

MINUTES

CITY COMMISSION MEETING

OLD CITY HALL, 510 GREENE STREET

WEDNESDAY, OCTOBER 5, 2011

A regular meeting of the City Commission of the City of Key West, Florida was held in Commission Chambers, Old City Hall, on Wednesday, October 5, 2011.

Mayor Craig Cates called the meeting to order at 6:04 p.m.

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

Commissioner Mark Rossi was absent.

Also present were Assistant City Manager David Fernandez, City Attorney Shawn Smith, Assistant City Attorney Ron Ramsingh, City Planner Don Craig, Police Chief Donie Lee, Fire Chief David Fraga, Fire Marshall Craig Marston, Community Services Director Greg Veliz, Information Technology Director Patti McLauchlin, Parking Manager John Wilkins, Senior Project Manager Doug Bradshaw, Utilities Manager Jay Gewin, Senior Property Manager Marilyn Wilbarger, Senior Deputy City Clerk Sue Harrison and City Clerk Cheri Smith.

Pastor G. D. Magby, Trinity Presbyterian 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:

The Assistant City Manager David Fernandez withdrew Item #9 from the agenda.

Without opposition, the agenda was accepted as changed.

PROCLAMATIONS:

- 1) Fire Prevention Week

PRESENTATIONS:

City Attorney's Report

City Attorney Smith requested an Executive Session be scheduled for the Commission to hear additional information regarding the case of Sunset Marina Residents v The City of Key West, Case No. 2011-CA-911-K for October 18, 2011 at 5:00 p.m.

Mr. Smith asked the Commission to move forward with adopting a legislative platform. He asked for authorization to proceed with the State Action Immunity Doctrine that limits liability in future anti-trust cases.

Mr. Smith reported there is a bill that will be introduced that will prohibit local governments from moving forward with business tax receipts. That would be a reduction to the City of \$1.4 million.

Mr. Smith thanked Commissioner Gibson and wished him the best in his future.

Commissioner Johnston asked the City Attorney about issues discussed at the joint meeting held on the Assisted Care facility. He stated there was no progress to report at this time.

City Manager's Report

Mr. Fernandez had no report for the Commission.

CONSENT AGENDA:

The Clerk read the titles of the Resolutions.

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

September 6, 2011 (Special)
September 6, 2011 (Regular)
September 8, 2011 (Special)

RESOLUTIONS:

RESOLUTION NO. 11-276

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPOINTING HISTORIC MARKERS, INCORPORATED (HMI) AS A KEY WEST LIAISON TO THE "FLORIDA STATE VIVA FLORIDA ORGANIZATION"; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 11-277

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING CONCH REPUBLIC OFFSHORE POWERBOAT RACING ASSOCIATION TO CONDUCT THE KEY WEST WORLD CHAMPIONSHIP RACES ON NOVEMBER 6 -13, 2011; A BOAT PARADE ON SUNDAY, NOVEMBER 6, 2011 STARTING AT 4:00 P.M., A BLOCK PARTY ON FRIDAY, NOVEMBER 11, 2011 FROM 7:00 P.M. TO 11:00 P.M.; THE PARADE WILL BE STARTING AT TRUMAN ANNEX SOUTHARD STREET GATE TO WHITEHEAD STREET – RIGHT GOING SOUTH TO UNITED STREET – LEFT TO DUVAL STREET – LEFT GO NORTH TO FRONT STREET – TO WHITEHEAD STREET – LEFT GO SOUTH TO SOUTHARD STREET AND RIGHT BACK TO TRUMAN ANNEX; THE STREET PARTY ON FRIDAY NOVEMBER 11, 2011 FROM 7:00 P.M. TO 11:00 P.M., PURSUANT TO TERMS AND CONDITIONS SET FORTH BY THE CITY MANAGER; AUTHORIZING THE CLOSURE OF DUVAL STREET BETWEEN FLEMING AND FRONT STREETS INCLUDING GREENE FROM ANN TO FITZPATRICK STREETS AND DUVAL STREET AND A WELCOME PARTY FOR THE US AND INTERNATIONAL TEAMS AT THE MOLE PIER ON MONDAY, NOVEMBER 7, 2011 FROM 6:00 P.M. TO 10:00 P.M.; GRANTING A SPECIAL EVENT PERMIT PURSUANT TO SECTION 6-86 OF THE CODE OF ORDINANCES; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE ENCLOSED AREA; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 11-278

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 BLUE HEAVEN, 729 THOMAS STREET, FOR AN EVENT TO TAKE PLACE DURING THE HOURS OF 2:00 P.M. TO 6:00 P.M. ON SUNDAY, NOVEMBER 6, 2011; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 11-279

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 THE FLORIDA POWERBOAT CLUB, INC. FOR AN EVENT TO TAKE PLACE DURING THE HOURS OF 7:00 P.M. TO 11:00 P.M. ON THURSDAY, NOVEMBER 10 THROUGH SATURDAY, NOVEMBER 12, 2011 AT THE CONCH REPUBLIC SEAFOOD COMPANY AND 135 SIMONTON STREET LOT; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 11-280

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING TRANSFER OF MOBILE VENDOR LICENSE (MVL) #12786 FROM MARY JO ROTHSTEIN TO LAWRENCE CHIANGO DUE TO HARDSHIP; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 11-281

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. 11-282

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED "DEP AGREEMENT NO. CM222, STATE OF FLORIDA COASTAL ZONE MANAGEMENT PROGRAM GRANT AGREEMENT PURSUANT TO THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COOPERATIVE AWARD" BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND REEF RELIEF, INC., IN PARTNERSHIP WITH THE CITY OF KEY WEST, FOR FEDERAL FUNDING FOR THE "FLORIDA KEYS COASTAL STEWARDSHIP PROGRAM"; AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following person spoke on the matter:

