

ORDINANCE NO. 93-24

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST CREATING CHAPTER 24.00 OF THE KEY WEST CODE OF ORDINANCE; ADOPTING A CHARTER FOR THE ESTABLISHMENT OF THE KEY WEST BIGHT MANAGEMENT DISTRICT; PROVIDING FOR EXISTENCE, ESTABLISHING DUTIES, POWERS AND AUTHORITY; PROVIDING FOR MEMBERSHIP AND TERMS; PROVIDING FOR APPEALS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, by Resolution No. 92-400 the City Commission of the City of Key West adopted the recommendations of the Trust for Public Land Advisory Council concerning the management, preservation and redevelopment of the City's property at Key West bight; and

WHEREAS, by Resolution No. 92-400 the City Commission specifically adopted the four concepts below as guiding principles in the ownership and operation of the City's property at Key West Bight:

1. Commitment to Private Management
2. No City Involvement in Setting Rents
3. No Use or Pledge of Property Taxes
4. Oversight by an Independent Board; and

WHEREAS, the City Commission of the City of Key West charges the Key West Bight Management District Board to carry out the intentions of Resolution 92-400 insofar as those recommendations are consistent with federal laws, state law, the City Charter and Code and the covenants of the Key West Marina/Conservation bond; and

WHEREAS, the ownership and leasing of the commercial property and the management of the public marina and fuel dock at Key West Bight must be consistent with federal law, state law, the City of Key West Charter, Code of Ordinance and the Marina/Conservation bond covenants; and

WHEREAS, the City Commission can best provide for sound business practices in the management and operation of the City Marina and upland leases by providing for oversight by a non elected oversight board; and

WHEREAS, the City of Key West by virtue of Chapters 166, and 189 of the Florida Statutes has the power and authority to create a dependent district for Key West Bight and appoint an oversight board for the management of the Key West Bight; and

WHEREAS, the creation of a Key West Bight Management District will serve a public purpose by vesting authority in the appointed members of the Management District to oversee the manager of the Key West Bight in the performance of day to day duties as well as the implementation of long term plans; and

WHEREAS, the proper management, preservation and redevelopment of the City's property at Key West Bight will benefit the tenants of the Bight and all of the citizens of Key West, and provide further for the general health safety and welfare of the community;

NOW THEREFORE, BE IT ENACTED by the City Commission of the City of Key West, Florida as follows that the following Chapter 24.00 of the Key West Code of Ordinances is hereby created and the Charter for the Key West Bight Management District is hereby

adopted, as follows:

Section 1. Chapter 24.00 Code of Ordinances, City of Key West, Florida is hereby created to read as follows:

**24.00 KEY WEST BIGHT MANAGEMENT DISTRICT;
BOARD**

24.01 Definitions

As used in Sections 24.01 through 24.10 inclusive the following words shall have the meaning ascribed thereto:

Accounting- a certified public accountant

Banking- an executive officer of a banking institution

Board - the appointed members of the seven member Key West Bight Management District

Chamber of Commerce- a member of the Chamber of Commerce endorsed by its board.

Commission - the elected seven member City Commission for Key West.

Historic Preservation- a board member, or a past board member or current or former Executive Director of any group or organization whose purpose is primarily to study, preserve, protect or encourage historic preservation in Key West.

Key West Bight Management District - the 8.8 acres of real property and the submerged baybottom land under lease from the Trustees of the Internal Improvement Trust Fund owned or leased by the City of Key West at Key West Bight, and further described in the Deed recorded at OR Book 1240 Pages 1109-1133 and OR Book 1240 Pages 1134-1154 of the Monroe County Records.

Legal- a person having graduated from an accredited law school in good standing with the Florida Bar or Bar of another State.

Manager- any person(s) whether natural or corporate who has the following contractual duty which includes, but is not limited to

management of the City owned Key West Bight real property, including the marina, to prepare an annual budget and business plan, to negotiate lease terms first with existing tenants and set market rental amounts, (subject to Board approval) to collect rental payments and remit same to City, and the development of rules and regulation for the marina and uplands, and any other duties or responsibilities assumed by the manager by contractual agreement.

Maritime- a person ~~involved~~ in with professional maritime experience activity.

Real estate- a person with experience in property management engaged as a licensed real estate broker, or state licensed real estate appraiser.

Supermajority - a vote equal to a simple majority vote plus one vote, regardless of the number of Commission members present and voting.

