

MINUTES

CITY COMMISSION MEETING

OLD CITY HALL, 510 GREENE STREET

TUESDAY, JUNE 4, 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, June 4, 2013.

Mayor Craig Cates called the meeting to order at 6:01 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 City Manager Bob Vitas, Assistant City Manager David Fernandez, Assistant City Manager Mark Finigan, City Attorney Shawn Smith, Fire Chief David Fraga, Community Services Director Greg Veliz, Deputy Community Services Director Rodrigo Delostrinos, Information Technology Director Patti McLauchlin, Port and Transit Director Jim Fitton, Senior Project Manager Doug Bradshaw, Utilities Manager Jay Gewin, Senior Property Manager Marilyn Wilbarger, Administrative Aide to the Mayor and Commissioners Vivian Perez and Senior Deputy City Clerk Sue Harrison.

Rabbi Simon Dudai, Congregation B'nai Zion Synagogue, 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 Manager Vitas requested Ordinance First Reading Item 19 be moved to the beginning of the Ordinances.

Commissioner Wardlow requested Resolution Item 11 be removed from the Consent Agenda.

Commissioner Johnston requested Resolution Item 12 be removed from the Consent Agenda.

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:

- 1) Key West Pride Week
- 2) The American Cancer Society Day

PRESENTATIONS:

- 3) Report by External Auditor – fiscal Year Ended September 30, 2012

City Attorney's Report

The City Attorney had no report.

City Manager's Report

Simonton Street Parking Structure

It was the consensus of the Commission to move forward with a design for a multi-story structure at the Simonton Street Parking location.

Commissioner Mark Rossi asked staff to also look into the viability of putting a multi-story structure at the Conch Republic Seafood Company as another location to provide parking.

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:

- *4) May 21, 2013 (Regular)

RESOLUTIONS:

RESOLUTION NO. 13-144

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING FOGARTY'S TO CONDUCT A RED PARTY EVENT AT 227 DUVAL STREET ON WEDNESDAY, OCTOBER 23, 2013 FROM 12:00 NOON TO 6:00 A.M; PURSUANT TO TERMS AND CONDITIONS SET FORTH BY THE CITY MANAGER; AUTHORIZING THE CLOSURE OF CAROLINE STREET BETWEEN DUVAL & SIMONTON STREETS FROM 8:00 A.M. TO 6:00 A.M; GRANTING A SPECIAL EVENT PERMIT PURSUANT TO SECTION 6-86 OF THE CODE OF ORDINANCES FROM 12:00 NOON TO 4:00 A.M; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE ENCLOSED AREA; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 13-145

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE MONROE COUNTY COMMERCIAL FISHERMEN, INC. TO CONDUCT THEIR ANNUAL FLORIDA KEYS SEAFOOD FESTIVAL AT BAYVIEW PARK INCLUDING THE SOFTBALL FIELDS ON SATURDAY, JANUARY 18, 2014 FROM 11:00 A.M. TO 8:00 P.M. AND ON SUNDAY, JANUARY 19, 2014 FROM 12:00 NOON TO 6:00 P.M.; PURSUANT TO TERMS AND CONDITIONS SET FORTH BY THE CITY MANAGER; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE ENCLOSED AREA; GRANTING A SPECIAL EVENT PERMIT PURSUANT TO SECTION 6-86 OF THE CODE OF ORDINANCES FROM 11:00 A.M. TO 8:00 P.M.; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 13-146

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 MAURA HART FOR A WEDDING CEREMONY AND RECEPTION AT THE HEMINGWAY HOME & MUSEUM, 907 WHITEHEAD STREET, DURING THE HOURS OF 6:00 P.M. TO 12:00 A.M. ON APRIL 27, 2014;; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 13-147

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AFTER-THE-FACT, A MONTH TO MONTH EXTENSION OF THE CONTRACT APPROVED IN RESOLUTION 08-041 BETWEEN THE CITY AND CHARLEY TOPPINO & SONS, INC. FOR RIGHT OF WAY MAINTENANCE IN AN AMOUNT NOT TO EXCEED \$220,370.00; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 13-148

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING A MONTH-TO-MONTH EXTENSION OF THE CONTRACT AUTHORIZED IN RESOLUTION NO. 08-051, AND EXTENDED FOR TWO YEARS IN RESOLUTION NO. 11-077, BETWEEN THE CITY OF KEY WEST AND CRA, AND MARC FOR TRASH COLLECTION SERVICES AT GARRISON BIGHT MARINA (AND KEY WEST BIGHT – SIMULTANEOUSLY APPROVED IN CRA RESOLUTION NO. 13-155); PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 13-149

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE AWARD OF TASK ORDER NO. 14 FOR CONSTRUCTION ENGINEERING & INSPECTION (CEI) AND FOUR-YEAR POST CONSTRUCTION BIOLOGICAL AND PHYSICAL MONITORING FOR THE RENOURISHMENT OF SMATHERS BEACH PROJECT PHASE II TO ATKINS NORTH AMERICA, INC. (“ATKINS”) IN AN AMOUNT NOT TO EXCEED \$193,609.00; AUTHORIZING NECESSARY BUDGET TRANSFERS; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 13-150