Millard McCleary, 713 Elizabeth, Representing Reef Relief

It was moved by Commissioner Weekley and seconded by Commissioner Wardlow 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

ORDINANCES - FIRST READING:

ORDINANCE NO. Passed to Second Reading October 18, 2011

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, CREATING CHAPTER OR AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY AMENDING SECTION 2-603 TO PROVIDE ADDITIONAL DUTIES FOR THE BAHAMA VILLAGE REDEVELOPMENT ADVISORY COMMITTEE; 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
Robert Kelly, 1801 N. Roosevelt Boulevard, Marlin #11
Shawn Smith, City Attorney
David Fernandez, Assistant City Manager

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

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, 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. Passed to Second Reading October 18, 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 "DEFINITIONS" TO AMEND THE DEFINITION OF A "WEAPON" TO EXCLUDE FIREARMS WHICH ARE GOVERNED BY FLORIDA STATUTES CHAPTER 790; 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 Lopez 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 Gibson, Johnston, Lopez, 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. Passed to Second Reading October 18, 2011

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, CREATING CHAPTER OR AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES ENTITLED "ANIMALS" BY AMENDING SECTION 10-14 "BIRD SANCTUARY" TO AMEND REGULATIONS PERTAINING TO THE DESTRUCTION OF BIRDS CONSISTENT WITH CHAPTER 790 OF THE FLORIDA STATUTES; 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 Lopez and seconded by Commissioner Wardlow that the Ordinance be passed on first reading as read.

The Mayor acknowledged the motion and second and requested verbal approval. The response was unanimous to pass the Ordinance as read on first reading.

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 October 18, 2011

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES ENTITLED "BUSINESSES" BY AMENDING SECTION 18-477 "DESIGNATION OF OFFICER OR AGENT OF CORPORATION" TO AMEND SECTION (B) TO INCORPORATE A REFERENCE TO FIREARMS AS GOVERNED BY FLORIDA STATUTE CHAPTER 790; BY AMENDING SECTION 18-480 – "FAILURE TO MAKE REPORT" TO INCORPORATE A REFERENCE TO FLORIDA STATUTE CHAPTER 790; 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 Lopez and seconded by Commissioner Wardlow that the Ordinance be passed on first reading as read.

The Mayor acknowledged the motion and second and requested verbal approval. The response was unanimous to pass the Ordinance as read on first reading.

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 October 18, 2011

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES ENTITLED "CEMETERIES" BY REPEALING SECTION 22-11 – "FIREARMS"; 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 Lopez and seconded by Commissioner Wardlow that the Ordinance be passed on first reading as read.

The Mayor requested the Clerk call the roll.

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

Nays: Commissioner Weekley

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. 11-14

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 18, ENTITLED "BUSINESSES", DIVISION 3 ENTITLED "OPEN CONTAINERS" BY AMENDING SECTION 18-86, TO AMEND DEFINITIONS; AMENDING SECTION 18-87 TO CLARIFY PROHIBITIONS; 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:

Shawn Smith, City Attorney
David Fernandez, Assistant City Attorney

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

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, 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 NO. 11-15

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 26, ENTITLED "ENVIRONMENT", DIVISION 3, ENTITLED "USE OF BEACHES ON CITY PROPERTY" BY AMENDING SECTION 26-62, TO AMEND DEFINITIONS; AMENDING DIVISION 4, ENTITLED "USE OF PARKS LOCATED ON CITY PROPERTY", BY AMENDING SECTION 26-96, TO AMEND DEFINITIONS, BY AMENDING SECTION 26-97 TO CLARIFY PROHIBITIONS; 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 Johnston and seconded by Commissioner Weekley for the Ordinance to be passed on second reading as read.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, 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:

Robert Kelley, 1801 N Roosevelt Boulevard

COMMISSION COMMENTS:

Commissioner Weekley directed his comments to Commissioner Gibson that he enjoyed working with him on this Commission and wished him good luck in the future.

Commissioner Wardlow echoed the statements of Commissioner Weekley and wished Commissioner Gibson good luck in the future.

Commissioner Johnston congratulated Mayor Cates for his re-election and also congratulated Margaret Romero for a very well run campaign. Commissioner Johnston thanked Commissioner Gibson for his contributions to this Commission and wished him the best in his future endeavors.

Commissioner Lopez commented that he would miss Commissioner Gibson and had enjoyed working with him.

Mayor Cates congratulated Ms. Romero for a good race. He said he enjoyed working with Commissioner Gibson and wished him good luck in the future.

Commissioner Gibson thanked everyone for their kind words and well wishes. He was very pleased and happy with the accomplishments he had been a part of while sitting on the Commission. Commissioner Gibson gave credit to the various city departments that had seen improvements through his term as a Commissioner. He thanked his fellow Commissioners and the Mayor for putting up with his, at times, lengthy questions and commentary. Commissioner Gibson also thanked the volunteers he had appointed to the City Boards and Committees. He congratulated Mayor Cates and newly elected Commissioner Yaniz on their election. Lastly, Commissioner Gibson thanked his wife for her support during his term in office.


Commissioner Weekley asked if staff could enhance the volume on the speakers in Commission Chambers.

Commissioner Johnston commented October is Breast Cancer Awareness month and to support and promote awareness at this time.

Commissioner Lopez also promoted Breast Cancer Awareness month and encouraged Breast Cancer screening.

ADJOURNMENT:

There being no further business the Mayor adjourned the meeting at 7:12 p.m.


Cheryl Smith, MMC, CPM
City Clerk