

MINUTES
CITY COMMISSION MEETING
OLD CITY HALL, 510 GREENE STREET
TUESDAY, MAY 18, 2010

A regular meeting of the City Commission of the City of Key West, Florida was held in Commission Chambers, Old City Hall, on Tuesday, May 18, 2010.

Mayor Craig Cates called the meeting to order at 6:01 p.m.

Answering roll call were Commissioners Barry Gibson, Teri Johnston, Clayton Lopez, Mark Rossi, Billy Wardlow, Jimmy Weekley and Mayor Craig Cates.

Also present were City Manager Jim Scholl, Assistant City Manager David Fernandez, Assistant City Manager Mark Finigan, City Attorney Shawn Smith, City Planner Amy Kimball-Murley, Police Chief Donie Lee, Division Chief/EMG Management & Training Craig Marston, Code Compliance Manager Jim Young, General Services Director Gary Bowman, Deputy Community Services Director Rodrigo Delostrinos, Information Technology Director Patti McLaughlin, Utilities Manager Jay Gewin, Parking Manager John Wilkins, Real Estate Property Manager Marilyn Wilbarger, Deputy City Clerk Angela Budde and City Clerk Cheri Smith.

Chaplin Dorman Dowling of the Naval Air Station Key West gave the invocation.

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

CHANGES TO THE AGENDA

Commissioner Johnston requested Resolution items 11(d) and (g) be removed from the consent agenda for discussion. City Clerk Smith announced Resolution item 11 (i) be postponed to the June 1st meeting and the removal of Resolution item 11 (h) from the consent agenda due to having a speaker signed up to talk.

COMMENDATIONS: (Mayor Cates)

- (a) Edward Gartenmayer – Planning Board

PROCLAMATIONS: (Mayor Cates)

- (a) Irma Quigley Goodwill Ambassador
- (b) Key West Haitian Flag Day

PRESENTATIONS:

- (a) City Attorney's Report

The City Attorney asked for a closed Session with the Commission regarding Case 2007-CA68K - Grosscup. He requested to hold the meeting at 5:15 P.M. on June 1 prior to the scheduled City Commission meeting.

- (b) City Manager's Report

The City Manager discussed the Deep Water Horizon oil spill and the potential impact on Key West. The Coast Guard Sector Commander Captain DeQuattro, who serves as the Federal Government's representative in charge of the Keys, opened up the Oil Spill Liability Trust Fund through the Federal Government allowing the government to assist with the sampling of tar balls found in the Keys. The Coast Guard sent the recently discovered tar balls in Key West to Connecticut for analysis in determining the origin and if they are related to the oil spill. Currently the oil spill and tar balls are separate and distinct from one another.

The City Manager is working on an inter-governmental coordination process requested by Monroe County for the City to provide a technical review of a development proposal the County is looking at for Wisteria Island. In detail, a comprehensive and zoning change review is required by the City regarding certain support services that would be required depending on the type of development proposed such as impacts on services; waste management, solid waste, Police and Fire protection, parking and transportation. The County is only asking the City for technical review only.

The City Manager reported the preliminary environmental report was received on Glynn Archer School late in the afternoon prior to the City Commission meeting tonight and he stated he would provide a copy to the Commission as soon as the draft was complete. He also reported he attended the First Coast Guard District of Boston change-of-command ceremony for retiring Rear Admiral Joseph Nimmich.

CONSENT AGENDA:

The Clerk read the titles of the Resolutions.

It was moved by Commissioner Rossi and seconded by Commissioner Weekley to approve the consent agenda items.

The Mayor acknowledged the motion and second and requested verbal approval. The response was unanimous to approve the Minutes and pass the Resolutions as read.

