



City of Key West, FL

Old City Hall
510 Greene Street
Key West FL 33040

Action Minutes - Final City Commission

Tuesday, May 5, 2015

6:00 PM

Old City Hall

ADA Assistance: It is the policy of the City of Key West to comply with all requirements of the Americans with Disabilities Act (ADA). Please call the TTY number at 305-809-1000 or the ADA Coordinator at 305-809-3731 at least five business days in advance for sign language interpreters, assistive listening devices, or materials in accessible format.

CALL MEETING TO ORDER

6:00 P.M.

ROLL CALL

Absent 1 - Commissioner Weekley

Present 6 - Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Yaniz and Mayor Cates

INVOCATION – Deacon Peter Batty, Basilica St. Mary's Star of the Sea

PLEDGE OF ALLEGIANCE TO THE FLAG

APPROVAL OF AGENDA

It was moved by Commissioner Rossi and seconded by Commission Wardlow to approve the agenda as amended.

PROCLAMATIONS

1 Peace Officers Memorial Day & Key West Police Week

Sponsors: Mayor Cates

Received and Filed

2 Motorcycle Safety and Awareness Month

Sponsors: Mayor Cates

Received and Filed

3 Sydney's Hope Project Day

Sponsors: Mayor Cates

Received and Filed

PRESENTATIONS**4** Foster Care in Monroe County - Angelica Garvey

Sponsors: Commissioner Johnston

Received and Filed

City Attorney's Report

City Manager's Report

KOTS Easter Seals Site Update

Received and Filed

CONSENT AGENDA*

*Item is considered to be routine and enacted by one motion with no separate discussion, unless requested by a Commission Member or citizen, in which event the item will be removed from the order and considered in its normal sequence on the agenda. The City of Key West may take action on any matter during this meeting, including items that are not set forth within this agenda.

MINUTES**5** *April 7, 2015 (Regular)

Approved

RESOLUTIONS**6** *Appointing Frank Holden to the Key West Bight Management District Board.

Sponsors: Mayor Cates

Postponed to June 2, 2015

- 7 *Appointing Denise Bravo to the Tree Commission.

Sponsors: Mayor Cates

Passed

Enactment No: Res 15-142

- 8 *Directing the City Manager and City Attorney to ensure payments for completed work on the Vietnam Veteran's Memorial Project in accordance with previously passed Commission Resolutions while maintaining sufficient documentation to receive reimbursement from the Grant Award from the Tourist Development Fund.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-143

- 9 *Authorizing the Key West Rotary Club Foundation, Inc. the use of Bayview Park and a Bike Ride through the streets of Key West on Friday, May 29, 2015 from 5:30 P.M. to 9:00 P.M.; Pursuant to terms and conditions set forth by the City Manager; Granting an exemption from the Noise Control Ordinance pursuant to Section 6-86 of the Code of Ordinances during the event; Authorizing the sale and consumption of alcoholic beverages pursuant to Section 6-86 of the Code of Ordinances during the event.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-144

- 10 *Authorizing Sunrise Rotary Foundation of Key West, Inc. the use of City Property at 1405 Duval Street for a Brewfest Key West Festival on Saturday, September 5, 2015 from 3:00 P.M. to 8:00 P.M. (Rain date of Sunday, September 6, 2015); Authorizing the sale and consumption of alcoholic beverages within the barricaded area.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-145

- 11 *Approving and authorizing execution of the attached Agreement between the City of Key West and the Sunrise Rotary Foundation of Key West, Inc. for Charity Motorcycle Bike Week on September 18 & 19, 2015; Authorizing the closure of Duval Street from Angela Street to Front Street on Friday, September 18, 2015 and Saturday, September 19, 2015 from 10:00 A.M. to 12:00 Midnight; All cross streets shall remain open except Greene Street between Whitehead to Ann Street and Caroline Street from Whitehead to Simonton Street; Authorizing the sale and consumption of alcoholic beverages within the barricaded area of the event; Granting an exemption from the Noise Control Ordinance pursuant to Section 6-86 of the Code of Ordinances during the event.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-146

- 12 *Approving the City Clerk Performance Evaluation.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-147

- 13 *Approving a one year extension of the Contract for Merchant Services between the City of Key West and First State Bank of the Florida Keys.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-148

