

# KEY COLONY BEACH POLICE TO UNIONIZE AFTER ROCKY START

By **Alex Rickert** - May 25, 2023



*Kcb police car: With legal proceedings moving along, the Key Colony Beach Police Department will soon have its own union. ALEX RICKERT/Keys Weekly*

The Key Colony Beach Police Department will become the last municipal police force in the Keys to unionize after more than 60 years, following tensions early on in the process.

Mayor Patti Trefry confirmed to the Weekly that as of May 22, the city had filed a formal response giving a green light to the four-officer unit's petition that formally began earlier this month. As required by Florida law, the department's fifth employee, police chief Kris DiGiovanni, will not be a member of the unionized group.

"(The department) absolutely has a right to unionize, and I support them in that," Trefry said. "We're the only police department in the county that is not unionized. ... I look forward to an amicable negotiation with the officers."

Attorney Andrew Axelrad of the Dade County Police Benevolent Association, which has handled the negotiations so far, told the Weekly he "could not ask for anything more" than the past week's progress, including work with KCB attorney Dirk Smits and the city's filing.

The positive steps are a welcome turning point from the prior week's communications between Axelrad and the city, which saw the former note possible violations of Florida Statute 447.501 and public employees' right to unionize under the Florida Constitution. Axelrad's notice, sent to City Administrator David Turner on May 8, cited emails sent by Turner to DiGiovanni within two hours of Axelrad's May 3 email to Turner introducing himself and outlining the start of the unionization process.

Among other items, directives sent to DiGiovanni and his staff that Wednesday included time-stamped reports of patrols down individual streets in the city multiple times per shift, walking patrols of Sunset Park three times per street patrol, recorded vehicle mileage for patrol vehicles at the start and end of each patrol shift, a report explaining the rationale if a city vehicle leaves the city, maintaining vehicle cleanliness for spot checks, and a daily log of DiGiovanni's activities. While some requests reinforced already-established duties, Axelrad said the email's proximity to his initial contact raised questions of retaliation.

"These changes to long-standing status quo practices of the department are very concerning, especially when considering they come on the heels of filing 'interest cards' to begin (the) unionization process," Axelrad wrote on May 8, later telling the Weekly on May 23 that the timing of Turner's email "didn't pass the smell test."

"That said, it is not our intent to take any legal action," Axelrad's May 8 email concluded, while requesting that "clearly retaliatory" directives issued after the city was notified of the unionization process be rescinded.

Turner's May 3 email also drew the ire of KCB commissioner Freddie Foster, who suggested in an emailed response that Turner himself comply with a number of identical directives regarding day-to-day activities and post his cell phone number on the city's website for easier contact by city residents.

Axelrad told the Weekly that after productive conversations with Smits, several of Turner's May 3 requests have been suspended for the time being. Confirmed in a May 14 email from Turner to DiGiovanni, items relating to specific time-stamped completion of individual street patrols and Sunset Park, as well as documentation for individual patrol vehicles leaving the city, were suspended pending union negotiations.

"Once Mr. Smits got involved and we were able to actually speak, it's been very smooth since," Axelrad said. "I'm confident that moving forward, it's going to continue that way. ... It's been resolved."

Speaking to the Weekly on May 22, Turner said his May 3 email was a case of "bad timing," and was a response to mounting resident concerns – one of which he said he received a week before the email in question – as well as a continuation of discussions with the police department that were "nothing new." He said one of his top priorities was to pinpoint violations of the city's code and potential work by unlicensed contractors, as directed by the city commission.

"There's no retaliation," he told the Weekly. "I just want them to do their job. I want my chief to run their department, just like every other department in every other municipality. Whether that's with a union, non-union, it doesn't matter."

He added that he declined to answer Axelrad's first email because he had turned the communication over to Smits for counsel.

An email from Turner to Smits on May 15 outlines the justification for his directives sent on May 3. Among other items, the email states that Turner met with a KCB commissioner on May 2 at 11:30 a.m. – one day before the email in question from Turner to DiGiovanni – to discuss unlicensed contractors and code enforcement.

He attributed the requests for additional patrols to reported property damage to signs, bathrooms and trees in the city's parks, as well as an after-hours fight on the city's golf course.

He stated his request to know why officers were spending time outside the city was to ensure a prompt emergency response, and that "this email serves as my notice, if (anything) happens because I was told to rescind the above, that I not be held accountable."

"We have one police officer on duty in our city," he further elaborated when speaking with the Weekly. "If they're outside the city, seconds count in a medical emergency."

In another strongly-worded email written to DiGiovanni on May 17, with a request to distribute his message to the city commission, KCB officer Joe Burden stated he could "no longer stay silent about an injustice."

Referencing the fight on Key Colony's golf course, Burden said it was "unconscionable" that "one of this agency's success stories is being portrayed ... as one of its greatest failures." Burden's email goes on to outline the details of the night in question and the response of KCB's officers.

"In this situation, every system worked flawlessly, and the truth was brought to light," he concluded.

Declining to comment in detail while negotiations are still underway, DiGiovanni told the Weekly that he looked forward to "working with (city officials) in the best interest of the city and my officers."

### **Changes in employee policies drive divide**

Though Axelrad and some commissioners who spoke to the Weekly declined to comment on driving forces behind the department's petition, others opined that a potential change to the city's employee policies that began months ago regarding accumulated sick and vacation time may have primarily catalyzed the situation. While some spoke of a brewing rancor between Turner and the police department, others attributed the change to simply align with the actions of other departments throughout the Keys and around the country.

Under KCB's previous policies, buyouts of accumulated sick and vacation time for employees leaving the city had approached six figures in some instances, as stated by Trefry at the commission's May 18 meeting. In some cases, hours stockpiled by employees while earning a lower wage would later be paid out at a significantly higher rate upon the employee's resignation.

"In my past in business, this was considered excessive, and we have to be competitive," said treasurer Tom Harding, who voiced concern with the "unfunded liabilities" at the May 18 meeting. "If we really want to be serious, we should fund this as a reserve account. ... It's not a retirement income. Sick leave should be used for sick."

Foster strongly opposed the change, stating that he found it "uncomfortable" to "look at the most important asset we have as a financial burden" and that excessive payouts should be attributed to poor prior management of employees.

"We're doing the wrong thing by our employees," he said.

Proposed changes, approved 4-1 at the May 18 meeting with Foster as the lone "no" vote, limit the number of hours employees may "bank" at 168 hours of vacation time. Hours accrued in excess of this maximum must be used within the first six months of the following calendar year, and employees may not use more than the vacation hours earned in that particular year during their final year of employment. Payout amounts are capped at \$8,000 for sick leave and \$12,000 for vacation time.



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Alex Rickert made the perfectly natural career progression from dolphin trainer to newspaper editor in 2021 after freelancing for Keys Weekly while working full time at Dolphin Research Center. A resident of Marathon since 2015, he fell in love with the Florida Keys community by helping multiple organizations and friends rebuild in the wake of Hurricane Irma. An avid runner, actor, and spearfisherman, he spends as much of his time outside of work on or under the sea having civil disagreements with sharks.