RESOLUTIONS:

RESOLUTION NO. 10-160

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING SISTER SEASON FUND INC. THE USE OF THE SOUTHERNMOST BEACH AT 1405 DUVAL STREET FOR THE 33RD ANNUAL SURVIVORS PARTY ON MONDAY, MAY 31, 2010 FROM 4:00 P.M. TO SUNSET; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE BARRICADED AREA; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-161

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, GRANTING A SPECIAL EVENT PERMIT PURSUANT TO SECTION 6-86 OF THE CODE OF ORDINANCES TO BOURBON STREET PUB FOR AN EVENT TO TAKE PLACE DURING THE HOURS OF 7:00 P.M. TO 12 MIDNIGHT AT 724 DUVAL STREET ON THURSDAY, JUNE 10, 2010 AND FRIDAY, JUNE 11, 2010.; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-162

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING KEY WEST BUSINESS GUILD TO CONDUCT A PRIDEFEST CELEBRATION ON JUNE 12 & 13, 2010; AUTHORIZING THE KEY WEST BUSINESS GUILD TO CONDUCT

NUMEROUS EVENTS STARTING WITH A STREET FAIR ON SATURDAY, JUNE 12, 2010 ON THE 700 & 800 BLOCKS OF DUVAL STREET FROM 10:00 A.M. TO 12 MIDNIGHT; A PRIDEFEST PARADE ON SUNDAY, JUNE 13, 2010 FROM 2:00 P.M. TO 4:00 P.M. STARTING AT TRUMAN ANNEX GOING LEFT ON WHITEHEAD STREET, RIGHT ON DUVAL AND ENDING AT THE END OF THE 1100 BLOCK OF DUVAL STREET; PURSUANT TO TERMS AND CONDITIONS SET FORTH BY THE CITY MANAGER; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN AN ENCLOSED AREA; AUTHORIZING THE CLOSURE OF THE 700 & 800 BLOCKS OF DUVAL STREET; GRANTING AN EXEMPTION FROM THE NOISE CONTROL ORDINANCE PURSUANT TO SECTION 6-86 OF THE CODE OF ORDINANCES DURING THE EVENT; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-163

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AMENDMENT #1 TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) GRANT AGREEMENT #08MO2 FOR REST BEACH RE-NOURISHMENT; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-164

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AMENDMENT #2 TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) CONTRACT #06-MO1 FOR SMATHERS BEACH RE-NOURISHMENT; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. Postponed to June 1

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE CITY ATTORNEY PERFORMANCE EVALUATION; PROVIDING FOR AN EFFECTIVE DATE

The said Resolutions were thereupon declared by the Mayor to have been duly passed and adopted and were authenticated by the signatures of the Mayor and the Clerk of the Commission.

SO ORDERED

RESOLUTION NO. 10-165

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE FIRST AMENDMENT TO THE INTER-LOCAL AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONER FOR MONROE COUNTY (BOCC) ON BEHALF OF THE TOURIST DEVELOPMENT COUNCIL (TDC) TO EXERCISE AN

OPTION TO EXTEND THE AGREEMENT FOR A FIVE (5) YEAR PERIOD FOR FUNDING IN AN AMOUNT UP TO \$380,000.00 PER YEAR FOR CLEANING AND MAINTENANCE OF SMATHERS BEACH AND REST BEACH; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following person spoke on the matter:

City Manager Scholl

It was moved by Commissioner Rossi and seconded by Commissioner Lopez that the Resolution be passed and adopted as read.

The Mayor acknowledged the motion and second and requested verbal approval. The response was unanimous to pass the Resolution as read.

The said Resolution was thereupon declared by the Mayor to have been duly passed and adopted and was authenticated by the signatures of the Mayor and the Clerk of the Commission.

