. **Approval of Minutes:** The minutes of the August 22, 2019 Regular Commission Meeting, August 30, 2019 Emergency Commission Meeting, and September 4, 2019 First Budget Public Hearing were approved by acclamation.

3. **Agenda Additions, Changes, Deletions:** None

4. **Special Requests:**

A. Fishermens Hospital Update – Rick Freeburg, CEO:

Rick Freeburg, CEO reported the official groundbreaking ceremony for Fishermens Hospital is September 20th. The construction is expected to take 2 years to complete. He reported their financial position is ahead of budget. Their budgeted loss through July, the 10th month of the fiscal year, is \$9 million and the actual loss was \$5,139,000. During the first 10 months of this fiscal year they had 15 in-patient admissions, 10,655 outpatient visits which include ER and imaging visits. The outpatient visits are 37% over budget. There have been 344 charity cases costing \$2.4 million dollars. He emphasized they are a non - profit organization and will treat any patient regardless of ability to pay. He expects it will be 10 years before the hospital will be able to break even.

B. Oyster Cay Villas – H. Meruelo/L. Bellon: Attorney Wright reminded the commission he has recused himself from the matter of Oyster Cay Villas and Assistant Building Official Borysiewicz stated he also must be recused. Mayor DeNeale stated this is just a presentation and there are no decisions to be made. Architect Leopoldo Bellon presented the preliminary development plans for 711 W. Ocean Drive. They are proposing 27 condominium villas with 2 parking spaces under the building for each owner and 21 additional parking spaces for visitors. The construction will be completely concrete and will be elevated 8 feet. Mayor DeNeale expressed his personal preference of the original proposal. Mr. Bellon stated the height restrictions dictated the change and Mayor DeNeale informed him they have the option to apply for a height restriction variance as others in the city have done. Developer Homero Meruelo presented the necessity to redevelop the property and the economic impact it will have. The current assessed value of the 22 homes is \$2 million dollars generating \$40 thousand in tax revenue. The new development will have an assessed value of \$50 million generating \$1 million in tax revenue for the city. Mr. Murelo stated the units will be sold individually as

attached condominiums and in response to Commissioner Lisle's inquiry confirmed the corporate structure will be a not-for-profit condominium association.

5. Committee and Staff Reports:

A. Marathon Fire/EMS: Chief Johnson reported responding to 3 medical calls, 1 internal fire alarm, and 1 public assist. Mayor DeNeale requested Chief Johnson to forward their new budget to Administrator Moonis and himself.

B. Recreation Committee: No report.

C. Beautification Committee: No Report

D. Disaster Preparedness Committee: Building Official Roussin reported the public works department did a great job performing disaster preparedness when the Keys were in the Hurricane Dorian's cone of uncertainty. There were issues closing the City Hall shutters because of their condition from aging and damage from Hurricane Irma so they will remain closed until the end of hurricane season. They are prepared and will be monitoring any potential developments.

E. Planning & Zoning Board: No Report

F. Utility Board: No Report

G. Police Department: Officer Buxton reported 6 reports since the last meeting. In addition to road patrol, boat patrol, and vacation watch program, the Police Department responded to 3 medical calls, 11 miscellaneous calls and backed up the MCSO 10 times. They have written 3 traffic citations, 7 traffic warnings, 1 code violation ticket, 17 code violation warnings and received 1 text on the tip line.

H. Building Department/Public Works: Building Official Roussin reported Affordable Asphalt has completed repairs throughout the city. The building department is performing 15-20 rental safety inspections per day for the rest of the month. Due to the tight schedule it may take a couple days to perform requested building inspections. A new public works employee has been hired and will start September 23rd. They are looking for a new public works supervisor and an additional public works employee to start after October 1st.

I. City Secretary/Treasurer: No Report.

J. City Clerk: City Clerk Todd reported 123 vacation and 32 long term rental licenses have been issued and there are 174 inspections scheduled over the next 2 weeks. The TRIM process is nearing completion and fiscal year end is upon us. She stated there is a Breast Cancer Awareness Walk coming up and anyone interested in joining can obtain more information at City Hall. More information on this event will be forthcoming. A property manager class is scheduled at 2:00 today and a Final Budget Hearing at 5:05 both in Marble Hall for anyone interested in attending.

