

MINUTES

CITY COMMISSION MEETING

OLD CITY HALL, 510 GREENE STREET

TUESDAY, NOVEMBER 3, 2010

A regular meeting of the City Commission of the City of Key West, Florida was held in Commission Chambers, Old City Hall, on Wednesday, November 3, 2010.

Mayor Craig Cates called the meeting to order at 6:00 p.m.

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

Commissioners Billy Wardlow was absent.

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, Fire Chief David Fraga, Community Services Director Greg Veliz, Port and Transit Director Jim Fitton, Community Services Deputy Director Rodrigo Delostrinos, Information Technology Director Patti McLauchlin, Transportation Manager Myra Wittenberg, Utilities Manager Jay Gewin, Parking Manager John Wilkins, Senior Project Manager Doug Bradshaw, Senior Deputy City Clerk Sue Harrison and City Clerk Cheri Smith.

Reverend Dr. Randy Becker, Unitarian Universalist Fellowship, 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 Weekley asked to add to the Consent Agenda a Resolution approving a waiver for the temporary placement of a banner. The Clerk reported this would be Item #25.

Commissioner Johnston disclosed for Item #9, she had been the past president and is a member of FIRM. Ms. Johnston requested that Item #8 be removed from the Consent Agenda for discussion.

City Manager Jim Scholl stated Resolution Item #20 was to be postponed at the request of Commissioner Wardlow until such time he chooses to bring the item back. Mr. Scholl stated the Ordinance for first reading, Item #23, was to be postponed and Ordinance for second reading, Item #24, was to be postponed to the next meeting.

Without objection the agenda was approved as changed.

Commissioner Rossi noted Supervisor of Elections, Harry Sawyer, was in attendance at the meeting.

PROCLAMATIONS:

- 1) Crime Stoppers of the Florida Keys Week in Key West
- 2) Dry Tortugas National Park Day
- 3) Just 4 Kids Week
- 4) National Family Week in the City of Key West
- 5) SMART Ride Day

PRESENTATIONS:

City Attorney's Report

City Attorney Shawn Smith suggested to the Commission the legislative platform be prepared for the lobbyist to be working on this coming year. Commissioner Johnston asked the City Attorney for a list of currently funded projects.

City Manager's Report

Jim Scholl, City Manager, and Dave Oatway introduced the 15th Ambassador Graduation Class. Mr. Oatway stated the next Ambassador Class would begin in January 2011 and the application could be found on the City's website. Mr. Scholl congratulated the class.

Mr. Scholl announced that City Planner Amy Kimball-Murley had submitted her resignation. The position would be advertised in the State of Florida and she would be working with Staff during the transition.

Mr. Scholl reported that Jim Fitton, the Port and Transit Director, and he had been in Santo Domingo, Dominican Republic, the previous week for the Annual Florida Caribbean Cruise Ship Association meeting. He stated they were very close to having the Army Corp of Engineers reconnaissance study report released by the end of the month. He also stated Royal Caribbean Line has new classes of ships which include the Voyager Class that has not had access to Key West. The simulation data shows they may be able to accommodate the vessel to port in Key West.

Mr. Scholl continued to report on Fantasy Fest saying preliminary reports from Chief Lee indicated a total number of arrests at 36 in the Duval Street area for the week beginning with Goombay. In addition, he said Greg Veliz and Rod Delostrinos and the whole team did a fantastic job with the cleanup for the festival. He had no estimate at this time on attendance for the event.

Commissioner Rossi also thanked the Fire Department, Code, Public Works and everyone that participated. Mayor Cates also said it was a great job from all those involved. Commissioner Gibson also stated they had done a great job and thanked the Toppino Company for their participation.

Commissioner Gibson asked the City Manager, with the departure of the City Planner, what would they be doing going forward with regard to the City's Comprehensive Plan. Mr. Scholl stated they had in the budgeting contemplated hiring a specific contractor to write the Comp Plan. That would be part of the transition process.

Mayor Cates asked if the Commission would approve directing the City Manager contact the School Superintendent to start the process of negotiations. He would bring back a Resolution to start that process.

CONSENT AGENDA:

The Clerk read the titles of the Resolutions.

