

## **MINUTES**

### **CITY COMMISSION MEETING**

**OLD CITY HALL, 510 GREENE STREET**

**TUESDAY, OCTOBER 19, 2010**

A regular meeting of the City Commission of the City of Key West, Florida was held in Commission Chambers, Old City Hall, on Tuesday, October 19, 2010.

Mayor Craig Cates called the meeting to order at 6:02 p.m.

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, Police Chief Donie Lee, Division Chief/EMG Management & Training Craig Marston, Port and Transit Director Jim Fitton, Community Services Director Greg Veliz, Community Services Director Rodrigo Delostrinos, Code Compliance Manager Jim Young, Information Technology Director Patti McLauchlin, Chief Licensing Official Carolyn Walker, HARC Coordinator Enid Torregrosa, Utilities Manager Jay Gewin, Parking Manager John Wilkins, Engineering Doug Bradshaw, Deputy City Clerk Angela Budde and City Clerk Cheri Smith.

Reverend Joe McMurray of the Metropolitan Christ 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 Resolution Items 12 and 15 be removed from the Consent Agenda for discussion. Commissioner Wardlow requested Resolution Item 19 be removed from the Consent Agenda. The City Clerk requested Resolution Item 11 be removed from the Consent Agenda to read a letter into the record. The Clerk stated Resolution Item 18 had speakers signed up to talk on the item and requested the item be removed from the Consent Agenda. The City Manager asked to have a

Resolution Add-On item added to the Consent Agenda with approval from the Commission and the Clerk stated the Resolution Item would be number 28. The City Manager also requested to postpone Resolution Item 23 to November 16, 2010 meeting and to have Ordinance Item 25 be postponed to November 16, 2010 meeting and to postpone Ordinance Items 25 and 27 to November 3 meeting.

Without opposition, the agenda was accepted as changed.

**COMMENDATIONS:**

- 1) Peter Batty – Historic Architectural Review Commission
- 2) George Galvan – Historic Architectural Review Commission
- 3) Erick Lowe – Key West High School Academic Excellence Award
- 4) Thomas O’Connell – Key West High School Academic Excellence Award
- 5) Kevin Florez Bernal – Key West High School Arts, Visual, Performing and Vocational Award
- 6) Shelby Stansel – Key West High School Arts, Visual, Performing and Vocational Award
- 7) Allison McLellan – Key West High School Outstanding Achievement/Unsung Hero Award
- 8) Alexis Marie Monticello – Key West High School Outstanding Achievement/Unsung Hero Award

**PROCLAMATIONS:**

- 9) Let’s Move Campaign

**PRESENTATIONS:**

- 10) FKACC Selection and Recommendation for Assisted Living

City Attorney’s Report

The City Attorney had asked for the Attorney General’s opinion on the Tourist Development Council (TDC) tax and if it could be used for funding in regards to the Truman Waterfront Development. He informed the Commission of the need to call for a closed session regarding four cases on October 25, 2010 immediately following the Board of Adjustment meeting. The purpose of the

session was to discuss the litigation styled Suleyman Unuvar and Adelaide Unuvar v. City of Key West, Case No. 2008-CA-1903-K; Reefmakers, LLC. v. City of Key West, Case No. 2010-CA-1256-K; Colanna's Shipyard, Inc. v. City of Key West, Case No. 2:10CV63 and Richard Boettger v. City of Key West, Case 2010-CA-965-K.

#### City Manager's Report

The City Manager stated the City was prepared and ready for the start of Goombay and had scheduled a final Fantasy Fest meeting with staff prior to the start of that event. City Manager Scholl updated the Commission on a meeting regarding the Cemetery with Commissioner Weekley and of a Cruise Ship meeting in the Dominica Republic.