K. City Administrator:

1. KCB Entrance Sign: City Administrator Moonis presented a request from the Beautification Committee to purchase a new KCB entrance sign for a total cost of

\$15,400 including hardware. They are asking to pay for it with the \$10,000 that was budgeted for Gonzalez Landscaping that has not been used and the balance be paid from the Giving Tree Contributions. It will be a 2 sided 6' mahogany sign with gold leaf lettering.

MOTION: Motion made by Commissioner Lisle, seconded by Mayor DeNeale to approve the purchase of the entrance sign in the amount of \$15,400.

ON THE MOTION: Roll Call Vote. Unanimous Approval.

2. Police Mutual Aid Agreement: City Administrator Moonis requested approval of a mutual aid agreement between the City of Key Colony Beach and the Monroe County Sheriff's Office which has been reviewed by the city attorney and is recommended by Chief DiGiovanni.

MOTION: Motion made by Vice Mayor Sutton, seconded by Commissioner Tracy to approve signing of Monroe County Sheriff Mutual Aid Agreement.

ON THE MOTION: Roll Call Vote. Unanimous Approval.

3. A&E Services September 19, 2019: City Administrator Moonis stated the interviews for the 5 prospective Architectural & Engineering firms are scheduled for September 19th from 10:00 a.m. until 4:00 p.m. Lunch will be provided.

4. Borysiewicz Payout: Commissioner Tracy stated they only received the documents the previous night and she has not had a chance to review it. Commissioner Trefry expressed her desire to have more time to review it as well. Mayor DeNeale stated the discussion will be continued to the next commission meeting.

5. Personnel Manual Update – Vacation, Sick Leave, Compensatory Time: City Commission agreed with request from City Administrator Moonis to also continue this discussion until the next meeting to allow the commission more review time.

6. Commissioners Open Discussion: None

7. Items for Discussion /Approval:

A. Architectural Review – 680 11th Street: Building Official Roussin reported the Building Department referred the plans to the Planning and Zoning Board for an architectural review to ensure the change in appearance is harmonious with the neighborhood. The proposed plans are for a split level duplex. Attorney Wright read the applicable ordinance stating “all buildings, additions and alterations hereinafter constructed shall be of an architectural style and of building materials that are harmonious in character and appearance with existing buildings in the neighborhood and shall be appropriate to their surroundings”. Planning and Zoning Chairperson Joey Raspe reported the Planning and Zoning Board approved the architectural review of 680 11th Street. Commissioner Tracy inquired as to the rights of the owner of the other half of the duplex. Attorney Wright advised the neighbor has the option to speak before the commission at this meeting but has no ability to block the issuance of a permit. There are sometimes party wall agreements between owners of duplexes but these are not governed by the city. Enforcement of them is a civil matter for the courts. Attorney Wright reiterated this review is strictly to review the harmonious nature

of the plans and there should be no other considerations such as how long it has taken him to start repairs, the condition of his yard or other such things. Planning and Zoning member George Lancaster stated the board extensively reviewed the plans and due to the fact his half of the duplex was substantially damaged he has no choice but to build up according to FEMA regulations. The party wall is not being built on so that is a non-issue for any party wall agreement. It is his opinion that significant effort was exerted to make the proposed plans harmonious with the neighborhood and those reasons are why he voted yes to approve. Building Official Roussin stated once he receives the estimate from Mr. Harper on the cost to restore the property to pre-Irma condition he will make the final substantial damage or substantial improvement determination. Dick Harper, applicant, presented his plans in a PowerPoint slideshow including pictures of other bi-level duplexes within the city. He stated he is building to code and is not requesting a variance. Barbara Cisna, owner of 690 11th Street, presented her objections to Mr. Harper's proposed plan to build a second story on the duplex. City Clerk Todd read citizen correspondences received supporting or objecting to plans.

MOTION: Motion made by Vice Mayor Sutton, seconded by Commissioner Trefry to approve the architectural plans.

ON THE MOTION: Roll Call Vote. Commissioner Tracy – no, Vice Mayor Sutton – yes, Commissioner Lisle – yes, Commissioner Trefry – yes, Mayor DeNeale – yes. Motion passed.