Tenant - any person(s) whether corporate or natural having the legal right to occupy the City property at Key West Bight regardless of status as a tenant or subtenant of the property as of May 24, 1993.

Sec. 24.02 Findings; purpose; Board created.

(a) The City Commission hereby finds that the management, preservation, and redevelopment of the Key West Bight property owned by the City of Key West is a public purpose, and further finds that said public purpose can be best achieved by creating the Key West Bight Management District Board having the power and duty to oversee the management preservation and development of the City's property at Key West Bight for best interest of the City and its citizens.

(b) The City Commission hereby creates the Key West Bight Management District Board (hereinafter Board or KWBMD), and charges the Board to use the power and authority conferred upon it by the Code of Ordinances to further the purposes expressed herein. The KWBMD shall consist of a seven member board appointed by the Mayor with consent of the City Commission.

Sec. 24.03 Powers and duties.

The KWBMDDB shall have the following duties:

- (a) 1) prescribe the duties and responsibilities of the manager,
 - 2) to hire future manager(s) and negotiate management contracts subject to approval by the City Commission,
 - 3) to terminate manager(s) according to the terms of any contract;
 - 4) oversee the operation and development of an expanded public marina on the Key West Bight property
 - 5) supervise the manager in the performance of those duties contracted for by the manager,
 - 6) facilitate and approve application for all required permits necessary for redevelopment and or expansion of the uplands property and marina.
 - 7) make application to the Trustees of the Internal Improvement Trust Fund for renewal of all baybottom lease rights and apply for those deemed necessary to carry out marina expansion plans.
 - 8) identify and recommend grant applications for approval by the City Commission,
 - 9) review and approve the annual budget and business plan prepared by the Manager prior to submission for approval or disapproval by the City Commission (without line item veto),
 - 10) approve rental rates and lease terms negotiated by the manager for marina and upland tenants at Key West Bight. All leases shall be consistent with the City Charter, Code of Ordinances and Marina Bond Covenants.
 - 11) The Board shall review all conflicts between the manager and tenants. All decisions of the Key West Bight Management District Board regarding day to day operation of the Key West Bight Marina, the terms and management of rental property and administration of leases shall be final.
 - 12) All matters within the Key West Bight subject to review and/or approval by the Community Redevelopment Agency shall be considered by the Board for review and comment only.
- (b) On the following matters the Key West

Bight Management District Board shall submit ordinances and resolutions to the City Commission which shall retain final approval authority on those ordinances and resolutions coming before it;

- 1) the Key West Bight Management District budget and annual business plan.
- 2) architectural concept, design or plans of redevelopment at Key West Bight,
- 3) acquisition and/or sale of real property at Key West Bight
- 4) the expenditure of funds in excess of \$7,500
- 5) transfers of funds from one budget category to another.
- 6) The City Commission shall request voter approval on matters of pledging commercial rents and marina revenues for the financing of improvements, expansion or property acquisition at or around the Key West Bight.
- 7) The City Commission shall have final review over any matter which may affect the tax exempt status of the marina/conservation bond.

**Sec.24.04 Composition and terms;
compensation.**

The KWBMD Board shall consist of seven members who shall reside in Key West or have a business or profession located in Key West, and reside in the lower keys (south of the seven mile bridge) who shall be appointed by vote of the City Commission. No voting board member shall have any ownership interest in any business located in the KWBMD or shall be employed by a tenant or ownership interest located in the KWBMD.

The Mayor shall present a slate of nominees to the Commission with not less than 2 nor more than 3 nominees for each discipline to be represented. The nominee from each discipline receiving the highest number of votes shall be appointed. At least one person with a demonstrated interest in community service from each of the following disciplines shall be represented on the KWBMD: legal; accounting; banking; historic preservation; maritime; real estate, Chamber of Commerce.

Appointments shall be made on a staggered basis as follows. Of the initial appointments, three (3) members shall be appointed for a

term of two (2) years, and four members shall be appointed for a term of four years. Thereafter, each appointment shall be for a term of four years, except that appointments to replace a vacating member shall be for the unexpired term of said member.

Any member may be removed by the City Commission for cause, which shall include but not be limited to violation of law relating to the member's office. All members shall serve without compensation but, as authorized by the City Commission, may be reimbursed for actual expenses incurred in connection with their duties.