#### **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 pass the Resolutions as read.

#### **RESOLUTIONS:**

##### **RESOLUTION NO. 10-299**

**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 ORDINANCE TO BLUE HEAVEN 729 THOMAS STREET FOR AN EVENT TO TAKE PLACE DURING THE HOURS OF 2:00 P.M. TO 6:30 P.M. ON SUNDAY, NOVEMBER 7, 2010; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 10-300**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING UNITED STATES NAVY TO HOLD THE ANNUAL VETERANS DAY PARADE ON DUVAL STREET FROM 4:00 P.M. TO 8:00 P.M. THURSDAY, NOVEMBER 11, 2010; AUTHORIZING THE CLOSURE OF CERTAIN STREETS OR PORTIONS THEREOF FOR SAID PARADE FROM 4:00 P.M. TO 8:00 P.M.; WAIVING ALL FEES FOR REQUIRED CITY SERVICES; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 10-301**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING A REQUEST FOR APPROVAL TO PROVIDE FREE SHUTTLE BUS SERVICES FOR THE ANNUAL 2010 GREEN LIVING AND ENERGY EDUCATION (GLEE) ORGANIZATION EXPO EVENT IN MARATHON, FLORIDA ON NOVEMBER 6, 2010 FOR ALL LOWER KEYS SHUTTLE BUSES, PROVIDING TWO (2) ADDITIONAL STOP LOCATIONS AND PROVIDING A THIRD (3<sup>RD</sup>) SHUTTLE BUS TO INCREASE FREQUENCY OF SERVICE FOR NOVEMBER 6, 2010; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 10-302**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING A TIME EXTENSION TO KIMLEY-HORN AND ASSOCIATES, INC. FOR TRANSPORTATION DESIGN AND CONSTRUCTION ENGINEERING SERVICES CONSULTING FOR DUVAL STREET/TRUMAN ANNEX IMPROVEMENTS PROJECT #GN 0901 FOR A PERIOD OF 14 DAYS, FROM MARCH 15 TO MARCH 29, 2011; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 10-303**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE ATTACHED INTERLOCAL AGREEMENT BETWEEN THE CITY OF KEY WEST AND MONROE COUNTY FOR ENERGY EFFICIENCY & CONSERVATION BLOCK GRANT (EECBG), FLORIDA ENERGY COMMISSION OF THE STATE OF FLORIDA GRANT AGREEMENT NO. ARS010; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 10-304**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AN HISTORIC PRESERVATION GRANT AWARD AGREEMENT IN THE AMOUNT OF \$38,250.00 FOR SMALL MATCHING GRANT NO. F1005 FROM THE STATE OF FLORIDA, DEPARTMENT OF STATE, DIVISION OF HISTORICAL RESOURCES, FOR UPDATING THE HISTORIC RESOURCES SURVEY OF KEY WEST; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. 10-305**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED SOVEREIGNTY SUBMERGED LANDS FEE WAIVED LEASE (BOT FILE NO. 440769265) BETWEEN THE CITY AND THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA (BOT) FOR A PORTION OF BAYBOTTOM IN THE MALLORY SQUARE AREA; PROVIDING FOR AN EFFECTIVE DATE**

**RESOLUTION NO. Postponed to November 16<sup>th</sup>**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, RANKING RESPONDENTS TO RFP 009-10 FOR AMBULANCE SERVICES; AUTHORIZING STAFF TO NEGOTIATE A CONTRACT IN ACCORDANCE WITH THE ACCEPTED PROPOSALS WITH THE TOP RANKED FIRM AND EACH FIRM THEREAFTER AS NECESSARY UNTIL AN ACCEPTABLE CONTRACT IS BROUGHT BEFORE THE COMMISSION; PROVIDING FOR AN EFFECTIVE DATE**

**ADD-ON**

**RESOLUTION NO. 10-306**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, UNANIMOUSLY SUPPORTING AND URGING THE APPOINTMENT OF EDWIN A. SCALES TO THE VACANT POSITION ON THE THIRD DISTRICT COURT OF APPEAL; 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. 10-307**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, SUPPORTING HEALTHY LIFESTYLE CHOICES AND JOINING THE FLORIDA LEAGUE OF MAYORS IN SUPPORTING THE "LET'S MOVE!" CAMPAIGN; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Resolution.

