

MINUTES

CODE ENFORCEMENT BOARD

KEY COLONY BEACH

February 13, 2019, 9:30 a.m.

Call to Order

The Code Enforcement Board was called to order at 9:30 a.m. by City Attorney Wright

Swear in New Committee Members

City Attorney Wright administered the oath of office to new Code Enforcement Board members Cheryl Boehm and Jeannie Merrifield.

Roll Call

Present: Board Member Joey Raspe, Board Member John Dalton, Board Member Larry Wagner, Board Member Cheryl Boehm and Board Member Jeannie Merrifield. Also in attendance City Administrator Moonis, City Clerk McCullough, City Attorney Wright, Building Official Roussin, Public Works Director, Officer Rodriguez and Officer Buxton.

Election of Officers

City Attorney Wright called for nominations for Chairperson of the Code Enforcement Board. Board Member Dalton nominated Joey Raspe. There being no other nominations Joey Raspe was elected Chairperson of the Code Enforcement Board by acclamation. City Attorney Wright turned the meeting over to Chairperson Raspe. Chairperson Raspe called for nominations for Vice Chair. Chairperson Raspe nominated John Dalton as Vice Chair. There being no other nominations John Dalton was elected Vice Chair.

Code Board Duties and Responsibilities

City Attorney Wright explained the Code Enforcement Board is quasi-judicial. The hearings are judicial in nature with due process given to everyone who comes before the Board. The elements of due process are notice of the charges and the opportunity to appear. An alleged violator is entitled to an impartial hearing. At the beginning of a hearing if you have a conflict or an issue or an ex-parte communication it needs to be disclosed. It is not usually a good idea to visit a site before the hearing as it could turn you into a witness when, in fact, a Board Member is supposed to be a judge, an impartial determiner of the facts. Plus, if you see something not evidenced at the hearing, then you are making a decision based on facts not in evidence. When asking questions at a hearing you must be careful not to assume the position of a prosecutor. The City is the prosecutor in these matters. If the Board finds a violation any appeal goes to the Courts, not to the City Commission. The City Commissioners are not part of the process at all. A standard of proof, in these hearings is a preponderance of the evidence, which means it does not have to be beyond a reasonable doubt. The burden of proof is always on the City to prove the violation took place. If you do find a violation your second

responsibility is to determine the punishment. It works best if you separate the two and not make it all part of one motion. City Attorney Wright strongly recommended first a vote on the violation. Then, if found in violation, vote on the penalty. The procedure for the hearing is the City presents it's case, the respondents should always be given the opportunity to cross examine the City's witnesses, Board Members can ask questions at any time, then the respondent states their case and calls any witnesses they have. The City has the right to cross-examine those witnesses. If there are members of the public present, they would go last. It is also a good idea to give the parties an opportunity to give a closing statement. At that point the Board can make their motions. The Code Enforcement Board is covered by the Sunshine Laws of the State of Florida. It is not appropriate for Board Members to discuss any Code Board issue outside of the hearing. You are not the Code Police, that is up to the Code Enforcement Officers and/or the Police Department. If an individual comes to a Board Member with a code violation, that person should be directed to the City Administrator, to the Building Department or to the Police Department.

The meeting adjourned at a.m.

Respectfully submitted,

Kathryn L. McCullough
City Clerk