

MINUTES

CITY COMMISSION MEETING

OLD CITY HALL, 510 GREENE STREET

TUESDAY, FEBRUARY 1, 2011

A regular meeting of the City Commission of the City of Key West, Florida was held in Commission Chambers, Old City Hall, on Tuesday, February 1, 2011.

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, Interim City Planner Don Craig, Police Chief Donie Lee, Fire Chief David Fraga, Port and Transit Director Jim Fitton, Community Services Director Greg Veliz, Deputy Community Services Director Rodrigo Delostrinos, Parking Manager John Wilkins, Information Technology Director Patti McLaughlin, Utilities Manager Jay Gewin, Senior Project Manager Doug Bradshaw, Port Project Manager John Paul Castro, Senior Property Manager Marilyn Wilbarger, Senior Deputy City Clerk Sue Harrison and City Clerk Cheri Smith.

Reverend Dr. Daryl Robinson, Bethel AMA 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:

Commissioner Weekley requested Item #17 be removed from the Consent Agenda for clarification.

Commissioner Johnston requested Item #10 be removed from the Consent Agenda for clarification and discussion.

The Clerk announced speakers for Items #14, #15, #16 and #18 and those items would need to be removed from the Consent Agenda.

Commissioner Weekley asked to have Item #26 postponed to the March 1, 2011 meeting.

Mayor Cates asked to have Item #25 postponed until after the workshop to the February 15, 2011 meeting.

Without opposition, the agenda was accepted as changed.

PROCLAMATIONS:

- 1) U-14 Boys Soccer Day
- 2) Wesley House Valentines' Day

PRESENTATIONS:

Commissioner Weekley reported to the Commission regarding the Strategic Planning Board. He stated they were working to finish the draft for presentation to the Commission. He also stated the Chairperson, Ms. McCulloch, had sent an email to the Commission requesting they have a district meeting where the strategic plan could be presented to the residents. He hoped each of the Commissioners would set up a meeting in their district so they could get feedback from citizens. They will be presenting a draft to the Commission in March. He said the members have met twice monthly to get this project done and have done a fabulous job.

City Attorney's Report

City Attorney, Shawn Smith, stated there has been a contract executed between the Key West Housing Authority and the BCCLT for the transfer of properties.

Mr. Smith also reported on the proposed use of the Glynn Archer property. He and the City Manager and the Mayor have had negotiations within the parameters as the Commission directed. He said at this time they need more feedback from the Commission to know how far and in which direction

to proceed. Mayor Cates added he would like to add to the workshop scheduled for the following week this item to discuss the options. The Commission agreed to add this item to the workshop agenda.

City Manager's Report

City Manager, Jim Scholl, reported to the Commission regarding the responses he received from Washington regarding legislative items for consideration.

Mr. Scholl stated they had a meeting with the Assisted Care Coalition group and their developer by phone conference. They had not yet received the financial analysis which was due at the end of the month.

Mr. Scholl stated the project status list would be made more accessible and available.

Commissioner Johnston asked the City Manager how the search was going for the new City Planner. Mr. Scholl reported there had been 10 telephone interviews. He and Mr. Finigan would get together to narrow the search and invite two or three for face-to-face interviews.

Commissioner Gibson asked about the applicants. Mr. Scholl stated there were no current local applicants but some had previous Monroe County experience.

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.

APPROVAL OF MINUTES:

October 19, 2010 (Regular)
November 2, 2010 (Regular)
November 16, 2010 (Regular)

RESOLUTIONS:

RESOLUTION NO. 11-026

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING FINNEGAN'S WAKE TO CONDUCT ST. PATRICK'S DAY CELEBRATION ON MARCH 17, 2011, FROM 9:00 A.M. TO MIDNIGHT; PURSUANT TO TERMS AND CONDITIONS SET FORTH BY THE CITY MANAGER; AUTHORIZING THE CLOSURE OF JAMES STREET BETWEEN GRINNELL AND MARGARET STREETS FROM 9:00 A.M. TO MIDNIGHT; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE ENCLOSED AREA; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 11-027

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 SOLARIS GREGORY FOR AN EVENT TO TAKE PLACE AT 404 SOUTH STREET DURING THE HOURS OF 5:00 P.M. TO 10:00 P.M. ON SATURDAY, MARCH 19, 2011; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 11-028