It was moved by Commissioner Weekley and seconded by Commissioner Rossi 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:

- 6) July 6, 2010 (Regular)
- 7) August 3, 2010 (Regular)

RESOLUTIONS:

RESOLUTION NO. 10-314

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING FAIR INSURANCE RATES IN MONROE TO CONDUCT A BIKE RIDE ON SUNDAY, NOVEMBER 7, 2010 FROM 8:00 A.M. TO 1:00 P.M.; PURSUANT TO TERMS AND CONDITIONS SET FORTH BY THE CITY MANAGER; AUTHORIZING THE CLOSURE OF REYNOLDS STREET FROM ATLANTIC BOULEVARD TO CASA MARINA COURT; WHITE STREET FROM ATLANTIC BOULEVARD TO CASA MARINA COURT; CASA MARINA COURT FROM WHITE STREET TO REYNOLDS STREET; ATLANTIC BOULEVARD CLOSURE PREVIOUSLY APPROVED BY MONROE COUNTY; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-315

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, ACCEPTING GRANT AGREEMENT NO. 460002251 WITH THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT (SFWMD) FOR \$100,000.00 FOR DEVELOPMENT OF A STORMWATER MASTER PLAN; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING AMENDMENT OF THE STORMWATER BUDGET TO REFLECT GRANT INCOME AND REQUIRED MATCHING FUNDS; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-316

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AWARDED THE BID OF CHARLEY TOPPINO & SONS, INC., FOR THE CONSTRUCTION OF A STORMWATER GRAVITY WELL AT THE INTERSECTION OF 17TH STREET AND 17TH TERRACE (FDOT PROJECT #422719-1) IN AN AMOUNT NOT TO EXCEED \$168,155.46; WAIVING MINOR IRREGULARITIES IN THE BID; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-317

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AWARDED THE BID OF DOUGLAS N. HIGGINS, INC., FOR THE CONSTRUCTION OF A STORMWATER GRAVITY WELL AT THE INTERSECTION OF 20TH STREET AND DUCK AVENUE (FDOT PROJECT #422719-1) IN AN AMOUNT NOT TO EXCEED \$205,800.00; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-318

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AWARDED THE BID OF DOUGLAS N. HIGGINS, INC., FOR THE CONSTRUCTION OF A STORMWATER GRAVITY WELL AT THE INTERSECTION OF ELIZABETH STREET AND OLIVIA STREET (FDOT PROJECT #422716-1) IN AN AMOUNT NOT TO EXCEED \$198,900.00; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-319

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AWARDED THE BID OF DOUGLAS N. HIGGINS, INC. FOR A CITY OF KEY WEST GENERAL SERVICES CONTRACT IN RESPONSE TO INVITATION TO BID (ITB) #10-015; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-320

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AWARDED THE BID OF CHARLEY TOPPINO & SONS, INC. FOR A CITY OF KEY WEST GENERAL SERVICES CONTRACT IN RESPONSE TO INVITATION TO BID (ITB) #10-015; WAIVING BID IRREGULARITIES; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-321

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING TASK ORDER 1-11-SWR FOR CH2M HILL FOR ENGINEERING SERVICES FOR THE SITE SAMPLING AND DEMOLITION DOCUMENTS AT THE SITE OF THE FORMER WASTE TO ENERGY FACILITY ON STOCK ISLAND IN AN AMOUNT NOT TO EXCEED \$126,278.00; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-322

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE AWARD OF BID FOR IB #10-011, PORT OPERATIONS SECURITY SERVICES, TO THE LOWEST QUALIFIED AND RESPONSIVE BIDDER, TACTICAL PROTECTION CORPORATION, FOR A CONTRACT PRICE OF \$15.00/HOUR; AUTHORIZING THE EXECUTION OF A CONTRACT IN ACCORDANCE WITH THE BID DOCUMENTS; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-323

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF KEY WEST AND TEAMSTERS LOCAL 769, OFFICE AND BLUE COLLAR WORKERS, EFFECTIVE OCTOBER 1, 2010 THROUGH SEPTEMBER 30, 2011; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-324