The Clerk read the following letter into the record:

Jodi Smith-Williams, 1217 White Street

It was moved by Commissioner Rossi 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. 10-308**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, CELEBRATING THE 10TH ANNIVERSARY OF THE "ONE HUMAN FAMILY" CAMPAIGN IN KEY WEST; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Resolution.

The following person spoke on the matter:

JT Thompson

It was moved by Commissioner Rossi 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. 10-309**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE MARITIME HERITAGE MUSEUM AND PIRATES IN PARADISE THE USE OF THE TRUMAN WATERFRONT ON THE USS MOHAWK AND THE INGHAM FOR THE CONCH REPUBLIC PIRATES FESTIVITIES STARTING ON TUESDAY, NOVEMBER 30, 2010 THROUGH SUNDAY, DECEMBER 5, 2010; GRANTING A SPECIAL EVENT PERMIT PURSUANT TO SECTION 6-86 OF THE CODE OF ORDINANCES THROUGHOUT THE EVENT; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE BARRICADED AREA; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Resolution.

The following person spoke on the matter:

City Manager Scholl

It was moved by Commissioner Weekley and seconded by Commissioner Lopez that the Resolution be passed with amending the sale of alcohol on Sunday 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. 10-310**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF KEY WEST AND CALVIN, GIORDANO & ASSOCIATES, INC. FOR CITY OF KEY WEST CARRYING CAPACITY TRAFFIC STUDY IN AN AMOUNT NOT TO EXCEED \$247,885.00; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Resolution.

The following people spoke on the matter:

City Manager Scholl  
Christine Russell, 1014 Grinnell Street  
Mark Songer, 1310 Newton Street  
Greg Wythe, 330 Elizabeth Street  
City Attorney Shawn Smith  
City Manager Scholl  
Senior Project Manager Doug Bradshaw  
Jeff Maxwell, Consultant

It was moved by Commissioner Weekley and seconded by Commissioner Rossi with discussion to amend the Resolution and strike Article 4.3 from the agreement titled “Opinions of Cost, Financial Considerations, and Schedules” and that the Resolution be passed as amended.

The Mayor acknowledged the motion and second and requested the Clerk to 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. 10-311**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AWARDED THE BID FROM CHARLEY TOPPINO & SONS, INC. FOR THE NORTHSIDE DRIVE STORMWATER MITIGATION PROJECT (FDOT PROJECT #422718-1) IN AN AMOUNT NOT TO EXCEED \$343,325.00; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Resolution.

The following person spoke on the matter:

Jay Gewin, Utilities Manager



It was moved by Commissioner Wardlow and seconded by Commissioner Weekley 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 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. 10-312**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING AN EASEMENT OF 67 SQUARE FEET TO ADDRESS THE ENCROACHMENT OF AN EXISTING PORCH, ROOF EAVES AND STEPS RELATED TO A CONTRIBUTING HISTORIC STRUCTURE LOCATED AT THE CORNER OF ELIZABETH AND ANGELA STREETS AT 630 ELIZABETH STREET (RE #00011970-000000); PROVIDING FEES AND CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE**

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Brad Shirley, 714 Windsor Lane  
City Planner Amy Kimball-Murley

The Clerk reported there were nine (9) notices sent to property owners within 50 feet. Four (4) responses were received, all non-objections.

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

**ORDINANCE - FIRST READING:**

25           **ORDINANCE NO. Postponed to November 3<sup>rd</sup>**

**AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING 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 NOTICING 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.

Commissioner Wardlow was absent from the Dais.

It was moved by Commissioner Rossi and seconded by Commissioner Weekley that the Ordinance be postponed to November 3, 2010 meeting.

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

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

Nays: None

The said Ordinance was thereupon declared Postponed by the Mayor.

**SO ORDERED**

**ORDINANCES SECOND READING: (Public Hearing)**

26           **ORDINANCE NO. Withdrawn**

**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.

Commissioner Weekley listed the changes he is proposing prior to public comment

- 1) Reduce permit fee to \$150.00.
- 2) Commission will establish what animals are acceptable.
- 3) City will mark the set up areas for vendors.
- 4) Art in Public Places Board would not be responsible for receiving the Artisans work. The City Manager or their designee would approve the Art.
- 5) Open enrollment to apply for permit.
- 6) Artisans would be required to carry a valid sales tax card.