SO ORDERED

RESOLUTION NO. 10-166

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AMENDMENT #2 TO TASK ORDER 1-08-SWR FOR CDM, INC. IN AN AMOUNT NOT TO EXCEED \$49,991.00 FOR ADDITIONAL SERVICES RELATED TO THE DESIGN, PERMITTING AND CONSTRUCTION MANAGEMENT OF A DIFFUSED AERATION SYSTEM AT THE RICHARD A. HEYMAN ENVIRONMENTAL PROTECTION FACILITY; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following person spoke on the matter:

City Manager Scholl

It was moved by Commissioner Rossi and seconded by Commissioner Lopez that the Resolution be passed and adopted as read.

The Mayor acknowledged the motion and second and requested the Clerk to call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Rossi, Wardlow, Weekley and Mayor Cates

Nays: None

The said Resolution was thereupon declared by the Mayor to have been duly passed and adopted and was authenticated by the signatures of the Mayor and the Clerk of the Commission.

SO ORDERED

RESOLUTION NO. 10-167

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, ACCEPTING THE PROPOSAL OF TROPICAL SOUP CORPORATION FOR PARCELS 1, 2, 3 AND 4 AT MALLORY SQUARE (CABLE HUT, HOSPITALITY HOUSE AND MALLORY SQUARE); AUTHORIZING THE CITY MANAGER TO ENTER INTO NEGOTIATIONS FOR THE LEASE OF THOSE PARCELS; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Jack Hackett, 1917 Seidenberg Avenue
City Manager Scholl
Real Estate Property Manager Marilyn Wilbarger
City Attorney Smith

It was moved by Commissioner Rossi and seconded by Commissioner Lopez that the Resolution be passed and adopted as read.

The Mayor acknowledged the motion and second and requested the Clerk to call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Rossi, Wardlow, Weekley and Mayor Cates

Nays: None

The said Resolution was thereupon declared by the Mayor to have been duly passed and adopted and was authenticated by the signatures of the Mayor and the Clerk of the Commission.

SO ORDERED

RESOLUTION NO. 10-168

MAJOR DEVELOPMENT: 3200 BLOCK OF DUCK AVENUE

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING A MAJOR DEVELOPMENT PLAN

AND CONDITIONAL USE TO CONSTRUCT A 16-BED MANAGED-CARE FACILITY IN THE POINCIANA HOUSING SPECIAL NEEDS AREA; PROVIDING CONDITIONS

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Don Craig, Architect
Tom Pope, Architect
City Planner Kimball-Murley
Margaret Romero, 1615 Washington Avenue

It was moved by Commissioner Wardlow and seconded by Commissioner Lopez that the Resolution be passed and adopted as read.

The Mayor acknowledged the motion and second and requested the Clerk to call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Rossi, Wardlow, Weekley and Mayor Cates

Nays: None

The said Resolution was thereupon declared by the Mayor to have been duly passed and adopted and was authenticated by the signatures of the Mayor and the Clerk of the Commission.

SO ORDERED

ORDINANCE - FIRST READING:

ORDINANCE NO. SECOND READING June 1, 2010

AN ORDINANCE OF THE CITY OF KEY WEST, PURSUANT TO SECTION 8.01 OF THE KEY WEST CHARTER, PROPOSING THAT SECTION 6.01 OF THE KEY WEST CHARTER BE AMENDED TO PROVIDE THAT RUNOFF ELECTIONS IF NECESSARY, SHALL BE HELD ON THE FIRST TUESDAY FOLLOWING THE FIRST MONDAY IN NOVEMBER BETWEEN THE TWO CANDIDATES RECEIVING THE GREATEST NUMBER OF VOTES; SETTING THE GENERAL ELECTION OF NOVEMBER 2, 2010, AS THE DATE OF REFERENDUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

The Clerk read the title of the Ordinance.

It was moved by Commissioner Weekley and seconded by Commissioner Lopez that the Ordinance be passed and adopted as read.

The Mayor acknowledged the motion and second and requested the Clerk to call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Rossi, Wardlow, Weekley and Mayor Cates

Nays: None

The said Ordinance was thereupon declared by the Mayor to have been duly passed on first reading.