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING AIDS HELP TO CONDUCT THEIR ANNUAL TASTE OF KEY WEST AT THE TRUMAN WATERFRONT ALONG THE EAST QUAY WALL ON MONDAY, APRIL 18, 2011, FROM 6:00 P.M. TO 9:00 P.M. (SET UP STARTING AT 8:00 A.M.); PURSUANT TO TERMS AND CONDITIONS SET FORTH BY THE CITY MANAGER; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN AN ENCLOSED AREA; 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. 11-029

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE ACCEPTANCE OF A STREET PERFORMER APPLICATION FROM REV. WILLIAM MCKINZIE; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 11-030

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) #11-004; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 11-031

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AWARDED THE BID OF ARAMARK UNIFORM SERVICES, A DIVISION OF ARAMARK UNIFORM AND CAREER APPAREL, LLC, FOR THE PROVISION OF CITY STAFF UNIFORM RENTALS IN ACCORDANCE WITH, AND IN RESPONSE TO THE SPECIFICATIONS CONTAINED IN ITB 11-005; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 11-032

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED "FLORIDA DEPARTMENT OF TRANSPORTATION LANDSCAPE AND TREE GRATES MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE CITY OF KEY WEST; 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. 11-033

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING A PURCHASING EXCEPTION PURSUANT TO SECTION 2-797 OF THE CODE OF ORDINANCES, TO ALLOW THE PURCHASE OF A USED TEREX LT38 AERIAL BOOM TRUCK FROM RING POWER CORP. IN A TOTAL AMOUNT NOT TO EXCEED \$39,000.00; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Jim Scholl, City Manager
Greg Veliz, Community Services Director

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

The Mayor requested the Clerk call the roll.

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

Nays: Commissioner Johnston

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, EXTENDING THE CONTRACT FOR SIDEWALK ENHANCEMENTS PHASE VII – LEON STREET SIDEWALKS PROJECT WITH CHARLEY TOPPINO AND SONS, INC. UNTIL SEPTEMBER 13, 2011; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Tom Milone, 832 Caroline Street
Jim Scholl, City Manager
Doug Bradshaw, Senior Project Manager

It was moved by Commissioner Johnston and seconded by Commissioner Rossi that the Resolution be postponed.

The Mayor requested the Clerk call the roll.

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

Nays: None

SO ORDERED

RESOLUTION NO. 11-034

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, EXTENDING THE CONTRACT FOR SIDEWALK ENHANCEMENTS PHASE VI – DUCK AVENUE SIDEWALKS AND BIKE PATH PROJECT WITH CHARLEY TOPPINO AND SONS, INC. UNTIL AUGUST 29, 2011; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Tom Milone, 832 Caroline Street
Jim Scholl, City Manager
Doug Bradshaw, Senior Project Manager
Shawn Smith, City Attorney

It was moved by Commissioner Rossi and seconded by Commissioner Wardlow that the Resolution be postponed.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Johnston, Rossi and Wardlow

Nays: Commissioners Gibson, Lopez, Weekley and Mayor Cates

The Mayor declared the motion to postpone had failed.

It was moved by Commissioner Lopez and seconded by Commissioner Gibson that the Resolution be passed and adopted as read and directing staff to hold meetings with contractor and residents within 60 days.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Lopez, Weekley and Mayor Cates

Nays: Commissioners Johnston, Rossi and Wardlow

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. 11-135

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, EXTENDING THE CONTRACT FOR SIDEWALK ENHANCEMENTS PHASE IV – VIRGINIA STREET SIDEWALKS AND APPLEROUTH LANE SIDEWALKS WITH CHARLEY TOPPINO AND SONS, INC. UNTIL AUGUST 24, 2011; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

It was moved by Commissioner Weekley 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, 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. 11-036

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED PROPOSED “KEY WEST CITY MARINA CHARTER BOAT ROW DOCK RULES AND REGULATIONS” FOR THE CITY MARINA AT GARRISON BIGHT; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following person spoke on the matter:

Jim Scholl, City Manager

It was moved by Commissioner Weekley and seconded by Commissioner Rossi that the Resolution be passed and adopted amending the rules and regulations to include recycling.