The City Clerk read the following letters into the record:

Dan and Janel Brown, Brewer Maine

Brad Krass

Ashley Delorean Krauss

Jeff Kramer, Cincinnati, Ohio

Emily Orchier, Key West

Tommy Brown, Key West

Veronica Flora

Angela Exarchos, Key West

Kitt Donlon

David Juno, West Palm Beach

Adam Berardo

Rosti Vana

Jean G Holbrook, Ohio

Elise Scott, Key West

Justin Alsedek, Key West

Terrance Riley, Key West

Karey Dyer, Ohio

E.L. Kaminsky, New Jersey

Liz O'Connor, Key West

Patrick Stecher, Key West

Paul Gelineau, Key West

The following people spoke on the matter:

Margaret Romero, 1615 Washington Street  
Steve Clark, 5650 Laurel Avenue  
Beau Kirkpatrick, 2405 Seidenberg Avenue  
Dennis Walsh, Key West  
William Sasser, Key West  
Assistant City Attorney Ron Ramsingh  
Licensing Official Carolyn Walker  
City Attorney Smith

1. It was moved by Commissioner Weekley and seconded by Commissioner Lopez to amend with the following language creating a new Section **minors performing:** 6-4 (v) Any permit holder who is a minor as defined in Section 42-12(a) of the Code of Ordinances shall abide by the provisions of Section 42-12(b) and shall have a parent or legal guardian with them at all times while performing any activities under this chapter.

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

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

Nays: Commissioner Gibson

The Mayor acknowledged the Ordinance was amended as stated.

2. It was moved by Commissioner Weekley and seconded by Commissioner Lopez to amend with the following language **animals:** Removing the existing language in Section 6-4(q) ~~“No performer shall use an animal as part of his or her act while on public property unless the performer is licensed by the United States Department of Agriculture under the Animal Welfare Act. Such act is limited to one animal per permit holder.”~~ and replacing with “Permit A holders are permitted to have one animal as part of their performance limited to a domestic dog, domestic cat, bird, or tortoise with a shell no larger than (36) inches”.

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

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

Nays: None

The Mayor acknowledged the Ordinance was amended as stated.

3. It was moved by Commissioner Weekley and seconded by Commissioner Lopez to amend with the following language **pin system:** Section 6-3 (f) Within the Artisan and Performer Corridor there shall be identifying markers on those portions of Duval Street where permit holders are permitted.

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

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

Nays: None

The Mayor acknowledged the Ordinance was amended as stated.

4. It was moved by Commissioner Weekley and seconded by Commissioner Lopez to amend with the following language **Art in Public Places Board:** Section 6-1 remove the language with a double line through it and underlined and replace with language that has a double underline. *Art* shall mean painting, sketching, photography, palm weaving, crafts and sculpture reviewed and approved by the ~~Art in Public Places Board~~ City Manager or his designee with guidance from the Art and Public Places Board. Other mediums of artistic expression may also be permitted upon ~~the city manager's designee's Art in Public Places' City Manager or his designee's~~ studied determination and approval with guidance from the Art and Public Places Board that such other mediums are established and recognized in the artistic community, including by professional institutions such as museums and art galleries. Removing Sections ~~6-2 (e) (vi) A Certificate of Appropriateness issued by the Art in Public Places Board for all permit B applications; 6-2 (f) Any art vendor permit application that is denied by the Art in Public Places Board under this section may appeal said denial to the city commission after providing written notice to the city clerk and paying the standard filing fee. 6-2 (i) Permits that are outstanding and valid in 2010 upon the passage of this ordinance shall be granted an extension of their existing permit period to January 14, 2011.~~ 6-2(f) Any art vendor permit application that is denied by the Art in Public Places Board City Manager or his designee under this section may appeal said denial to the city commission after providing written notice to the city clerk and paying the standard filing fee.