~~Two tenants of the Key West Bight shall sit on the Board as nonvoting members. Nominees shall be submitted at large to the Mayor who shall submit six names to the Commission. The nominees receiving the highest and second highest vote shall be appointed to serve terms of two (2) years.~~

The Key West Bight Preservation Association shall appoint two of its members to serve as liaison with the KWBMDB; liaison shall not be voting members of KWBMDB.

The City Commission shall appoint one of its own members to serve as liaison with the KWBMDB; the liaison shall not be a voting member of KWBMDB.

Sec. 24.05 Staff.

The City Manager shall assure that sufficient secretarial support staff is provided to the Board for the execution of its duties, and in order to record and transcribe in summary form, subject to KWBMDB approval, the minutes of all KWBMDB meetings. The city attorney or designee thereof may serve as legal counsel to the KWBMDB.

Sec. 24.06 Organization and rules.

(a) Four members of the KWBMDB shall constitute a quorum for the transaction of business.

(b) From among its members KWBMDB biannually shall elect a chairperson and such other officers as it deems necessary.

(c) KWBMDB shall attempt to convene on a regularly scheduled basis at least once each month, and notice of such meeting shall be

published in a newspaper of general circulation in the city at least five days in advance thereof. All meetings shall be open to the public and an agenda for each regular meeting shall be available to the public at City Hall forty-eight hours in advance thereof.

(d) Special meetings may be called on not less than 24 hours notice by the chairperson or by written notice signed by four voting members. ~~No official action shall be taken during any special meeting unless four members concur.~~

(e) Minutes shall be kept of all meetings of the KWBMD and committees thereof.

(f) If a member is absent from two of three consecutive meetings without cause and without prior approval of the chairperson, the KWBMD may declare the member's office vacant.

24.07 Revenues and budgeting thereof

(a) Not less than ninety (90) days prior to the end of each fiscal year of the KWBMD, which shall be the same fiscal year as that of the city, the board shall adopt by resolution its proposed budget for the following fiscal year, and submit the same to the City Commission. Such proposed budget shall include all anticipated expenditures of the district for all of its projects during the ensuing fiscal year, including operating expenses, capital outlays, materials, labor, equipment, supplies, payments of principal and interest on all outstanding revenue bonds, and sinking fund and reserve requirements, and payment of excess funds into the City's General Revenue Fund. Such proposed budget shall provide for expenditures only to the extent of funds legally available to the district for such purposes and reasonably anticipated revenues of the district for the ensuing fiscal year from established sources, based upon past experience and reasonable projections thereof, and from new projects or new sources of income of the district. The City Commission shall, conduct a public hearing with respect thereto, and in that event, the chairman or his/her designee and manager of the district shall be present at such public hearing. Following the public hearing by the City Commission, the Board at any regular or special meeting prior to the commencement of the next fiscal year, shall adopt by resolution its budget for the ensuing year subject to the same constraints as to the

amount of expenditures as set forth above with respect to the proposed budget of the District. Once adopted, said budget shall not be amended except by request by the district to the Commission and except by the following: by the giving of ten (10) days' written notice of the proposed amendment to the City Commission; and the giving of public notice of the district's intention to consider amending its budget, which notice shall be by publication in a newspaper of general circulation in Monroe County at least ten (10) days prior to the meeting of the Commission at which such proposed amendment is to be finally considered.

Within ninety (90) days following the close of each fiscal year, the district board shall make a comprehensive report of its operations of each project under its control during the preceding fiscal year, including all matters relating to rates, charges, revenues, expenses of maintenance, repair and operation and of replacements and extensions, principal and interest retirement and the status of all funds. Copies of such annual reports shall be filed with the City Clerk.

24.08 Changes and Amendments

Any change, amendment or repeal of this Ordinance may be affected only by a supermajority vote of the City Commission.

24.09 Key West Bight Management District: Sunset

The Key West Bight Management District and the Board created herein shall not be disbanded or repealed prior to the retirement or defeasance 1992 Key West Bight Marina Conservation Bond.

24.10 Conflict

Nothing herein shall be construed to be in conflict with the City of Key West Charter, Code or Marina Bond covenants.

Section 2. All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 3. If any section, provision, clause, phrase, or

applicati of this ordinance is held invalid or un constitutional for any reason by any court of competent jurisdiction, the remaining provisions of this ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this ordinance.

Section 4. This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 24 day of May, 1993.

Read and passed on final reading at a regular meeting held this 3rd day of June, 1993.

ATTEST:


JOSEPHINE PARKER, CITY CLERK


DENNIS J. WARDLOW, MAYOR