B. U.S. Water Smoke Testing \$4760: City Administrator Moonis reported preliminary smoke tests performed were successful. He has a labor quote from U.S. Water to complete smoke testing throughout the city in the amount of \$4760 and requests permission to accept the proposal to proceed with further smoke testing. The Utility Board has approved this purchase and has the funds available in their budget to pay for testing.

MOTION: Motion made by Commissioner Trefry, seconded by Mayor DeNeale to approve the smoke testing by U.S. Water in the amount of \$4760.

ON THE MOTION: Approved by Acclamation.

C. Mayor DeNeale – Vacation Rentals: Mayor DeNeale presented a PowerPoint slide show regarding vacation rentals in Key Colony Beach that he proposes to present to the Florida League of Mayors. Attorney Wright reported attending a Florida Realtors Association meeting with other statewide attorneys who represent state realtor boards. The CEO of the Florida Realtors Association reported at the meeting they got every single proposed law through legislation except the preemption law which they expect to get passed in the upcoming legislative session. If passed this proposal would repeal the city's entire vacation rental program and remove any authority for code officers to enforce rules and regulations regarding vacation rentals which would only be enforceable by a state agency. The Florida Realtors Association is a massive group with a lot of political pull. Bob Schillinger, Monroe County Attorney, is spearheading an ordinance that would exempt the Florida Keys as an area of critical concern if such law was passed. Attorney Wright suggests setting up a workshop inviting Bob Schillinger to present ideas on what we can do to support this exemption ordinance and secondly get with the local Realtors Association to obtain support for the exemption. The City Commission agreed to proceed with a workshop including Bob Schillinger. Commissioner Trefry expressed concern about properties not

being secured prior to a storm. Building Official Roussin stated there is no ordinance to that effect only in regards to maintenance.

8. Approval of Warrant:

MOTION: Motion made by Commissioner Trefry, seconded by Mayor DeNeale, to approve Warrant No. 0819 in the amount of \$509,285.41

ON THE MOTION: Roll Call Vote. Unanimous approval.

9. Ordinances and Resolutions:

A. Ordinance 463-2019 Amending Chapter 4, Article I, Section 4-10 Removal of defecation on private or public property – First Reading. City Attorney Wright read the ordinance changes.

MOTION: Motion made by Commissioner Trefry, seconded by Vice Mayor Sutton, to approve the first reading of Ordinance 463-2019.

ON THE MOTION: Roll Call Vote. Unanimous Approval

10. Commissioner Reports:

Commissioner Trefry stated her request to add an update to the employee policy regarding use of medical marijuana in the workplace.

Commissioner Lisle reported attending the first Monroe County Transportation meeting. They are working on increasing bus service from Marathon to Key West with the goal being to get more cars off the road.

Commissioner Tracy stated her concern regarding challenges ahead with other cases of duplex owners wishing to elevate due to the changing FEMA Maps.

12. City Attorney Report: No report

13. Citizen Comments and Correspondence: City Clerk Todd reported Ann Powers, owner at Continental Inn, expressed her concern with Air BNB and the lack of an onsite manager at Continental Inn. Attorney Wright reported a number of matters concerning Continental Inn have been presented to him recently requesting the city to find code violations or enforce maintenance requirements and reports of individuals renting without registering with the front desk. This property is zoned RF3, multi-unit hotel, which allows for nightly rentals. Many of the issues are not in the city's jurisdiction to resolve as they are a civil matter for the condo owner to resolve. The city can only enforce any ordinance violations.

Rivon Shaneyfelt stated she has been visiting Key Colony Beach for 20 years and purchased 200 8th St. #4 in March. She has noticed safety compliance issues on the property regarding fire extinguishers and spalling issues that she has reported to the condominium association and not received a satisfactory response and inquired what her recourse is if the issues aren't remedied. Building Official Roussin stated when he performs her rental inspection he will look at the other building issues. If the issue is a maintenance issue it must be resolved with the association. If it is a life safety issue he can address it as the code enforcement officer.

Don Steamer, 311 11th Street, expressed his concern over the increasing vacation rentals eroding the character of the city and burdening the full time residents.

The meeting adjourned at 11:44 a.m.

Respectfully submitted,

Rebecca Todd, City Clerk