The Mayor requested the Clerk 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. 11-037

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED UPDATED POLICY FOR THE “CITY MARINA SLIP LOTTERY PROCESS” FOR THE CITY MARINA AT GARRISON BIGHT; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Tom Milone, 832 Caroline Street
Ed Doley, Tarpon 28
Jim Scholl, City Manager

It was moved by Commissioner Rossi 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, 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. 11-038

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, EXTENDING THE EMPLOYMENT AGREEMENT BETWEEN THE CITY AND CITY MANAGER FOR AN ADDITIONAL ONE-YEAR TERM UNDER THE SAME TERMS AND CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Margaret Romero, 1615 Washington Street
Jim Scholl, City Manager

It was moved by Commissioner Rossi 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: Commissioner Wardlow

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. 11-039

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED "FIRST AMENDMENT TO AGREEMENT FOR THE TRANSPORTATION AND DISPOSAL OF SOLID WASTE" BETWEEN THE CITY AND WASTE MANAGEMENT, INC. OF FLORIDA; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Bruce Williams, 86490 Overseas Highway, Islamorada, Veolia Environmental Services
Jay Gewin, Utilities Manager
Jim Scholl, City Manager

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

The Mayor requested the Clerk 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. 11-040

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE FIRST OF TWO EXTENSIONS OF THE ATTACHED CONTRACT, FOR A TERM OF SEVEN YEARS, BETWEEN THE CITY AND WASTE MANAGEMENT, INC. OF FLORIDA; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following person spoke on the matter:

Bruce Williams, 86490 Overseas Highway, Islamorada, Veolia Environmental Services

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

The Mayor requested the Clerk 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. Withdrawn

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING A BUDGET TRANSFER IN SUFFICIENT AMOUNT FOR ADJUSTED PERSONNEL COSTS FROM THE GENERAL FUND CITY MANAGER OPERATING CONTINGENCY ACCOUNT TO THE CITIZEN REVIEW BOARD (CRB) ACCOUNT; APPROVING THE ATTACHED "CONTRACT EMPLOYEE EMPLOYMENT AGREEMENT" BETWEEN STEPHEN MUFFLER AND 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:

Stephen Muffler, Executive Director, Citizen Review Board
Shawn Smith, City Attorney
Bryan Green, 971 Watson Street
Jim Scholl, City Manager
Mark Finigan, Assistant City Manager

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

After discussion Commissioner Rossi withdrew his motion.

The City Manager withdrew the item for consideration.

SO ORDERED

RESOLUTION NO. 11-041

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, DIRECTING STAFF TO PREPARE AND ATTEMPT TO OBTAIN QUIT CLAIM DEEDS FOR THE BENEFIT OF THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) ON THE SOUTH SIDE OF NORTH ROOSEVELT BOULEVARD, FOR THE PURPOSE OF IMPLEMENTING THE FDOT PLAN TO IMPROVE THE ROAD AND CONSTRUCT SIDEWALKS; GRANTING RELIEF FROM THE CITY'S LAND DEVELOPMENT REGULATIONS WHERE SUCH CONVEYANCES IMPAIR FUTURE DEVELOPMENT; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Tom Milone, 832 Caroline Street
Shawn Smith, City Attorney

It was moved by Commissioner Rossi 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, 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. 11-042

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED FIRST AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY AND ISLAND TRANQUILITY, INC. FOR PROPERTY IN THE 700 BLOCK OF EISENHOWER DRIVE, AS DESCRIBED WITHIN THE FIRST AMENDMENT TO LEASE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Tom Milone, 832 Caroline Street
Marilyn Wilbarger, Senior Property Manager

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

The Mayor requested the Clerk 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

ORDINANCES - FIRST READING:

ORDINANCE NO. Postponed to February 15, 2011

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF ORDINANCES ENTITLED "TRAFFIC AND VEHICLES", ARTICLE XI "WRECKERS AND TOWING SERVICE" BY ADDING DIVISION 3 "NON-

CONSENSUAL PRIVATE TOWING SERVICES”, SECTIONS 70-701, 70-702, 70-703, 70-704, 70-705, 70-706, 70-707, 70-708, 70-709, 70-710, 70-711, 70-712 AND 70-713 TO PROVIDE FOR AUTHORITY, PURPOSE AND DEFINITIONS IN ENACTING REGULATIONS GOVERNING NONCONSENSUAL TOWS; PROVIDING FOR THE ISSUANCE OF OPERATING PERMITS; PROVIDING FOR THE SETTING OF RATES AND REQUIREMENTS FOR NON-CONSENSUAL TOWS; REQUIRING PRIOR EXPRESS INSTRUCTION OF REAL PROPERTY OWNER OR DULY AUTHORIZED AGENT PRIOR TO TOW; INSTITUTING NOTICE REQUIREMENTS FOR NON-CONSENSUAL TOW SERVICES; REQUIRING MAINTENANCE OF A MANIFEST AND RECORDS RETENTION; PROVIDING FOR ENFORCEMENT AND PENALTIES; 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 Weekley that the Ordinance be postponed to February 15, 2011.

The Mayor requested the Clerk call the roll.

