

## MINUTES

### CITY COMMISSION MEETING

OLD CITY HALL, 510 GREENE STREET

TUESDAY, MAY 7, 2013

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 7, 2013.

Mayor Craig Cates called the meeting to order at 6:03 p.m.

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

Also present were Acting City Manager David Fernandez, Assistant City Manager Mark Finigan, City Attorney Shawn Smith, Chief Assistant City Attorney Larry Erskine, City Planner Don Craig, Community Services Director Greg Veliz, Deputy Community Services Director Rodrigo Delostrinos, Information Technology Director Patti McLauchlin, Senior Project Manager Doug Bradshaw, Utilities Manager Jay Gewin, Senior Property Manager Marilyn Wilbarger, Deputy City Clerk Angela Budde and City Clerk Cheri Smith.

Pastor Dick Knapp, Grace Lutheran Church, 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:**

City Clerk requested Resolutions Item #7 and #8 be removed from the Consent Agenda for the speakers who signed up to talk on the items.

City Clerk also requested Resolution Item #11 be removed from the Consent Agenda to read a letter into the record.

It was moved by Commissioner Rossi and seconded by Commissioner Lopez to approve the agenda as changed. The Mayor asked for objections and seeing none the agenda was approved.

**PROCLAMATIONS:**

Roger McVeigh Day

Peace Officers Memorial Day and Key West Police Week

Motorcycle Safety Awareness Month

Teen Pregnancy Prevention and Sexual Health Awareness Month

**PRESENTATION:**

City Attorney's Report

City Attorney Smith requested a Closed Session with the Commission for May 21<sup>st</sup> at 5:00 p.m. regarding litigation styled Myrlene Milliken and Robert D. Milliken v. City of Key West; Case No. 2011-CA-442-K and Victor Cushman v. City of Key West; Case No. 2011-CA-708-K.

City Manager's Report

Acting City Manager David Fernandez spoke on a handout given at the meeting by City Staff on the work to be performed by the Public Works Right of Way crews to begin.

**CONSENT AGENDA:**

The Clerk read the titles of the Resolutions.

It was moved by Commissioner Rossi and seconded by Commissioner Wardlow 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.

**APPROVAL OF MINUTES:**

April 2, 2013 (Regular)  
April 17, 2013 (Special)

**RESOLUTIONS:**

**RESOLUTION NO. 13-105**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING KEY WEST BUSINESS GUILD TO CONDUCT A KEY WEST PRIDE CELEBRATION ON JUNE 8 & 9, 2013; AUTHORIZING THE KEY WEST BUSINESS GUILD TO CONDUCT NUMEROUS EVENTS STARTING WITH A STREET FAIR ON SATURDAY, JUNE 8, 2013 ON THE 700 & 800 BLOCKS OF DUVAL STREET FROM 10:00 A.M. TO 7:00 P.M.; A PARADE ON SUNDAY, JUNE 9, 2013 FROM 5:00 P.M. TO 7:00 P.M. STARTING AT TRUMAN ANNEX GOING LEFT ON WHITEHEAD STREET, RIGHT ON DUVAL STREET 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 ORDINANCES PURSUANT TO SECTION 6-86 OF THE CODE OF ORDINANCES DURING THE EVENT; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 13-106**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE SOUTHERNMOST BEACH CAFE THE USE OF CITY PROPERTY AT 1405 DUVAL STREET FOR A BREWFEST KEY WEST FESTIVAL ON SATURDAY, AUGUST 31, 2013 FROM 3:00 P.M. TO 8:00 P.M. (RAIN DATE SUNDAY, SEPTEMBER 1, 2013); AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE BARRICADED AREA; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 13-107**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE CITY TO PROVIDE UP TO FOUR (4) FREE SHUTTLE BUS TRIPS PER CALENDAR YEAR FOR RESIDENTS OF THE KEY WEST HEALTH AND REHABILITATION CENTER; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 13-108**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, ESTABLISHING A ONE-WAY TOKEN FARE FOR THE PUBLIC TRANSIT (BUS) SYSTEM; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 13-109**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, ESTABLISHING A ONE-WAY TOKEN FARE FOR THE LOWER KEYS SHUTTLE SYSTEM; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 13-110**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED INTERLOCAL GRANT AWARD AGREEMENT WITH THE MONROE COUNTY TOURIST DEVELOPMENT COUNCIL (TDC) FOR FUNDING IN THE AMOUNT OF UP TO \$207,000.00 FOR REST BEACH RENOURISHMENT PHASE II (CITY MATCH UP TO \$207,000.00); PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 13-111**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AMENDING THE CONTRACT FOR GENERAL ENGINEERING SERVICES WITH CORZO CASTELLA CARBALLO THOMPSON SALMAN ("C3TS") BY CONSENTING TO ASSIGN THE CONTRACT TO STANTEC CONSULTING SERVICES, INC.; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 13-112**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, RATIFYING THE ATTACHED "CONSULTING AGREEMENT" BETWEEN THE CITY OF KEY WEST AND LANGTON ASSOCIATES, INC., AND IN REM SOLUTIONS, INC. FOR GRANT WRITING SERVICES; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 13-113**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING A PURCHASING EXCEPTION PURSUANT TO SECTION 2-797(4)(B) OF THE CODE OF ORDINANCES, TO ALLOW CUMULATIVE EXPENDITURES DURING FY 12-13 TO CERTIFIED RECORDS MANAGEMENT (CRM) FOR RECORDS STORAGE IN A TOTAL AMOUNT NOT TO EXCEED \$30,000.00; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 13-114**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AWARDED THE BID OF THYSSENKRUPP ELEVATOR CORPORATION, FOR A CITY OF KEY WEST ELEVATOR/LIFT MAINTENANCE AND SERVICE CONTRACT IN RESPONSE TO INVITATION TO BID (ITB) #13-013; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 13-115**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AWARDED THE BID OF MCKENZIE PETROLEUM FOR A FUEL CONTRACT IN RESPONSE TO FUEL SUPPLY BID #13-012; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 13-116**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, REJECTING ALL BIDS RECEIVED IN RESPONSE TO INVITATION TO BID (ITB) #13-010 FOR RIGHT OF WAY MAINTENANCE SERVICES; 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. 13-117**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO FORM A NOT-FOR-PROFIT CORPORATION, WITH THE CITY COMMISSION ACTING AS THE DIRECTORS, FOR THE PURPOSE OF ACCEPTING AND DISTRIBUTING FUNDS FOR MUNICIPAL PURPOSES; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Resolution.