- 14 *Authorizing pursuant to Sections 2-797(3)(a)(b)(c) and 2-844(a) of the Code of Ordinances the purchase of twenty-two (22) Second Chance Level 3A Ballistic Body Armor/Bullet Proof Vests from Special Products Group in the amount of \$20,193.00, pursuant to State Contract for Body Armor (Protective Vests) #680-850-11-1.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-149

- 15 *Approving the payment of Florida Ports Council Membership Dues for FY 14/15 in the total amount of \$20,500.00; Authorizing necessary budget transfers.
- Sponsors: City Manager Scholl
- Passed**
- Enactment No: Res 15-150
-
- 16 *Approving the attached "Submerged Lands Lease" for City-Owned Submerged Lands in the Sunrise Canal adjacent to 3810 Flagler Avenue between the City and 3810 Flagler, LLC.
- Sponsors: City Manager Scholl
- Passed**
- Enactment No: Res 15-151
-
- 17 *Approving the attached Assignment of Lease and Consent of Lessor from Strombus, Inc. (Assignor) to Old Town Trolley Tours of Washington DC, a District of Columbia Corporation (Assignee/Guarantor) for Submerged Lands at 801 Eisenhower Drive.
- Sponsors: City Manager Scholl
- Passed**
- Enactment No: Res 15-152
-
- 18 *Approving the attached "Lease Agreement" between the City and Casa Cayo Hueso, LLC, d/b/a El Meson de Pepe.
- Sponsors: City Manager Scholl
- Passed**
- Enactment No: Res 15-153
-
- 19 *Adopting the attached 2015 City of Key West Work Force Housing Income, Sale and Rent Limits; Stating that the Income, Sale and Rent Limits are based on Monroe County Annual Median Income for a family of four of \$70,400.00.
- Sponsors: City Manager Scholl
- Passed**
- Enactment No: Res 15-154

- 20 *Approving the attached Amendment to Revocable License Agreement between the City of Key West and Christopher A.R. Darby and Kimberley R. Darby ("The Darbys") for nonpermanent use of property associated with an historic structure located at 4 Pinder Lane.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-155

- 21 *Approving the addition of one full time equivalent Administrative Assistant II Position; Approving the elimination of one Utilities General Services Construction Inspector Position (currently vacant); Approving any necessary budget transfers.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-156

- 22 *Authorizing pursuant to Section 2-797(3) the purchase of a Vactor 2100 Plus Combination Sewer Cleaning (CSC) Machine from Environmental Products of Florida in the amount of \$326,060.00 through Piggybacking on the Florida Sheriff's Association and Florida Association of Counties Contract #14-12-0904.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-157

- 23 *Authorizing pursuant to Section 2-797(3) the purchase of Trash Receptacles from Rehrig Pacific Company in the amount of \$537,987.52 through Piggybacking on the City of Deerfield Beach Contract #RFP No. 2011-12/18.

Sponsors: City Manager Scholl

Withdrawn

- 24 *Authorizing a Design Task Order to Stantec Consulting Services, Inc. for City Marina at Garrison Bight Sailfish Pier Replacement Design/Construction Services Project in an amount not to exceed \$128,730.00.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-158

- 25 *Awarding the bid of Charley Toppino and Sons, Inc. for Right Of Way Improvements Contract, in accordance with the terms specified in ITB 15-006, in an amount not to exceed \$1,323,132.00; Approving a project allocation of \$76,868.00 for unforeseen conditions; Authorizing the City Manager to enter into a contract in substantial conformance with the contract documents contained in the bid package and upon advice and consent of the City Attorney.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-159

- 26 *Awarding the bid of Pedro Falcon Electrical Contractors, Inc. for the City Cemetery Sexton's House in an amount not to exceed \$445,222.00 in accordance with the terms specified in ITB 15-013; Authorizing the City Manager to execute a contract and pursuant to legal review on behalf of the City of Key West.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-160

- 27 *Approving a Purchase Order under the City's Asphalt Paving Program with D. N. Higgins, Inc. in a total amount not to exceed \$107,223.00 to complete the Northside Drive Paving Project and Ancillary Roadway Work using FY 2015 Funds.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-161

- 28 *Approving the Staff Ranking of Financial Consultants in response to the City's Request for Qualifications (RFQ) 15-002, and authorizing staff to negotiate contracts with the three top-ranked firms in substantial conformance with the RFQ documents, for a term of three years with up to two one-year options, upon advice and consent of the City Attorney.