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE SALE OF A SURPLUS 1991 SPARTAN PUMPER (KNOWN AS ENGINE 6) IN THE AMOUNT OF \$10,000.00; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 13-151

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, ADOPTING THE ATTACHED REVISED “FUND

BALANCE POLICY” FOR THE CITY OF KEY WEST; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 13-152

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED FORM OF CHARTER BOAT DOCKAGE AGREEMENT FOR THE CITY MARINA AT GARRISON BIGHT; 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. 13-153

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING A ONE-YEAR RENEWAL OF THE ATTACHED “MASTER AGREEMENT TO FURNISH SOLID WASTE CONSULTING SERVICES” BETWEEN THE CITY OF KEY WEST AND KESSLER CONSULTING, INC.; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Jay Gewin, Utilities Manager
City Manager Vitas

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

The Mayor requested the Clerk 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. 13-154

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AWARDED THE BID OF BURKE CONSTRUCTION GROUP, INC. FOR THE NELSON ENGLISH/WILLIE WARD RENOVATION AND ENHANCEMENT PROJECT – BV-1003, IN ACCORDANCE WITH THE TERMS SPECIFIED IN ITB 13-009, IN AN AMOUNT NOT TO EXCEED \$1,127,807.00; AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT IN SUBSTANTIAL CONFORMANCE WITH THE CONTRACT DOCUMENTS CONTAINED IN THE BID PACKAGE ON BEHALF OF THE CITY OF KEY WEST; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

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

The Mayor requested the Clerk 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. Withdrawn

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, PURSUANT TO SECTION 7.03 OF THE CITY CHARTER, TO CALL FOR A REFERENDUM FOR THE LEASE OF PROPERTY LOCATED AT THE TRUMAN WATERFRONT AND OWNED BY THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST (“LRA”), SUCH LEASE FOR A DURATION OF 99

YEARS AT THE RATE OF \$1.00 PER YEAR, THEREBY EXCEEDING THE CHARTER LIMIT OF 20 YEARS, FOR A PARCEL TO BE USED FOR A MIXED-INCOME LICENSED ASSISTED LIVING AND INDEPENDENT LIVING FACILITY FOR SENIOR CITIZENS; 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

The Clerk read the title of the Ordinance.

The City Clerk read the following letter into the record:

Jane Newhagen, 228 Truman Avenue
Reverend Dr. Randolph W.B. Becker, 818 Thomas Street
Christine Russell, 1014 Grinnell Street

The following people spoke on the matter:

John Dolan-Heitlinger, 21 Azalea Drive
Judy Martinez, 1020 Emma Street
Constance Gilbert, PO Box 6324
Donna Windle, 2013 Fogarty Avenue
Peter Batty, 912 Georgia Street
City Attorney Smith
Assistant City Manager Finigan
City Manager Vitas
Manuel Castillo, Housing Authority
Bookie Henriquez

After discussion Commissioner Yaniz withdrew the Ordinance.

SO ORDERED

ORDINANCE NO. Passed to Second Reading

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA AMENDING CHAPTER 58 OF THE CODE OF ORDINANCES ENTITLED "SOLID WASTE" TO CONVERT MONTHLY UTILITY BILLING TO A NON AD VALOREM ASSESSMENT ON THE PROPERTY TAX ROLL BEGINNING IN FY 2014; AMENDING CERTAIN REGULATIONS TO CONFORM THE SOLID WASTE ORDINANCE WITH THE CURRENT SOLID WASTE COLLECTION PROCESS, AND THE CITY'S RECYCLING GOALS; BY AMENDING SECTION 58-1 TO ADD DEFINITIONS; AMENDING SECTION 58-2 TO CLARIFY AUTHORITY OF FRANCHISEES; AMENDING SECTION 58-31 TO CLARIFY WASTE CONTAINER REQUIREMENTS; AMENDING SECTION 58-32 TO

CLARIFY TEMPORARY DUMPSTER PROVISIONS; AMENDING SECTION 58-35 TO CLARIFY BULK AND EXCESS YARD WASTE PICK-UPS; RESCINDING SECTION 58-62 TO RESCIND MONTHLY BILLING; RESCINDING SECTION 58-63 TO RESCIND DELINQUENCY PROVISIONS; AMENDING SECTION 58-66 TO ADJUST THE CONVERSION RATE FOR NON-COMPACTION CONTAINERS; AMENDING SECTION 58-68 REGARDING COMMERCIAL SOLID WASTE ACCOUNTS; AMENDING SECTION 58-71 TRASH HAULERS; RESCINDING SECTION 58-72 RESPONSIBILITY OF OWNER AND TENANT FOR PAYMENT; RESCINDING SECTION 58-73 REGARDING ISSUANCE OF BUSINESS TAX RECEIPT; AMENDING SECTION 58-82 TO AMEND RESIDENTIAL RECYCLABLE MATERIALS; AMENDING SECTION 58-84 REGARDING COLLECTION CONTAINERS OF RESIDENTIAL RECYCLABLE MATERIALS; AMENDING SECTION 58-86 TO INCLUDE WHITE GOODS IN THE ANTI-SCAVENGER CLAUSE; ADDING DIVISION V – SECTIONS 58-100 THROUGH 58-115 TO ESTABLISH REGULATIONS FOR IMPLEMENTING AN ANNUAL SOLID WASTE ASSESSMENT FOR RESIDENTIAL PROPERTIES AND BILLING REGULATIONS FOR COMMERCIAL AND GOVERNMENT PROPERTIES; 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 Wardlow and seconded by Commissioner Johnston that the Ordinance be passed on first reading.