The following person spoke on the matter:

Perry Arnold, 1216 Petronia Street

It was moved by Commissioner Weekley and seconded by Commissioner Johnston 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. 13-118**

**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 TURTLE KRAALS FOR AN EVENT TO TAKE PLACE AT 231 MARGARET STREET AT THE PLAZA DURING THE HOURS OF 6:00 P.M. TO 10:00 P.M. ON SATURDAY, MAY 11, 2013; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Resolution.

The following person spoke on the matter:

Dave Thubert, 84<sup>th</sup> Avenue #2

It was moved by Commissioner Yaniz and seconded by Commissioner Rossi 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.

**SO ORDERED**

**RESOLUTION NO. 13-119**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AND AUTHORIZING EXECUTION OF THE ATTACHED AGREEMENT BETWEEN THE CITY OF KEY WEST AND THE SUNRISE ROTARY CLUB FOR MOTORCYCLE BIKE WEEK ON SEPTEMBER 20 & 21, 2013; AUTHORIZING THE CLOSURE OF DUVAL STREET FROM SOUTHARD TO FRONT STREET ON FRIDAY, SEPTEMBER 20, 2013 FROM 10:00 A.M. TO 12:00 MIDNIGHT AND ON SATURDAY, SEPTEMBER 21, 2013, FROM 10:00 A.M. TO 12:00 MIDNIGHT; ALL CROSS STREETS SHALL REMAIN OPEN EXCEPT GREENE STREET BETWEEN ELIZABETH TO WHITEHEAD STREETS; 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; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Resolution.

The City Clerk read the following letter into the record:

Michael Ritchie, Key West

The following person spoke on the matter:

Chief of Police Lee

It was moved by Commissioner Rossi and seconded by Commissioner Yaniz for discussion 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 Johnston, Lopez, Rossi, Wardlow, Weekley, Yaniz 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. 13-120**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING TASK ORDER NO. 2 FOR SOLID WASTE PROCUREMENT FOR THE CITY OF KEY WEST IN AN AMOUNT NOT TO EXCEED \$ 40,000.00; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Resolution.

Acting City Manager Fernandez requested to have the item withdrawn.

The following people spoke on the matter:

Acting City Manager Fernandez  
Jody Smith-Williams, 1217 White Street  
Tom Milone, 832 Caroline Street  
Mark Songer, 1310 Newton Street  
Shirley Freeman, 724 Eaton Street  
Jay Gewin, Utilities Manager

It was moved by Commissioner Weekley and seconded by Commissioner Johnston for discussion 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 Johnston, Lopez, Rossi, Wardlow, Weekley, Yaniz 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. 13-121**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING RICK'S & DURTY HARRY'S ENTERTAINMENT COMPLEX TO CONDUCT A SEAFOOD LOBSTER FESTIVAL ON SATURDAY, AUGUST 10, 2013, FROM 11:00 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 & FLEMING STREETS INCLUDING THE GREENE STREET INTERSECTION AND TELEGRAPH LANE FROM 11:00 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 11:00 P.M. AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE ENCLOSED AREA; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Resolution.

