

Ordinance - changing appointments to Board  
from major alone to commissioners

ORDINANCE NO. 19-13

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 2, ARTICLE V, DIVISION 10 OF THE CODE OF ORDINANCES, TITLED "KEY WEST BIGHT MANAGEMENT DISTRICT BOARD" BY AMENDING SECTION 2-548 TITLED "CREATED; COMPOSITION", TO PROVIDE FOR DIRECT APPOINTMENTS; AMENDING SECTION 2-549 "COMPOSITION; APPOINTMENTS; TERMS," TO PROVIDE FOR TERMS PARALLEL WITH CITY COMMISSIONERS; REPEALING SECTION 2-555 TITLED "SUNSET"; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Key West Code of Ordinances Section 2-555, specifies that the Key West Bight Management District Board shall not be disbanded prior to the retirement or defeasance of the 1992 Key West Bight Marina Conservation Bond; and

WHEREAS, the Key Bight bonds have been retired, however the Key West Bight Management District Board continues to service a useful purpose, and the City Commission finds that amending regulations to provide for direct appointments would serve the welfare of the citizens of Key West; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Section 2-548 of the Code of Ordinances is hereby amended as follows\*:

Sec. 2-548. - Created; composition.

The city commission creates the Key West Bight Management District Board, referred to as the "board," and charges the board to use the power and authority conferred upon it by this Code to further the purposes expressed in this division. ~~The board shall consist of a seven member board appointed by the mayor with the consent of the city commission.~~

The Key West Bight Management District Board (KWBMDB) shall consist of seven members. The mayor and each city commissioner shall appoint one member of the Key West Bight Management District Board which appointment shall not be subject to approval by the city commission. The seven members serving on the Key West Bight Management District Board upon adoption of this ordinance shall be assigned to individual city commission members via a lottery system.

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\*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)

Section 2: That Section 2-549 of the Code of Ordinances is hereby amended as follows:

Sec. 2-549. - Composition; appointments; terms.

(a) The board shall consist of seven members who shall reside in the city or who shall have a business or profession located in the city and reside in the lower keys, south of the seven-mile bridge, ~~and who shall be appointed by vote of the city commission.~~

(b) The term of each KWBMDB member shall run parallel to that of the appointing city commission member. The KWBMDB member's term shall end at the conclusion of the city commission member's term; a reelected commission member may reappoint a KWBMDB member.

~~The mayor shall present a slate of nominees to the city commission with not less than two nor more than three nominees for each discipline to be represented. The nominee from each discipline receiving the highest number of votes shall be appointed. The City Commission shall attempt to ensure that~~ At least one person with a demonstrated interest in community service from each of the following disciplines shall be represented on the board: legal, banking, historic preservation, maritime, real estate, Chamber of Commerce. Additionally, one member of the board shall be an individual nominated by the Key West Bight Preservation

Association Inc. (KWBPA). The KWBPA shall provide a list of two nominees to the designated city commissioner, from which the commissioner shall appoint one individual to the board. Any officer or director of the KWBPA shall be excluded from consideration as a member or nominee to the board.

If no applicant is reasonably available to represent a discipline, ~~the mayor~~ the Commissioner, or Mayor, as applicable, may nominate a person from outside of the discipline.

~~(c) Appointments shall be made on a staggered basis, and each appointment shall be for a term of four years. However, appointments to replace a vacating member shall be for the unexpired term of the member.~~

~~(c)-(d)~~ Any member may be removed by the city commission for cause, which shall include but not be limited to a violation of law relating to the member's office.

~~(d)-(e)~~ The Key West Bight Neighborhood Association shall appoint one of its members to serve as a non-voting liaison to the KWBMDB.

Section 4: That Section 2-555 of the Code of Ordinances is hereby repealed as follows\*:

~~Sec. 2-555. -- Sunset.~~

~~The Key West Bight Management District and the board created in this division shall not be disbanded or repealed prior to the retirement or defeasance of the 1992 Key West Bight Marina Conservation Bond.~~

Section 5: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional 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 6: 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 7: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and Clerk of the Commission.