SO ORDERED

ORDINANCE NO. SECOND READING JUNE 1, 2010

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 42 OF THE CODE OF ORDINANCE ENTITLED "MISCELLANEOUS OFFENSES" BY AMENDING SECTION 42-9 TO PROVIDE FOR AN EXEMPTION FROM THE NUDITY PROHIBITION IN AREAS SPECIFICALLY DESIGNATED FOR THAT PURPOSE BY RESOLUTION OF THE CITY COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

The Clerk read the title of the Ordinance.

The following people spoke on the matter:

Tracy Leigh, 1107 Key Plaza
Alan Leigh, 1107 Key Plaza

It was moved by Commissioner Johnston and seconded by Commissioner Rossi that the Ordinance be amended and passed and approved as amended:

Section 42-9 (b) remove language ~~sunbathe, bathe, wash, or swim in any bay, lake, pond, bight, ocean, gulf, beach or public place within the city, being.~~ Section 42-9 (b) the following language of or her person in a public place was added.

The Mayor acknowledged the motion and second and requested the Clerk to call the roll.

Yeas: Commissioners Johnston, Lopez, Rossi, Weekley and Mayor Cates

Nays: Commissioners Gibson and Wardlow

The said Ordinance was thereupon declared by the Mayor to have been duly passed on first reading.

SO ORDERED

ORDINANCE NO. SECOND READING JUNE 1, 2010

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OR ORDINANCES ENTITLED "ANIMALS"; CREATING SECTION 10-107 ENTITLED "DOGS IN PUBLIC FOOD SERVICE ESTABLISHMENTS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

The Clerk read the title of the Ordinance.

The following people spoke on the matter:

Sandy Golding, 1203 18th Avenue, Jacksonville Beach, FL
Alan Leigh, 1107 Key Plaza
Tracy Leigh, 1107 Key Plaza
Margaret Romero, 1615 Washington Street
Christine Russell, 1014 Grinnell Street
City Attorney Smith

It was moved by Commissioner Weekley and seconded by Commissioner Rossi that the Ordinance be passed and adopted as read.

The Mayor acknowledged the motion and second and requested the Clerk to call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Rossi, Wardlow, Weekley and Mayor Cates

Nays: None

The said Ordinance was thereupon declared by the Mayor to have been duly passed on first reading.

SO ORDERED

ORDINANCE NO. SECOND READING JUNE 1, 2010

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING SECTION 58-34 OF THE CODE OF ORDINANCES

**ENTITLED “COLLECTION AND DISPOSAL, UNLAWFUL DISPOSAL”
BY ADDING SUBSECTION (F) TO PROHIBIT THE STORING OR
DISPOSING OF CERTAIN MATERIALS IN VEHICLES OR TRAILERS;
PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF
INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE
DATE.**

The Clerk read the title of the Ordinance.

The following people spoke on the matter:

Rudy Molinet, 510 Frances Street
City Attorney Smith
Assistant City Manager Fernandez

It was moved by Commissioner Weekley and seconded by Commissioner Lopez that the Ordinance be amended and passed and approved as amended.

Section 58-34 titled Unlawful Disposal, add the language and unless and delete the language ~~so long as~~.

The Mayor acknowledged the motion and second and requested the Clerk to call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Rossi, Wardlow, Weekley and Mayor Cates

Nays: None

The said Ordinance was thereupon declared by the Mayor to have been duly passed on first reading.

SO ORDERED

ORDINANCE NO. SECOND READING JUNE 1, 2010

**AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,
AMENDING CHAPTER 70 OF THE CODE OF ORDINANCES
ENTITLED “PARKING, STOPPING AND STANDING” BY AMENDING
SECTION 70-116 TO PROHIBIT THE STORING OR DISPOSING OF
CERTAIN MATERIALS IN VEHICLES OR TRAILERS, AND BY
AMENDING SECTION 70-121 TO PROVIDE FOR REVISED AND
ADDED PENALTIES FOR VIOLATIONS OF PROVISIONS OF
CHAPTER 70; PROVIDING FOR SEVERABILITY; PROVIDING FOR
REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN
EFFECTIVE DATE.**

The Clerk read the title of the Ordinance.