Sponsors: City Manager Scholl

Passed

Enactment No: Res 15-162

- 29 *Approving the proposed Settlement Agreement in John Newcomer vs the City of Key West, Worker's Compensation Case # OJCC 14-13472RDM in an amount not to exceed \$200,000.00; Authorizing the City Manager to execute all Settlement documents with the advice and consent of the City Attorney.

Sponsors: City Attorney Smith

Passed

Enactment No: Res 15-163

- 30 *Approving the proposed Settlement Agreement in John Newcomer vs the City of Key West, Worker's Compensation Case # OJCC 14-26483RDM in an amount not to exceed \$49,900.00; Authorizing the City Manager to execute all Settlement documents with the advice and consent of the City Attorney.

Sponsors: City Attorney Smith

Passed

Enactment No: Res 15-164

Approval of the Consent Agenda

A motion was made by Commissioner Rossi, seconded by Commissioner Lopez to Approve the Consent Agenda. The motion carried unanimously.

- 31 Voiding Request for Proposals (RFP) No. 04-015: Code Compliance Special Magistrate; Directing an Evaluation Committee be convened for recommendations to the City Commission.

Sponsors: Commissioner Johnston

A motion was made by Commissioner Johnston, seconded by Commissioner Rossi, that the Resolution be Passed. The motion passed by a unanimous vote.

Enactment No: Res 15-165

- 32 Authorizing the City Manager to enter into an Agreement with Bank of New York, Property Owner(s) of 1019 Elgin Lane, permitting a release of lien upon payment by the owners of a mitigated amount of \$2,500.00.

Sponsors: City Manager Scholl

A motion was made by Commissioner Rossi, seconded by Commissioner Johnston, that the Resolution be Passed. The motion passed by a unanimous vote.

Enactment No: Res 15-166

- 33 Authorizing Rick's & Durty Harry's Entertainment Complex, Inc. to conduct a Seafood Lobster Festival on Saturday, August 8, 2015, from 10:00 A.M. to 12:00 Midnight, Pursuant to terms and conditions set forth by the City Manager; Authorizing the closure of the 100, 200, 300, 400 & 500 blocks of Duval Street between Front and Southard Streets including the Greene Street intersection and Telegraph Lane and Charles Street from 10:00 A.M. to 12:00 Midnight; Granting a Special Event Permit pursuant to Section 6-86 of the Code of Ordinances from 12:00 Noon to 12:00 Midnight; Authorizing the sale and consumption of alcoholic beverages within the enclosed area.

Sponsors: City Manager Scholl

A motion was made by Commissioner Yaniz, seconded by Commissioner Lopez, that the Resolution be Passed. With Commissioner Rossi recused, the motion passed by an unanimous vote.

Enactment No: Res 15-167

- 34 Approving a Budget Amendment for the transfer of \$1,300,000.00 from the Key West Bight Reserves to the City of Key West New City Hall Fund.

Sponsors: City Manager Scholl

A motion was made by Commissioner Rossi, seconded by Commissioner Johnston, that the Resolution be Passed. The motion carried by the following vote:

No: 2 - Commissioner Wardlow and Commissioner Yaniz

Absent: 1 - Commissioner Weekley

Yes: 4 - Commissioner Johnston, Commissioner Lopez, Commissioner Rossi and Mayor Cates

Enactment No: Res 15-168

- 35 Approving FY 2014-15 Budget Amendments for the construction of the New City Hall at Glynn Archer School (Project GN1302) in an amount totaling \$1,638,660.00.

Sponsors: City Manager Scholl

A motion was made by Commissioner Johnston, seconded by Commissioner Lopez, that the Resolution be Passed. The motion carried by the following vote:

No: 1 - Commissioner Wardlow

Absent: 1 - Commissioner Weekley

Yes: 5 - Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Yaniz and Mayor Cates

Enactment No: Res 15-169

36

QUASI-JUDICIAL HEARING - 101 Duval Street

Approving a Minor Development Plan for real property located at 101 Duval Street; Providing for conditions.