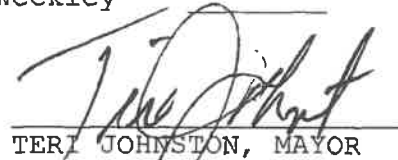
Read and passed on first reading at a regular meeting held  
this 7th day of May, 2019.

Read and passed on final reading at a regular meeting held  
this 21st day of May, 2019.

Authenticated by the presiding officer and Clerk of the  
Commission on 22nd day of May, 2019.

Filed with the Clerk May 22, 2019.

Mayor Teri Johnston	<u>Yes</u>
Commissioner Gregory Davila	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Absent</u>
Commissioner Jimmy Weekley	<u>Yes</u>

  
TERI JOHNSTON, MAYOR

ATTEST:

  
CHERYL SMITH, CITY CLERK

## DIVISION 10. - KEY WEST BIGHT MANAGEMENT DISTRICT BOARD

## Sec. 2-546. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Banking* means an executive officer of a banking institution.

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

*Chamber of Commerce* means a member of the Chamber of Commerce endorsed by its board.

*Historic preservation* means 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 the city.

*Key West Bight Management District* means 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 at Key West Bight, and further described in the deed recorded at OR Book 1240, pages 1109 through 1133 and OR Book 1240, pages 1134 through 1154, of the county records.

*Legal* means a person having graduated from an accredited law school in good standing with the state bar or the bar of another state.

*Manager* means any person whether natural or corporate who has the following contractual duty, which includes, but is not limited to:

- (1) Management of the city-owned Key West Bight real property, including the marina;
- (2) Preparation of an annual budget and business plan;
- (3) Negotiation of lease terms with existing tenants and setting market rental amounts, subject to board approval;
- (4) Collection of rental payments and remitting them to the city;
- (5) The development of rules and regulations for the marina and uplands; and
- (6) Any other duties or responsibilities assumed by the manager by contractual agreement.

*Maritime* means a person with professional maritime experience.

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

*Tenant* means any person 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.

(Code 1986, § 24.01; Ord. No. 08-15, § 1, 10-21-2008)

**Cross reference—** Definitions generally, § 1-2.

**Sec. 2-547. - Findings; purpose.**

The city commission finds that the management, preservation, and redevelopment of the Key West Bight property owned by the city is a public purpose, and further finds that the 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 the best interest of the city and its citizens.

(Code 1986, § 24.02(a))

**Sec. 2-548. - Created; composition.**

The city commission creates the Key West Bight Management District Board, referred to as the "board," and charges the board to use the power and authority conferred upon it by this Code to further the purposes expressed in this division. The board shall consist of a seven-member board appointed by the mayor with the consent of the city commission.

(Code 1986, § 24.02(b))

**Sec. 2-549. - Composition; appointments; terms.**

- (a) The board shall consist of seven members who shall reside in the city or who shall have a business or profession located in the city and reside in the lower keys, south of the seven-mile bridge, and who shall be appointed by vote of the city commission.
- (b) The mayor shall present a slate of nominees to the city commission with not less than two nor more than three 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 board: legal, banking, historic preservation, maritime, real estate, Chamber of Commerce. Additionally, one member of the board shall be an individual nominated by the Key West Bight Preservation Association Inc. (KWBPA). The KWBPA shall provide a list of two nominees to the city commission, from which the commission shall appoint one individual to the board. Any officer or director of the KWBPA shall be excluded from consideration as a member or nominee to the board.



If no applicant is reasonably available to represent a discipline, the mayor may nominate a person from outside of the discipline.