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, ACCEPTING THE PLANNING DEPARTMENT'S ATTACHED ANNUAL DEVELOPMENT AGREEMENT COMPLIANCE REPORTS ISSUED PURSUANT TO KEY WEST CODE OF ORDINANCES SECTION 90-688 FOR THE PROJECT LOCATED AT 3800, 3820, 3850 AND 3852 NORTH ROOSEVELT BOULEVARD AND 1185 20TH STREET, ALSO KNOWN AS THE KEY WEST RESORT AND CONFERENCE CENTER AND THE PROJECT LOCATED AT 1341 MCCARTHY LANE (FORMERLY KNOWN AS A PORTION OF DUCK AVENUE) SITUATED WITHIN THE LEASEHOLD PROPERTY OF THE POINCIANA PLAZA SPECIAL NEEDS SECTION AND KNOWN AS POINCIANA ROYALE FOR AIDS HELP OF MONROE COUNTY; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. Postponed to November 16, 2010

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, DIRECTING THE CITY MANAGER TO TAKE ALL NECESSARY STEPS TO PREPARE THE SITE AT 525 ANGELA STREET FOR DEMOLITION AND CONSTRUCTION OF A NEW FIRE STATION; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-325

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING A WAIVER FOR PHIL ANDERTON, TO SECTION 114-35 AND 114-103 REGARDING THE PLACEMENT OF BANNERS IN THE HISTORIC DISTRICT, TO ALLOW PLACEMENT OF A 20 FOOT LONG BY 32 INCH WIDE BANNER AT 701 DUVAL STREET FROM NOVEMBER 12, 2010 THROUGH DECEMBER 2, 2010; 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. 10-326

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, RE-APPOINTING FRANK D. BALBUENA, SR., NORMAN WOOD, JR., NICHOLAS E. REEB AND MERRELL F. SANDS, III TO THE KEY WEST CONTRACTORS EXAMINING BOARD; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

It was moved by Commissioner Johnston and seconded by Commissioner Weekley 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. Postponed

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING AN ADJUSTMENT IN LOWER KEYS SHUTTLE (BUS) FARES; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Jim Scholl, City Manager
Myra Wittenberg, DOT Manager
Jim Fitton, Port and Transit Director

It was moved by Commissioner Weekley and seconded by Commissioner Lopez that the item be postponed.

The Mayor requested the Clerk call the roll.

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

Nays: Commissioner Gibson

SO ORDERED

EASEMENT AGREEMENT: 1901 FLAGLER AVENUE

RESOLUTION NO. 10-327

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AN EASEMENT OF 164 SQUARE FEET TO ADDRESS THE ENCROACHMENT OF EXISTING ROOF EAVES AND TWO SECOND FLOOR BALCONIES RELATED TO A CONTRIBUTING HISTORIC STRUCTURE LOCATED AT THE NORTHEAST CORNER OF FLAGLER AVENUE AND FIRST AVENUE AT 1901 FLAGLER AVENUE (RE #00045080-000000); PROVIDING FEES AND CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution and reported there were 4 notices sent to property owners within 50 feet. One response was received, a non-objection.

The following person spoke on the matter:

David Knoll, Architect and Authorized Representative for Applicant

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

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Rossi, 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. Postponed to November 16, 2010

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, CREATING CHAPTER 90 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY AMENDING SECTIONS 90-133, 90-136, 90-138 AND 90-143 AND CHAPTER 102 OF THE CODE OF ORDINANCES ENTITLED "HISTORIC PROTECTION" BY AMENDING SECTION 102-217 TO PROVIDE FOR AN EXPANDED AND CONSISTENT PUBLIC NOTICE PROCESS FOR THE HISTORIC ARCHITECTURAL REVIEW COMMISSION; 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 Rossi that the Ordinance be postponed.

The Mayor requested the Clerk call the roll.