Sponsors: City Manager Scholl

Meeting went into Recess

Meeting Reconvened

A motion was made by Commissioner Johnston, seconded by Commissioner Yaniz, that the Resolution be Passed amending Planning General Conditions #3 to change "recommended" to "required" that the applicant participate in Waste Management's commercial recycling program. The motion carried by the following vote:

Absent: 1 - Commissioner Weekley

Yes: 6 - Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Yaniz and Mayor Cates

Enactment No: Res 15-170

37

QUASI-JUDICIAL HEARING: 100 Geraldine and 717 Fort Streets

Approving an easement for a total of 141 square feet into the Fort Street and Geraldine Street Rights-of-Way as well as an adjacent City owned lot, to address the encroachment of a portion of an existing residential structure and roof over hangs onto City Right-of-Way and City owned property abutting the property located at 100 Geraldine Street - 717 Fort Street (RE #00013980-000101, AK #9102040, RE #00013980-000100, AK #8950041), Key West, Florida; Providing fees and conditions.

Sponsors: City Manager Scholl

A motion was made by Commissioner Johnston, seconded by Commissioner Wardlow, that the Resolution be Passed. The motion carried by the following vote:

Absent: 1 - Commissioner Weekley

Yes: 6 - Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Yaniz and Mayor Cates

Enactment No: Res 15-171

ORDINANCES – FIRST READING

- 38 An Ordinance of the City of Key West, Florida, amending Chapter 18 of the Code of Ordinances, entitled "Businesses" by amending Section 18-701, to amend the Definition of a Cosmetic Retailer; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

Sponsors: City Manager Scholl

A motion was made by Commissioner Rossi, seconded by Commissioner Wardlow, that the Ordinance be Passed to Second Reading on May 19, 2015.

The motion carried by the following vote:

Absent: 1 - Commissioner Weekley

Yes: 6 - Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Yaniz and Mayor Cates

- 39 An Ordinance of the City of Key West, Florida, amending Chapter 66, Article IV of the Code of Ordinances entitled "Business Tax" by amending Section 66-108 to provide for an increase in fees pursuant to Florida Statutes; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

Sponsors: City Manager Scholl

A motion was made by Commissioner Wardlow, seconded by Commissioner Lopez, choosing the ordinance rounding the recommended increase down to the nearest whole dollar and that the Ordinance be Passed to Second Reading on June 2, 2015. The motion carried by the following vote:

Absent: 1 - Commissioner Weekley

Yes: 6 - Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Yaniz and Mayor Cates

ORDINANCES - SECOND READING (Public Hearing)

- 40 An Ordinance of the City of Key West, Florida, amending Chapter 2, of the Code of Ordinances entitled "Administration," by amending Division 10, Section 2-554 to assign day-to-day financial responsibilities to the City Manager, to adjust the threshold for expenditures and budget transfers which require City Commission approval to \$20,000.00 and to add a provision that purchasing and procurement requirements in the Key West Bight District shall be governed by Section 2-766 through 2-845 of the Code of Ordinances; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

Sponsors: City Manager Scholl

A motion was made by Commissioner Rossi, seconded by Commissioner Johnston, that the Ordinance be Adopted. The motion passed by a unanimous vote.

Enactment No: Ord 15-08

CITIZEN COMMENTS

COMMISSION COMMENTS

ADJOURNMENT

8:30 P.M.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME ROSSI, MARK		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE CITY COMMISSION	
MAILING ADDRESS P O BOX 1409		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
CITY KEY WEST	COUNTY MONROE	NAME OF POLITICAL SUBDIVISION: CITY of KEY WEST	
DATE ON WHICH VOTE OCCURRED MAY 5, 2015		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTEE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Mark Rossi, hereby disclose that on May 5, 20 15 :

(a) A measure came or will come before my agency which (check one or more)

- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____ ;
- ☐ inured to the special gain or loss of my relative, _____ ;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Item #32: Authorizing Rick's & Durty Harry's Entertainment Complex, Inc. to conduct a Seafood Lobster Festival on Saturday, August 8, 2015 from 10:00 A.M. to 12:00 Midnight, pursuant to terms and conditions set forth by the City Manager; Authorizing the closure of the 100, 200, 300, 400 & 500 blocks of Duval Street between Front and Southard Streets including the Greene Street intersection and Telegraph Lane and Charles Street from 10:00 A.M. to 12:00 Midnight; Granting a Special Event Permit pursuant to section 6-86 of the Code of Ordinances from 12:00 Noon to 12:00 Midnight; Authorizing the sale and consumption of alcoholic beverages within the enclosed area.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

May 5, 2015
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.