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

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

Nays: None

The Mayor acknowledged the Ordinance was amended as stated.

5. It was moved by Commissioner Gibson and seconded by Commissioner Weekley to amended with the following language **fees**: Add in the title of 6-2 "fee"; 6-2 (b) add the language- There shall be a fee of (\$150.00) collected at the time of application for either permit A or B.

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

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

Nays: None

The Mayor acknowledged the Ordinance was amended as stated.

6. It was moved by Commissioner Gibson and seconded by Commissioner Weekley to amended with the following language **open enrollment**: ~~6-2 (b) The licensing division shall open an application process during the month of November of each year, closing applications on each November 30, and shall issue such permits on or before each December January 15. Those permits which have not been paid for in full and picked up at the licensing department on or before January 15 shall be forfeited. 6-2 (c) A person who misses the application deadline set forth in subsection (b) may appeal to the city commission so long as the following criteria are met: (i) the person was approved for a permit for the same proposed activity in the previous year; and (ii) the ground for appeal is a demonstrable hardship directly related to the missed application deadline. The appellant shall file the appeal in writing to the city clerk and pay the standard filing fee. The appeal shall be scheduled for the next available city commission meeting, and pay the standard filing fee. The appeal shall be scheduled for the next available city commission meeting. 6-2(g) A person whose permit application is denied for any reason other than that set forth in subsections (c) and (f) may appeal to the city manager for review of the denial. The appellant shall file the appeal in writing to the city clerk on or before ten days from the date of the denial. The city manager shall provide notice and opportunity to be heard.~~

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

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

Nays: None

The Mayor acknowledged the Ordinance was amended as stated.

7. It was moved by Commissioner Gibson and seconded by Commissioner Weekley to amended with the following language **sales tax certificate**: 6-2 (c) (vi) Applications for a Permit B shall also include a valid sales tax receipt issued by the State of Florida.

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

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

Nays: None

The Mayor acknowledged the Ordinance was amended as stated.

8. It was moved by Commissioner Rossi and seconded by Commissioner Gibson with discussion to remove the insurance language from the Ordinance.

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

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

Nays: Commissioners Wardlow and Weekley

The Mayor acknowledged the Ordinance was amended as stated.

9. It was moved by Commissioner Rossi and seconded by Commissioner Johnston with discussion to limit licenses issued to 175 per year.

The Mayor asked for a 10 minute recess.

The Mayor reconvened the meeting at 9:42 P.M.

It was moved by Commissioner Weekley and seconded by Commissioner Lopez with discussion to postpone the Ordinance to the next regularly scheduled meeting.

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

Yeas: Commissioners Johnston, Lopez and Weekley

Nays: Commissioners Gibson, Rossi, Wardlow and Mayor Cates

The Mayor acknowledged the motion to postpone the Ordinance failed.

Commissioner Weekley withdrew the Ordinance. The Mayor thereupon declared the Ordinance was withdrawn.

**SO ORDERED**

**ORDINANCE NO. Postponed to November 3<sup>rd</sup>**

**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.**

It was moved by Commissioner Weekley and seconded by Commissioner Johnston that the Ordinance be postponed to November 3, 2010 meeting.

The Mayor acknowledged the motion and second and requested verbal approval. The response was unanimous to postpone the Ordinance.

**SO ORDERED**



**CITIZEN COMMENTS:**

Margaret Romero, 1615 Washington Street  
Rick Richter, Keys WiFi

**COMMISSION COMMENTS:**


Commissioner Lopez wished his Grandson TJ a Happy Birthday.

Commissioner Rossi wished everyone a Happy Fantasy Fest and then thanked everyone who came out to join in the celebration of his nuptials.

Commissioner Weekley expressed his displeasure at the result of the Ordinance he withdrew and the actions of the Commission regarding the Ordinance.

**ADJOURNMENT:**

There being no further business the Mayor adjourned the meeting at 10:00 p.m.



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Cheryl Smith MMC, CPM  
City Clerk