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

Nays: Commissioner Gibson

SO ORDERED

ORDINANCE NO. Postponed to March 1, 2011

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES ENTITLED "AMUSEMENTS AND ENTERTAINMENT"; BY AMENDING SECTION 6-1, TO ADD DEFINITIONS; SECTION 6-2 TO AMEND PERMIT, APPLICATION AND APPEAL PROCESSES, ADDING PALM WEAVING PERMITS AND EXTENDING 2010 PERMITS; AMENDING SECTION 6-3, REGARDING LOCATIONS; AMENDING SECTION 6-4 BY AMENDING PERMIT REGULATIONS AND PROHIBITIONS; AMENDING SECTION 6-7 REGARDING REVOCATION OF PERMITS; AMENDING SECTION 6-8 ADJUSTING PERMIT FEES; AMENDING SECTION 6-9 REGARDING PENALTY ENFORCEMENT; 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 to March 1, 2011.

The Mayor requested the Clerk call the roll.

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

Nays: None

SO ORDERED

ORDINANCES SECOND READING: (Public Hearing)

ORDINANCE NO. 11-02

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.

Shawn Smith, City Attorney recapped the changes under section 15 on page 18 that considered dock space.

The following people spoke on the matter:

Ed Swift, Historic Tours of America
Christine Russell, 1014 Grinnell Street
Peter Rysman, Attorney
John Murphy

It was moved by Commissioner Rossi and seconded by Commissioner Johnston for the Ordinance to be passed on second reading amending Section 14 and replacing the paragraph and additional wording regarding boat ramp as recommended by the City Attorney.

The Mayor requested the Clerk 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

ORDINANCE – THIRD READING (Public Hearing):

ORDINANCE NO. 11-03

**AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,
AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES
ENTITLES “BUSINESSES” BY AMENDING SECTION 18-28 TO
PROVIDE CRITERIA FOR THE GRANTING OF A SPECIAL
EXCEPTION FROM THE PROHIBITION AGAINST ALCOHOL SALES
IN PROXIMITY TO CHURCHES, SCHOOLS, CEMETERIES AND**

FUNERAL HOMES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Ordinance.

The following person spoke on the matter:

Shawn Smith, City Attorney

It was moved by Commissioner Johnston and seconded by Commissioner Weekley for the Ordinance to be passed on second reading with the amendment as suggested by the City Attorney with the addition of paragraph “f” to read “the Planning Board’s decision regarding an application for a special exception hereunder may be appealed to the City Commission in accordance with the provisions of Section 90-431.”

The Mayor requested the Clerk call the roll.

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

Nays: Mayor Cates

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

SO ORDERED

TROLLEY STOP APPEAL

City View Trolley Stop Appeal – 410 Wall Street

The following people spoke on the matter:

Jim Scholl, City Manager

Greg Wythe, 330 Elizabeth Street withdrew his appeal.

SO ORDERED

CITIZEN COMMENTS:

Margaret Romero, 1615 Washington Street
Douglas Mellon, 2705 Flagler Avenue
Tom Milone, 832 Caroline Street
Ed Swift
John Murphy

COMMISSION COMMENTS:

Commissioner Johnston asked about the financial implications on the modification in the lease for Island Tranquility. The City Attorney had not heard of any claim. Ms. Johnston asked the City Manager about the routes with the Ducks sight-seeing tours. Mr. Scholl said he would be involved in setting the routes.

Commissioner Lopez conveyed his condolences to the Kee family with the passing of Mrs. Kee.

Commissioner Gibson commented on the policies in place regarding the length of speakers at the meetings.

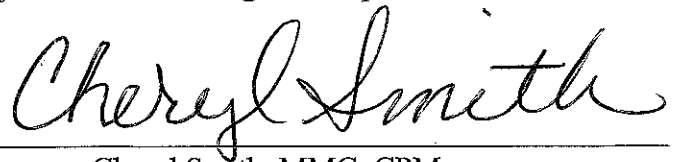
Commissioner Wardlow agreed with the speaker regarding the vendors at the festivals.

Commissioner Weekley reported there was an increase in the population of chickens and roosters in his district and asked the Commission to go along with him to request the City Manager to try to decrease their population around town, perhaps with relocation.

Mayor Cates reported on his attendance at the U.S. Conference of Mayors in Washington D.C. He said big items for discussion were jobs and homeless issues.

ADJOURNMENT:

There being no further business the Mayor adjourned the meeting at 9:22 p.m.



Cheryl Smith, MMC, CPM
City Clerk