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KCB transcripts reveal troubling sentiments

By RICHARD TAMBORRINO Special to The Citizen
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Just when one of the biggest challenges of 2023 was behind the City of Key Colony Beach, concerning commissioner and attorney comments were revealed in newly released transcripts from their closed-door meetings on Aug. 18 and Oct. 19. These sessions occurred while the referendum petition opposing a rebuild of a new City Hall was evolving.

The prevailing opinion expressed by City Attorney Dirk Smits and several of the commissioners was they were confident the city was operating from a position of strength concerning the lawsuit levied by the resident group Concerned in KCB.

In the August session, at one point Smits told the commissioners he didn't believe the regular city business should be bound by the referendum, adding that "this is never going to be a vote."

Smits proposed a straw poll to appease the masses, which then-mayor Patti Trefry and Commissioners Beth Ramsay Vickrey and Tom Harding rejected, likely fearing it would give the residents hope if it came back positive for a vote to cancel the rebuild bid, awarded to Hands on Builders (HOB) for \$8.3 million in July.

In the October session, Smits even proposed letting the residents vote, which would nullify the lawsuit. "You can let them vote and if you let them vote, the chips fall where they may, there's no more litigation," he said. Ramsay Vickrey said, "a vote is nonbinding," to which Smits responded, "We can make it" (non-binding)."

Smits said if this petition referendum is "brought to its logical, absurd conclusion, it would be that everything we do is challengeable by referendum." And in a surprising retaliatory response, Ramsay Vickrey uttered the following statement:

"These people (residents seeking the referendum) are, you know, interfering with our city businesses, and we may have damages losing the contract bid and costs incurred in this, particularly if they turn around and then appeal it and drag this out longer for us and incur these damages, what kind of legal fees and damages can we in turn go back on them for?"

Commissioner Freddie Foster confirmed by phone he interpreted this to be a consideration of potential punitive, financial action against the resident group, intended to seek legal fees incurred by the city throughout the litigation. It's possible, although unclear, if this was an attempt to also recoup additional city expenses that may have arisen if the city was forced to re-bid the project.

Smits responded to that, saying, "There is a measurable amount of damage to seek, given it being a frivolous lawsuit." He added that he was "90% convinced the city would win this suit" adding "there's nothing but victory on the horizon" back in August.

The city settled the suit in December.

There was evidence from the transcripts that the city was intentionally making it difficult for Laurie Swanson, the resident group's leader, to navigate the petition process. Smits admitted the city was obligated to provide petition forms, which were supplied to Swanson, but that "it doesn't matter what form they have (or were given)," maintaining this wasn't something he believed should be challenged in a referendum.

There was also discussion surrounding the group's ability to continue funding litigation, believing they "would run out of resources."

In the October session, there was strong consideration given by Smits and Ramsay Vickrey to change the city code to accelerate dismissal of the referendum petition. Smits asserted that it wasn't binding under the city's code. However, he also said the city couldn't attempt to alter its code while litigation was ongoing.

Smits did encourage the commission to plan strategically for how to contend with a similar situation in the future by changing the city code after the litigation was concluded. Harding initially suggested the city modify its code the day after the settlement was reached, later changing that to "three months before the 'next' re-bid." However, Smits cautioned against the initial suggestion, adding later, in summary, that "this is not the hill to die on."

Harding expressed a desire to go before a judge to plead that "we're stopping business for the city and that someone is continuing to stop us to the point we're not protecting employees, we're not protecting government property," a reference to the city's right as a government to execute work. However, if the city hall rebuild were replaced by a well-engineered refurbishment, there's no evidence city employees' or its property wouldn't be protected.

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