

## **MINUTES**

### **KEY WEST BIGHT MANAGEMENT DISTRICT BOARD MEETING**

**OLD CITY HALL, 510 GREENE STREET**

**JANUARY 11, 2012**

A regular meeting of the Key West Bight Management District Board of the City of Key West, Florida, was held in Commission Chambers, Old City Hall, 510 Greene Street, on Wednesday, January 11, 2012.

The Chairman called the meeting to order at 9:00 a.m.

Answering roll call were Board Members Jermy Ashby, Paul McGrail, Kathryn Ovide, Dan Probert, Michael Wilson and Chairman Michael Knowles presiding.

Board Member Jimmy Lane arrived at 9:05 a.m.

Also present were Chief Assistant City Attorney Larry Erskine, Key West Bight Marine Manager Mark Tait, Port Operations Manager John Castro, Senior Property Manager Marilyn Wilbarger and Clerk of the Board Sue Harrison.

The pledge of allegiance to the flag of the United States of America was given by all present.

#### **CHANGES TO THE AGENDA:**

It was moved by Mr. Probert and seconded by Mr. Wilson to approve the agenda.

The Board discussed and agreed that item #2 be tabled until Mr. Lane's arrival.

The Chairman asked for objections and seeing none, the agenda was accepted unanimously.

#### **APPROVAL OF MINUTES:**

1) December 14, 2011 (Regular)

It was moved by Mr. Probert and seconded by Ms. Ovide to approve the minutes of

December 14, 2011. The Chairman asked for objections and seeing none the minutes were approved as read.

**ITEMS FOR ACTION:**

2) Rental Increases and Late Fees (Mr. Lane)

Mr. Lane arrived at 9:05. Mr. McGrail recused himself from the item and stepped down from the dais.

Mr. Lane stated this item addressed percentage increases on leases and the corresponding late fees. He stated presently the leases have a 5% increase built in and more recently increases have been at 3%. In keeping with what is current in the industry his position was to have a 3% increase. He wanted to discuss the Late Fees separately.

Discussion ensued regarding how the 3% increases would become effective.

Mr. Lane proposed a motion to amend the annual increases on leases to 3% and then retroactively go back and modify existing leases they have in effect. This would not include the CPI.

At this time the Chair did not recognize the motion as there were speakers in the audience.

The following people spoke on the item:

Jeff Verlinden, 201 William Street with Sunset Watersports  
Scott Cates, 201 William Street, Key West Ice Cream Factory

The Board discussed the data from the Market Study Analysis.

Chairman Knowles asked Ms. Wilbarger to prepare a rent roll report on the tenants to include the current rate per square foot and years in business and where the rent was at the start of the lease to present for the Board.

Ms. Ovide made a motion to postpone the item to February 15, 2012 and at that time to have available information that is more specific to our tenants.

Mr. Ashby asked Ms. Wilbarger if she could discuss the analysis with Mr. Padron to take out the Clinton property in the comparison. Mr. Lane thought this would take too many months to get a revised analysis. Mr. Wilson wanted to see the suspension of the 5% increase to the tenants and then go for another study.

The Chairman declared there were three proposals before the board; Ms. Ovide withdrew her motion to postpone.

Mr. Wilson moved to suspend the 5% increase until next year and then come back and look at the CPI. Ms. Ovide seconded the motion.

The Chairman requested the Clerk call the roll.

Yeas: Board Members Ovide, Probert and Wilson

Nays: Board Members Ashby, Lane and Chairman Knowles

Recused: Board Member McGrail

The motion failed due to a tie vote.

Mr. Lane moved to amend the CPI from the current 5% to 3% going forward and retroactively for all the current leases including the ones that have old provisions of either CPI or at 3% - to make everything 3% across the board. There was no second to the motion.

Under discussion, Mr. Ashby asked about the tenants that were long or short term. Chairman Knowles wanted consideration for the long term tenants. Mr. Knowles asked if they should look at each individual lease or could this be applied across the board. Ms. Ovide wanted to see the annual percentage increase and what the compounded increases have been on the tenants. Mr. Erskine

stated as discussed earlier that they should see the data before making a decision and that they would need to make a recommendation to the CRA. Chairman Knowles asked to see the sales and percentage. Ms. Wilbarger said everyone is at 6% except three older tenants who are at 5% and everybody has a natural break-point.

It was moved by Ms. Ovide and seconded by Mr. Probert to postpone the item to February 15, 2012.

The Chairman asked the Clerk to call the roll.

Yeas: Board Members Ashby, Ovide, Probert, Wilson and Chairman Knowles

Nays: Board Member Lane

Recused: Board Member McGrail

3) One Year Commercial Marina Dockage Agreement

Mr. McGrail recused himself from this item.

Mr. Tait introduced the item stating it had been postponed from the previous meeting. This was meant to standardize the leases.

The following people spoke on the item:

Carla Bellenger, 2627 Staples Avenue, Java Cat, Inc.  
Albert Tropea, 201 William Street, Key West Sailing Adventures  
Jeff Verlinden, 201 William Street, Sunset Water Sports  
Tom Stroh, 611 Grinnell Street, Echo Catamarans  
Steve Talbott, 1320 Grinnell Street, Bluefin Catamaran

Ms. Wilbarger explained the reason for the month-to-month leases and the improvement to a 1-year lease pursuant to our submerged land lease with the state. The increase in the insurance was pursuant to discussions with legal and risk management. The same applied to Garrison Bight leases. Deposits are held in a non-interest bearing account.

