

MINUTES
SPECIAL CITY COMMISSION MEETING
OLD CITY HALL, 510 GREENE STREET
TUESDAY, APRIL 22, 2014

A special meeting of the City Commission of the City of Key West, Florida was held in Commission Chambers, Old City Hall, on Tuesday, April 22, 2014.

Mayor Craig Cates called the meeting to order at 6:05 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, City Attorney Shawn Smith, Code Compliance Manager Jim Young, Code Compliance Officer Leo Hernandez, City Planner Don Craig, Deputy City Clerk Angela Budde and City Clerk Cheri Smith.

The pledge of allegiance to the flag of the United States of America was given by all present.

CHANGES TO THE AGENDA:

It was moved by Commissioner Rossi and seconded by Commissioner Yaniz to approve the agenda as submitted.

The Mayor asked for objections and seeing none the agenda was approved.

RESOLUTIONS:

RESOLUTION NO. 14-111

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE KEY WEST GIRLS SOFTBALL TRAVEL TEAMS 8A,10A & 12U TO CONDUCT A CO-ED SOFTBALL AND CORNHOLE TOURNAMENT FUNDRAISER AT THE WICKERS FIELD COMPLEX ON SATURDAY, MAY 3, 2014 FROM 9:00 A.M. TO 11:00 P.M. PURSUANT TO TERMS AND CONDITIONS SET

FORTH BY HE OFFICE OF THE CITY MANAGER; GRANTING A SPECIAL EVENT PERMIT PURSUANT TO SECTION 6-86 OF THE CODE OF ORDINANCES FROM 9:00 A.M. TO 11:00 P.M. ON SATURDAY, MAY 3, 2014; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES ON THE DATE AND DURING THE HOURS STATED ABOVE; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following person spoke on the matter:

City Attorney Smith

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

The Mayor acknowledged the motion and the second and requested verbal approval.

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

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA AMENDING CHAPTER 18 "BUSINESSES", ARTICLE II "ALCOHOLIC BEVERAGES", DIVISION 2 "ENTERTAINMENT LICENSE". TO AMEND SECTION 18-56 REGARDING DEFINITIONS; BY AMENDING 18-57 TO PROVIDE FOR THE LOCATION OF SPEAKERS; BY AMENDING SECTION 18-59 TO UPDATE DEFINITIONS; BY AMENDING SECTION 18-60 TO INCREASE THE NUMBER OF VIOLATIONS BEFORE AN ENTERTAINMENT LICENSE MAY BE REVOKED OR SUSPENDED; 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:

Sloan Bashinsky, 1711 Seminary Street

Danny Hughes, 512 Front Street
Joel Nelson, 2409 Harris Avenue
Dallas Docton, 3390 Eagle Avenue
Gary Ek, 1021 Watson Street
Sheri Pogue, 2013 Harris Avenue
Maureen Johnson, 2322 Johnson Street
City Attorney Smith

It was moved by Commissioner Weekley that the Ordinance be amended to change the setback from 15 Feet to 5 Feet.

Motion died due to a lack of a second.

It was moved by Commissioner Weekley that the Ordinance be passed on first reading as read.

Motion died due to a lack of a second.

It was moved by Commissioner Wardlow and seconded by Commissioner Lopez to remove all language regarding setback and that the Ordinance be passed as amended on first reading.

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

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

Nays: Commissioner Yaniz

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. 14-06

**AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,
AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES
ENTITLED "ENVIRONMENT," ARTICLE IV ENTITLED
"SOUND CONTROL" BY ADDING SECTION 26-189, PURPOSE;**

ADDING SECTION 26-190, FINDINGS OF FACT; AMENDING SECTION 26-191, DEFINITIONS; AMENDING SECTION 26-192 TO AMEND AND CLARIFY UNREASONABLY EXCESSIVE NOISE PROHIBITIONS; AMENDING SECTION 26-193 TO CLARIFY AND AMEND EXCEPTIONS TO THE SOUND CONTROL ORDINANCE; AMENDING SECTION 26-194 TO CLARIFY CITATION PROCEDURE AND PENALTIES; ADDING SECTION 16-199 TO PROVIDE FOR TEMPORARY WAIVERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

The Clerk read the title of the Ordinance and reported the City Clerk's office had received 25 letters in support, 46 letters in opposition and 676 signed form letters in opposition.