The following people spoke on the matter:

Rudy Molinet, 510 Frances Street
Christine Russell, 1014 Grinnell Street
City Attorney Smith

It was moved by Commissioner Weekley seconded by Commissioner Johnston that the Ordinance be passed and adopted as read.

The Mayor acknowledged the motion and second and requested the Clerk to call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Rossi, Wardlow, Weekley and Mayor Cates

Nays: None

The said Ordinance was thereupon declared by the Mayor to have been duly passed on first reading.

SO ORDERED

ORDINANCES - SECOND READING: (Public Hearing)

ORDINANCE NO. 10-10

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, AMENDING CHAPTER 108 OF THE CODE OF ORDINANCES ENTITLED "PLANNING AND DEVELOPMENT" BY AMENDING ARTICLE X PART B, LAND DEVELOPMENT REGULATIONS, BUILDING PERMIT ALLOCATION AND VESTED RIGHT, DIVISION 1; AMENDING SECTION 108-995 PERTAINING TO RENEWAL OF ALLOCATIONS; AMENDING SECTION 108-996 PERTAINING TO BENEFICIAL USE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Ordinance.

The following people spoke on the matter:

Margaret Romero, 1615 Washington Street
City Attorney Smith

It was moved by Commissioner Rossi and seconded by Commissioner Lopez for the Ordinance to be amended and passed on second reading as amended.

Section 1 remove the phrase ~~provided, however that the City shall reserve a minimum of adequate units for beneficial use claims as a first priority in unit reservation and allocation of remaining allocations shall be in accordance with dictates as specified in the Comprehensive Plan.~~ and replace with the following language: provided, however, that the City shall reserve a minimum numbers of units for beneficial use claims a determination of the minimum numbers of units shall be based upon available data illustrating parcels potentially subject to relief pursuant to Section 108.998 remaining units shall be allocated in accordance with the Comprehensive Plan and the Land Development Regulations.

The Mayor acknowledged the motion and second and requested the Clerk to call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Rossi, Wardlow, Weekley and Mayor Cates

Nays: None

The said Ordinance was thereupon declared by the Mayor to have been duly passed on first and second reading and was adopted and authenticated with the signatures of the Mayor and the Clerk of the Commission.

SO ORDERED

CITIZEN COMMENTS:

Jack Hackett, 1917 Seidenberg Avenue
Christine Russell, 1014 Grinnell Street
Mike Mongo, 1218 Pearl Street

COMMISSION COMMENTS:

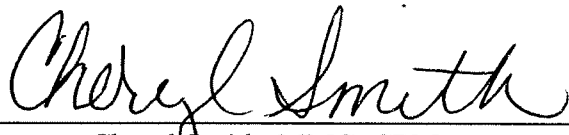
Commissioner Weekley inquired into the trolley companies who are applying to operate ghost tours in the evenings and directed the City Manager and City Attorney to look into if the trolley tours can operate at night. He asked the City Manager for a status update on the opening up of the Frances

Street Cemetery gate and inquired why the Windsor Street Cemetery gate is locked. The City Manager stated he would research why the Windsor Street gate is locked.

Mayor Cates commented on the Cemetery gates being locked and inquired to the City Manager if the gates would be opened anytime soon. The City Manager stated he asked the City's Engineering Department to look into reversing the traffic flow on Angela Street. The Cemetery Sexton, Russell Brittain, advised the City Manager he would open the gates up to accommodate families needing entry into the Cemetery but the gates would not be opened otherwise.

ADJOURNMENT:

There being no further business the Mayor adjourned the meeting at 8:25 p.m.



Cheryl Smith, MMC, CPM
City Clerk