It was moved by Mr. Wilson and seconded by Mr. Lane to approve the item with a 3% increase across the board rate increase.

The Chairman asked the Clerk to call the roll.

Yeas: Board Members Ashby, Lane, Probert, Wilson and Chairman Knowles

Nays: Board Member Ovide

Recused: Board Member McGrail

4) Lease for Unit I on Lazy Way – Sebago Watersports

Mr. McGrail recused himself from this item.

Ms. Wilbarger stated this is a renewal of the Sebago lease with a 5% increase over the last term which will be subject to any amendments going forward.

It was moved by Ms. Ovide and seconded by Mr. Ashby to approve the item as presented.

The Chairman asked the Clerk to call the roll.

Yeas: Board Members Ashby, Lane, Ovide, Probert, Wilson and Chairman Knowles

Nays: None

Recused: Board Member McGrail

5) Non-Renewal of Lease for Ira Jay Weisinger – Nature’s Treasures

Mr. McGrail recused himself from this item.

Ms. Wilbarger introduced the item stating this tenant’s lease expired at the end of December, 2011. Staff did not feel that continuation of this tenant was in the best interest of the Bight.

The following person spoke on the matter:

Ira Jay Weisinger, 201 William Street, Suite 110

It was moved by Ms. Ovide and seconded by Mr. Wilson to grant the tenant a 60 day lease extension beginning January 11, 2012 due to the prospect of a potential buyer.

The Chairman asked the Clerk to call the roll.

Yeas: Board Members Ashby, Lane, Ovide, Probert, Wilson and Chairman Knowles

Nays: None

Recused: Board Member McGrail

**DISCUSSION ITEMS:**

6) Conch Harbor Dock Expansion

Mr. Tait presented the objections to the Conch Harbor Dock Expansion. He said the State was reviewing the proposed improvements to Conch Harbor and they had received a letter from the State saying they believe any extension outside the footprint of the dock would require them to get a submerged land lease and also a waiver from surrounding property owners regarding setbacks. Conch Harbor has until April this year to respond to the State's questions before they can go forward with their application.

**REPORTS:**

7) Manager's Report

Mr. McGrail rejoined the Board for the rest of the meeting.

Chairman Knowles questioned why the parking lot revenue was down recently. Ms. Wilbarger said the free parking days in December may have affected the revenue but to keep in mind this is reported on a cash basis and there may be some overlap from month-to-month depending on when the revenue was posted.

Mr. Castro reported the new lights were to be installed on the harbor walk this month.

8) Accounts Receivable Report

Ms. Wilbarger said the new report handed to the Board today reflected a payment as of today. She also said they have received from the Circuit Court release of funds pursuant to the Turtle Kralls settlement agreement. They would see the \$41,000.00 on the report next month.

9) Tenants Association Report

Mr. Anderson was out of the country. Mr. Probert asked about the late payments mentioned in the Tenants Report and the requirement for the existing tenant to secure the property for the incoming tenant and to be responsible for the tenant in case of default. Ms. Wilbarger said this was covered in the lease assignment. If the tenant enters into a lease assignment they remain liable for that particular term of the lease.

Mr. Tait requested under the "Tenants Report – Old Business" that the Dockage Lease Update be removed as this item had been resolved.

10) Old Business

Ms. Ovide asked about the CRB space in the Ferry Terminal and wanted to know if Ms. Wilbarger had discussed this with Mr. Finigan. Ms. Wilbarger has followed up and they are in discussions regarding the matter.

**PUBLIC COMMENTS:**

There were no comments from the public.

**BOARD COMMENTS**

Mr. McGrail expressed his frustration on having several leases come before them today that he was unable to participate on as the tenant's liaison. He understood the necessity and appreciated the Board's consideration that the Board has given to the tenant's issues.

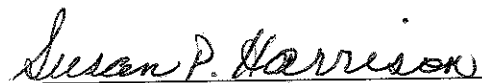
Ms. Ovide wanted to make sure that the Late Fees are on the next agenda.

Mr. Probert wanted to consider the CPI in the leases.

Chairman Knowles asked Mr. Tait for a comparison report on the boat races for the last two events. He also wanted a follow-up with legal regarding the accident. Mr. Erskine said the City Attorney was working on it. They also wanted to make sure there was coverage for the upcoming yacht races.

**ADJOURNMENT:**

It was moved by Ms. Ovide to adjourn. There being no further business the Chairman adjourned the meeting at 10:38 a.m.

  
\_\_\_\_\_  
Susan P. Harrison, CMC, Clerk of the Board  
Senior Deputy City Clerk





**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, PAUL MCGRAIL, hereby disclose that on JANUARY 11, 20 12 :

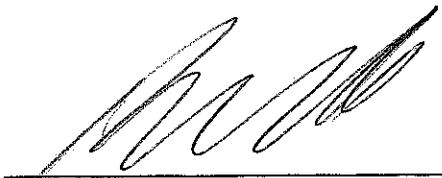
(a) A measure came or will come before my agency which (check one)

- 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 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:

- ACTION ITEMS:
- 2) Rental Increases and Late Fees
  - 3) One Year Commercial Marina Dockage Agreement
  - 4) Lease for Unit I on Lazy Way - Sebago Watersports
  - 5) Non-Renewal of Lease for Ira Jay Weisinger - Nature's Treasures

Date Filed 01/11/12  
JANUARY 11, 2012

Signature   
PAUL MCGRAIL

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.