The following people spoke on the matter:

Judy Martinez, 1020 Emma Street
Tim Weaver, 526 Rose Lane
Bill Blue, 1801 North Roosevelt Blvd
Dallas Doctin, 3390 Eagle Avenue
Gary Ekk, 1021 Watson
Susan Haskel, 427 Catherine Street
Sheri Pogue, 2013 Harris Avenue
Maureen Johnson, 2322 Seidenberg Avenue
Robert Page Haverty, 1801 Roosevelt Blvd.
Jane Lowe, 812 Duval Street
Kenyatta Arington, 1200 First Street
Kirsten Heads, 815 Duval
Patrick Stecher, 645 United Street
Susan Cardenas, 221 Simonton Street
Brett Smith, 1331 White Street
Jessie Wagner, 21 Riveria Drive
Rick Haskins, 1225 2nd Street
Joel Nelson, 2409 Harris Avenue
Steve Gibson, 1325 Newton Street
Skip O'Neil, 1401 Truman Avenue
Adam Stamper, 1501 Truman Avenue
Don Whitehead, 913 Duval Street
Yadira Morgan, 404 South Street
Marcela Gregory, 39 Palm Avenue
Elizabeth Kearns, 44 Key Cove
Shirley Freeman, 724 Eaton Street
John Vagnoni, 601 Whitehead Street
Hugh Morgan, 404 South Street
Kimball Ingram, 711 Duval Street

John Gaddoniex, 1075 Duval Street
Joe Clements, 728 Prado Circle
Rand Dillon, Key West
City Attorney Smith
Code Compliance Manager Young
City Planner Craig

It was moved by Commissioner Johnston to amend Section 26-191 Definitions: Commercial district section, by removing language HRCC-1, HRCC-2 and to replace with the language “Core Commercial district means the HRCC-1 and HRCC-2 zoning districts” and seconded by Commissioner Yaniz for approval.

The Mayor acknowledged the motion and second and requested verbal approval. The response was unanimous to pass the amendment.

It was moved by Commissioner Johnston to amend Section 26-191 Definitions: Disturbing noise section by adding to the first sentence the language “unreasonably excessive noise that is” and seconded by Commissioner Lopez for approval.

The Mayor acknowledged the motion and second and requested verbal approval. The response was unanimous to pass the amendment.

It was moved by Commissioner Johnston to amend Section 26-191 Definitions: Unreasonable noise section by adding to the first sentence the language means “unreasonably excessive noise”; Amend subsection 1 by striking the language Any noise, capitalizing the “C” in commercial and the “D” in district and add “77 dBC” and seconded by Commissioner Weekley for approval.

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

Yeas: Commissioners Johnston, Lopez, Wardlow and Weekley

Nays: Commissioner Rossi, Yaniz and Mayor Cates

It was moved by Commissioner Rossi to amend Section 26-191 Definitions: Unreasonable noise section, sub-section 2 striking the language Any noise, capitalizing the “C” in commercial and the “D” in district and seconded by Commissioner Lopez for approval.

The Mayor acknowledged the motion and second and requested verbal approval. The response was unanimous to pass the amendment.

It was moved by Commissioner Weekley to amend Section 26-191 Definitions: Unreasonable noise section, sub-section 2 to add language “or 77 dBC” and seconded by Commissioner Johnston for approval.

The Mayor acknowledged the motion and second and requested verbal approval. The response was 5 Yeas to 2 Nays by Commissioners Rossi and Yaniz.

It was moved by Commissioner Lopez to amend Section 26-191 Definitions: Unreasonable noise section, sub-section 2 to add language “or 62 dBC” and seconded by Commissioner Johnston for approval.

The Mayor acknowledged the motion and second and requested the Clerk to call the roll.
Yeas: Commissioners Johnston, Lopez, Wardlow and Weekley
Nays: Commissioner Rossi, Yaniz and Mayor Cates

It was moved by Commissioner Rossi to amend Section 26-192 Unreasonably Excessive Noise prohibited section, subsection a.) and changed ”the hours between 10:00 a.m. and 2:59 a.m.” and Subsection b.) changed “the hours between 3:00 a.m. and 9:59 a.m.” and seconded by Commissioner Yaniz for approval.

The Mayor acknowledged the motion and second and requested the Clerk to call the roll.
Yeas: Commissioners Rossi, Yaniz and Mayor Cates
Nays: Commissioners Johnston, Lopez, Wardlow and Weekley

Motion failed.

It was moved by Commissioner Wardlow to amend Section 26-192 Unreasonably Excessive Noise prohibited section, subsection a.) and change “the hours between 11:00 A.M. and 2:59 a.m.” and seconded by Commissioner Johnston for approval.

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

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

Nays: None

It was moved by Commissioner Lopez to amend Section 26-192 Unreasonably Excessive Noise prohibited, Section 2) striking the language In all areas of the City of Key West, other than those areas listed in subsection (b) (a) above: and seconded by Commissioner Rossi for approval.

The Mayor acknowledged the motion and second and requested verbal approval. The response was unanimous to pass the amendment.