The Mayor requested the Clerk 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

ORDINANCE NO. Passed to Second Reading

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER AMENDING CHAPTER 74 OF THE CODE OF ORDINANCES ENTITLED "UTILITIES," ARTICLE V, STORMWATER UTILITY, TO CONVERT MONTHLY STORMWATER BILLING TO A NON AD VALOREM ASSESSMENT ON THE PROPERTY TAX ROLL

BEGINNING IN FY 2014; BY AMENDING SECTION 74-361 TO ADD DEFINITIONS; AMENDING SECTION 74-365 TO PROVIDE FOR USER FEE; REPEALING SECTION 74-366 AND REPLACING IT WITH A NEW SECTION 74-366 REGARDING STORMWATER SERVICE ASSESSMENTS; ADDING A NEW SECTION 74-367 TO PROVIDE FOR STORMWATER IMPROVEMENT ASSESSMENTS; ADDING A NEW SECTION 74-368 TO PROVIDE FOR AN INITIAL ASSESSMENT RESOLUTION; ADDING A NEW SECTION 74-369, STORMWATER ASSESSMENT ROLL; ADDING SECTION 74-370 TO PROVIDE NOTICE BY PUBLICATION; ADDING SECTION 74-371 TO PROVIDE NOTICE BY MAIL; ADDING SECTION 74-372 TO PROVIDE FOR FINAL ASSESSMENT RESOLUTION; ADDING SECTION 74-373 TO PROVIDE AN ANNUAL RATE RESOLUTION; ADDING SECTION 74-374 TO PROVIDE EFFECT OF STORMWATER RESOLUTIONS; ADDING SECTION 74-375 TO PROVIDE FOR LIEN OF STORMWATER ASSESSMENTS; ADDING SECTION 74-376 TO PROVIDE A METHOD OF COLLECTION OF STORMWATER ASSESSMENTS; ADDING SECTION 74-377 TO PROVIDE AN ALTERNATIVE METHOD OF COLLECTION OF STORMWATER ASSESSMENT; ADDING SECTION 74-378 TO PROVIDE FOR COLLECTION OF STORMWATER ASSESSMENTS FROM GOVERNMENT PROPERTY; ADDING SECTION 74-379 TO PROVIDE RESPONSIBILITY FOR ENFORCEMENT; ADDING SECTION 74-381 TO PROVIDE FOR PROCEDURAL IRREGULARITIES; ADDING SECTION 74-382 TO PROVIDE FOR CORRECTION OF ERRORS AND OMISSIONS; ADDING SECTION 74-383, APPLICABILITY; ADDING SECTION 74-484 ALTERNATIVE METHOD; RENUMBERING SECTION 74-367 TO 74-385; RENUMBERING SECTION 74-368 TO 74-386; RENUMBERING SECTION 74-369 TO SECTION 74-387 AND ADJUSTING THE EQUIVALENT STORMWATER UNIT (ESU) RATE; 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 Wardlow and seconded by Commissioner Weekley that the Ordinance be passed on first reading.

The Mayor acknowledged the motion and second and requested verbal approval. The response was six (6) in favor with Commissioner Rossi opposing.

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

SO ORDERED

ORDINANCE NO. Passed to Second Reading

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY ADDING SECTION 2-773, "CONE OF SILENCE" TO PROVIDE FOR LIMITATIONS AND PROCEDURES REGARDING COMMUNICATIONS CONCERNING CITY ISSUED COMPETITIVE SOLICITATIONS; PROVIDING PENALTIES FOR VIOLATIONS; 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 Rossi and seconded by Commissioner Johnston that the Ordinance be passed on first reading as read.

The Mayor requested the Clerk 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:

Judy Martinez, 1020 Emma Street

COMMISSION COMMENTS:

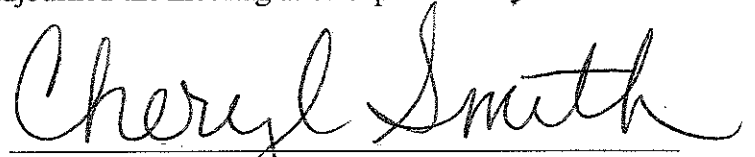
Commissioner Wardlow asked for clarification on what the City is doing about the flooding at Front Street.

City Manager Vitas stated the City is looking into control valves and also plan to revisit the Storm Water Outfall permit that was denied.

Assistant City Manager Fernandez elaborated the City has a pending design/grant application at FEMA level for a new Storm Water Outfall at Mallory Square

ADJOURNMENT:

There being no further business the Mayor adjourned the meeting at 8:29 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