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

Nays: None

SO ORDERED

ORDINANCES SECOND READING: (Public Hearing)

ORDINANCE NO. Postponed to November 16, 2010

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER AN ORDINANCE GRANTING A FRANCHISE TO DUCK TOURS SEAFARI INC. TO OPERATE A NON-EXCLUSIVE CITY-WIDE AMPHIBIOUS SIGHTSEEING OPERATION; PROVIDING TERMS AND CONDITIONS, INCLUDING THE FOLLOWING: PROVIDING THAT ORDINANCE DOES NOT PROHIBIT CITY FROM OPERATING A SHUTTLE SERVICE; DEFINING THE TERRITORY TO BE SERVED; AUTHORIZING CITY INSPECTION OF SIGHTSEEING VEHICLES; PROVIDING FOR THE OBSERVANCE OF CURRENT AND FUTURE RULES AND REGULATIONS, INSURANCE REQUIREMENTS AND INDEMNIFICATION; LIMITING ASSIGNMENT OF THE FRANCHISE; PROVIDING CONSIDERATION FOR GRANT OF THE FRANCHISE AND CONTINGENT RELIEF; DIRECTING THE PROCEDURE FOR DESIGNATION OF STOPS AND OPERATIONAL REQUIREMENTS OF FRANCHISEE; PROVIDING FOR INSPECTION OF BOOKS AND RECORDS; AUTHORIZING THE ISSUANCE OF PERMITS; ESTABLISHING THE DURATION OF THE FRANCHISE; PROVIDING FOR THE ESTABLISHMENT OF RATES, FEES AND ROUTES; SPECIFYING DEFAULT PROVISIONS AND PROCEDURE FOR NOTICE, SUSPENSION AND/OR TERMINATION UPON DEFAULT, INCLUDING APPEAL PROVISIONS; PROVIDING REMEDIES UPON BANKRUPTCY OF FRANCHISEE; INDICATING FRANCHISE IS NOT A WAIVER OF OTHER CITY REQUIREMENTS; CLARIFYING THAT NO JOINT VENTURE IS CREATED; PROHIBITING DISCRIMINATION; PROVIDING FOR CONSTRUCTION AND INTERPRETATION OF PROVISIONS; INDICATING TIME IS OF THE ESSENCE; PROVIDING FOR ATTORNEYS FEES, WAIVER OF JURY TRIAL AND SPECIFYING VENUE IN THE EVENT OF LITIGATION; PROVIDING FOR NOTICE, ACKNOWLEDGEMENT, ACCEPTANCE AND CUMULATIVE PROVISIONS; SPECIFYING THE FRANCHISE CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES AND MAY ONLY BE AMENDED BY SUBSEQUENT ORDINANCE OF THE CITY COMMISSION; PROVIDING FOR ELIMINATION OF PERMANENT INJUNCTION UPON INSTITUTION AND COMPLIANCE WITH THE FRANCHISE AGREEMENT; 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 Rossi and seconded by Commissioner Lopez for the Ordinance to be postponed.

The Mayor requested the Clerk call the roll.

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

Nays: None

SO ORDERED

CITIZEN COMMENTS:

Margaret Romero, 1615 Washington Street
Ron Demes, Executive Director NAS Key West
Christine Russell, 1014 Grinnell Street

COMMISSION COMMENTS:

Commissioner Johnston said December 1 is World AIDS Day and she asked the City Manager to make sure the AIDS Memorial was cleaned up for the event. Ms. Johnston also said that the FIRM Benefit was coming up this weekend and she asked everyone to come out to support it.

Commissioner Weekley stated he would be holding a District One meeting on November 10 at 6 p.m. at Old City Hall regarding residential parking. Mr. Weekley congratulated all the candidates who were successful in their bids for office as well as those who were not elected. He also congratulated the Mayor on his efforts on the Glynn Archer vote. He asked that when they do have information from the School Board that they hold a Special Meeting on the issue.

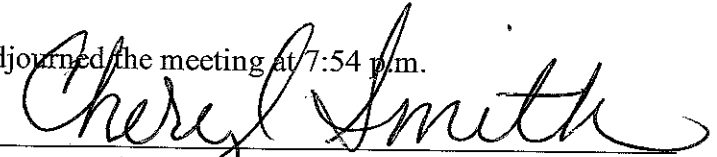
Commissioner Lopez agreed with holding a special meeting regarding the Glynn Archer / City Hall issue.

Commissioner Gibson thanked Amy Kimball-Murley for her service as City Planner.

Mayor Cates thanked everyone involved with the election and congratulated all the candidates.

ADJOURNMENT:

There being no further business the Mayor adjourned the meeting at 7:54 p.m.


Cheryl Smith, MMC, CPM
City Clerk