Commissioner Rossi recused himself from the item.

It was moved by Commissioner Lopez and seconded by Commissioner Weekley that the Resolution be denied.

Commissioners Lopez and Weekley removed their motions.

It was moved by Commissioner Lopez and seconded by Commissioner Yaniz 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 Johnston, Lopez, Rossi, Wardlow, Weekley, Yaniz and Mayor Cates

Nays: None

Recused: Commissioner Rossi

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**

**QUASI-JUDICIAL HEARING:**

**RESOLUTION NO. 13-122**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, A REQUEST FOR A 180 DAY EXTENSION OF A REVOCABLE LICENSE AGREEMENT FOR 1015-1027 SIMONTON STREET (RE# 00027070-000000; ALT. KEY 1027847 FOR APPROXIMATELY 6,200 SQUARE FEET OF PUBLICALLY OWNED RIGHT-OF-WAY PER SECTION 2-939 OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Resolution.

The following people spoke on the matter:

City Planner Craig,  
Applicant Annalise Mannix  
City Attorney Smith

The City Clerk read the following objection letter into the record:

Kenneth and Mary Neighoff, Severna Park, Maryland

It was moved by Commissioner Lopez and seconded by Commissioner Rossi 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 Johnston, Lopez, Rossi, Wardlow, Weekley, Yaniz 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**

**ORDINANCES – FIRST READING:**

**ORDINANCE NO. Passed to Second Reading**

**AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA TO CALL FOR A BINDING REFERENDUM TO DETERMINE WHETHER THE CITY OF KEY WEST SHOULD REQUEST THAT THE ARMY CORPS OF ENGINEERS CONDUCT A COMPREHENSIVE FEASIBILITY STUDY, AT NO MONETARY COST TO THE CITY, TO DETERMINE THE ENVIRONMENTAL, ECONOMIC AND SOCIAL IMPACTS OF WIDENING THE KEY WEST MAIN SHIP CHANNEL FOR USE BY MODERN AND LONGER CRUISE SHIPS WHILE ALSO ADDRESSING NAVIGATIONAL SAFETY; AUTHORIZING THE CITY CLERK TO TAKE ALL NECESSARY ACTION TO PLACE THIS MEASURE ON THE BALLOT FOR OCTOBER 1, 2013; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING**

**FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Ordinance.

The City Clerk read the following letters into the record:

Key West Chamber of Commerce Executive Vice-President Virginia A. Panico  
Last Stand President Naja Girard

The following people spoke on the matter:

Paul McGrail, 306 Peacon Lane  
Marius Vanter, 1007 Varela Street #4  
Russ Murphy, 1211 Florida Street  
Steve Tripp, 623 William Street  
Jolly Benson, 707 Love Lane  
Judy Martinez, 1020 Emma 3a  
Jennifer Hulse, 1018 Elgin Lane  
John Dolan-Heitlinger, 21 Azalea Drive  
Dave Horn, 827 Elizabeth Street  
John Love, 1800 N. Roosevelt Blvd.  
Christine Russell, 1014 Grinnell Street

It was moved by Commissioner Rossi and seconded by Commissioner Wardlow that the Ordinance to be passed on first reading as read.

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

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

Nays: None

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

**SO ORDERED**

**CITIZEN COMMENTS:**

The City Clerk read the following letter into the record:

Michael Ritchie

**COMMISSION COMMENTS:**

Commissioner Wardlow asked about the speed limit on 14<sup>th</sup> Street, Acting City Manager Fernandez stated he would look into reducing the speed limit on that street.

**ADJOURNMENT:**

There being no further business the Mayor adjourned the meeting at 8:06 p.m.

A handwritten signature in cursive script that reads "Cheryl Smith". The signature is written in black ink and is positioned above a horizontal line.

Cheryl Smith, MMC, CPM  
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, Mark Rossi, hereby disclose that on May 7, 20 13 :

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

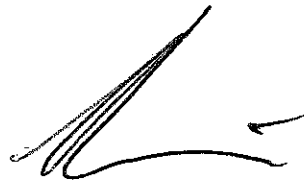
- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, 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:

Date Filed

5/7/13

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.