It was moved by Commissioner Rossi to amend Section 26-192 Unreasonably Excessive Noise prohibited, Section 2.) by adding the language “In any Residential or Commercial District as defined in this Article, a decibel meter shall be used for a complaint of unreasonable noise made at or within 100 feet of the property line of the sound source. The decibel reading shall be made at the location of the complaint. The investigating officer shall issue a citation for unreasonably excessive noise, unless in his judgment a warning is sufficient to cease the violation. There shall be no more than a total of one warning per offending person or establishment in any six (6) month period and seconded by Commissioner Wardlow for approval.

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 Yaniz

It was moved by Commissioner Yaniz to amend Section 26-192 Unreasonably Excessive Noise prohibited, Section 3.) by adding the language "A complaint of disturbing noise may be made when the location of the complaint is beyond 100 feet of the property line of a Commercial District property sound source. Additionally, a complaint of disturbing noise may be made when the location of the complaint is a residential property and the location of the sound source is a residential property at any distance from each other. A decibel meter measurement is not required to determine disturbing noise. The investigating officer shall issue a citation if the complainant suffers disturbing noise within the boundaries of his property. The investigating officer may issue a warning if in his judgment a warning is sufficient to cease the violation. There shall be no more than a total of one warning per offending person or establishment in any six (6) month period and seconded by Commissioner Wardlow for approval.

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

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

Nays: None

It was moved by Commissioner Yaniz to strike all language in Section 26-192 Unreasonably Excessive Noise prohibited, subsections (a) (1) (2) and (b) and seconded by Commissioner Lopez for approval.

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

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

Nays: None

It was moved by Commissioner Weekley to amend Section 26-192 Unreasonably Excessive Noise prohibited, by re-numbering subsection three (3) to number four (4) and seconded by Commissioner Johnston for approval.

The Mayor acknowledged the motion and second and requested verbal approval. The response was unanimous to pass the amendment.

It was moved by Commissioner Yaniz to amend Section 26-194 Citation procedure and penalties, subsection (e) to strike section 1-15 and replace with the language “Chapter 2, Article VI, Division 2 of the Code of Ordinances for the City of Key West” and seconded by Commissioner Lopez for approval.

The Mayor acknowledged the motion and second and requested verbal approval. The response was unanimous to pass the amendment.

It was moved by Commissioner Wardlow to amend Section 26-195 Liability; citizen suit by striking language in second sentence maker or creator and replace with language “individual controlling or responsible for maintaining the volume of unreasonably excessively excessive” and seconded by Commissioner Weekley for approval.

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 Yaniz

It was moved by Commissioner Yaniz to amend Section 26-195 Liability; citizen suit subsection (d) by adding the title “Multiple Unsubstantiated Complaints” and by adding the language “An unsubstantiated complaint is one to which a noise control officer has responded and found either no evidence of any noise, or sound that is ten (10) decibels or more below the standard for the finding of a violation of unreasonably excessive noise. The noise control office

shall explain his or her finding to the complainant and detail the relevant standards for determining a violation as specified by the City Code. It shall be a violation of this Article subjecting an individual to the provisions of Chapter 2, Article VI, Division 2 of the Code of Ordinances for the City of Key West for any individual to make three (3) or more unsubstantiated complaints against the same property within a one (1) month period or five (5) total complaints in any twelve (12) month period” and seconded by Commissioner Rossi for approval

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

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

Nays: None

Mayor Cates recessed the meeting at 9:29 P.M.

Mayor Cates reconvened the meeting at 9:35 P.M.

It was moved by Commissioner Wardlow and seconded by Commissioner Yaniz, with Discussion, that the Ordinance be passed as amended on second reading as read.

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

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

Nays: Commissioners Rossi and Yaniz

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. 14-07

**AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,
AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES
ENTITLED “AMUSEMENTS AND ENTERTAINMENT,”**

**DIVISION 3 ENTITLED “NOISE CONTROL” BY AMENDING
SECTION 6-86 TO AMEND THE PERMIT APPLICATION
PROCESS; 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:

City Attorney Smith

It was moved by Commissioner Rossi and seconded by Commissioner Wardlow that the Ordinance be passed on second reading as read.

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

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

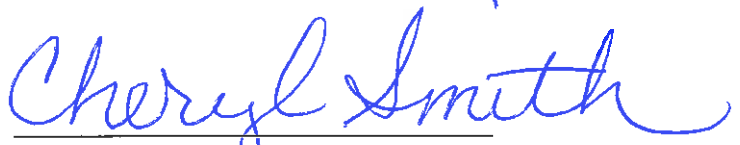
Nays: None

The said Ordinance was thereupon declared by the Mayor to have been duly passed on first and second reading and was adopted and authenticated with the signatures of the Mayor and the Clerk of the Commission.

SO ORDERED

ADJOURNMENT:

There being no further business the Mayor adjourned the meeting at 10:15 p.m.


Cheryl Smith, MMC, CPM
City Clerk