- (c) Appointments shall be made on a staggered basis, and each appointment shall be for a term of four years. However, appointments to replace a vacating member shall be for the unexpired term of the member.
- (d) Any member may be removed by the city commission for cause, which shall include but not be limited to a violation of law relating to the member's office.
- (e) The Key West Bight Neighborhood Association shall appoint one of its members to serve as a non-voting liaison to the KWBMDB.

(Code 1986, § 24.04; Ord. No. 02-02, § 1, 1-2-2002; Ord. No. 08-15, § 2, 10-21-2008)

#### Sec. 2-550. - Compensation.

All members of the board shall serve without compensation but, as authorized by the city commission, may be reimbursed for actual expenses incurred in connection with their duties.

(Code 1986, § 24.04)

#### Sec. 2-551. - Staff.

The city manager shall ensure 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 board approval, the minutes of all board meetings. The city attorney may serve as legal counsel to the board.

(Code 1986, § 24.05)

#### Sec. 2-552. - Organization and rules.

- (a) Four members of the board shall constitute a quorum for the transaction of business.
- (b) From among its members the board biannually shall elect a chairperson and such other officers as it deems necessary.
- (c) The board 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 48 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.
- (e) If a member is absent from two of three consecutive meetings without cause and without

prior approval of the chairperson, the board may declare the member's office vacant.

(Code 1986, § 24.06(a)—(d), (f))

**Sec. 2-553. - Revenues and budgeting.**

- (a) Not less than 90 days prior to the end of each fiscal year of the Key West Bight Management District, 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 proposed budget 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 chairperson or his 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 in this subsection with respect to the proposed budget of the district. Once adopted, the budget shall not be amended except by request by the district to the city commission and except by giving ten days written notice of the proposed amendment to the city commission and giving 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 the county at least ten days prior to the meeting of the city commission at which such proposed amendment is to be finally considered.
- (b) Within 90 days following the close of each fiscal year, the 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.

(Code 1986, § 24.07)

**Sec. 2-554. - Powers and duties; responsibility of city.**

- (a) The board shall have the following duties:
- (1) Oversee the operation and development of an expanded public marina on the Key West

- Bight property.
- (2) Facilitate and approve applications for all required permits necessary for redevelopment and/or expansion of the uplands property and marina.
  - (3) 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.
  - (4) Identify and recommend grant applications for approval by the city commission.
  - (5) 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.
  - (6) 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 Charter, this Code and marina bond covenants.
  - (7) Review all conflicts between the manager and tenants; all decisions of the board regarding the terms and management of rental property and administration of leases shall be final.
  - (8) Consider for review and comment only, all matters within the Key West Bight subject to review and/or approval by the community redevelopment agency.
- (b) On the following matters the 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 \$20,000.00.
  - (5) Transfers of funds from one budget category to another in excess of \$20,000.00.
- (c) 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. The city commission shall have final review over any matter which may affect the tax exempt status of the marina/conservation bond.
- (d) The city by and through its city manager shall have day-to-day responsibility for the operation of the Key West Bight. The manager of the Key West Bight shall be a city employee, subject to hiring, supervision and termination by the city manager. Additionally, the city manager shall prescribe the duties of the manager upon the advice and consent of the board.
- (e) In addition to the requirement contained in subsection 2-554(b)(4) above, personal property purchasing and procurement pertaining to the Key West Bight shall be governed by the

requirements contained in sections 2-766 through 2-845 of the Code of Ordinances.

(Code 1986, § 24.03; Ord. No. 15-08, § 1, 5-5-2015)

**Sec. 2-555. - Sunset.**

The Key West Bight Management District and the board created in this division shall not be disbanded or repealed prior to the retirement or defeasance of the 1992 Key West Bight Marina Conservation Bond.

(Code 1986, § 24.08)

**Sec. 2-556. - Conflict.**

Nothing in this division shall be construed to be in conflict with the Charter, this Code or marina bond covenants.

(Code 1986, § 24.09)

**Secs. 2-557—2-599. - Reserved.**