

MINUTES
CITY COMMISSION MEETING
OLD CITY HALL, 510 GREENE STREET
TUESDAY, JUNE 1, 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, June 1, 2010.

Mayor Craig Cates called the meeting to order at 6:00 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, City Planner Amy Kimball-Murley, Fire Chief David Fraga, Division Chief/EMG Management & Training Craig Marston, General Services Director Gary Bowman, Utilities Manager Jay Gewin, Parking Manager John Wilkins, Senior Property Manager Marilyn Wilbarger, Deputy Clerk Angela Budde, Senior Deputy City Clerk Sue Harrison and City Clerk Cheri Smith.

Pastor Timothy Jemly of Impact Community 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

City Manager Jim Scholl requested Resolution 4 be removed from the consent agenda. Without opposition, the agenda was accepted as changed.

PROCLAMATIONS: (Mayor Cates)

- (a) Mote Marine Laboratory 55th Anniversary

PRESENTATIONS:

(a) City Attorney's Report

City Attorney Smith had no report for the Commission.

(b) City Manager's Report

City Manager Scholl stated Mr. Andrew Van Chow from British Petroleum (BP) would update the Commission regarding the Deepwater Horizon oil spill. Mr. Van Chow stated there were over 1,600 vessels mobilized participating in the recovery efforts and 1.9 million feet of containment boom deployed and an additional 1.8 million feet of absorbent booms. He stated they had opened a claims office in Marathon and would be opening a claims office in Key West by the end of the week. He stated there were two relief wells being drilled and the anticipated completion date would be some time in August.

Commissioner Weekley asked about money from BP to the local Tourist Development Counsel for advertising for the Florida Keys and Key West. Mr. Van Chow responded that Monroe County Commissioner Di Gennaro has been appointed by the Governor to represent Key West and Monroe County with regard to the \$25,000,000.00.

Mr. Scholl stated that Trish Monroe had passed away last week after a long illness. She had worked in the building department for 12 years.

Mr. Scholl stated the Navy Base will be commemorating the Battle of Midway on Thursday at the Military Memorial at Mallory Square at 8:00 a.m.

Commissioner Johnston asked Mr. Scholl about the Wisteria Island proposal and what the City's responsibility was at this point. Mr. Scholl stated the County was at the beginning of a very lengthy, complicated process. His understanding was that the County was proceeding with some complex changes in order to enable any type of potential development to occur on Wisteria Island and he did not

believe there would be a formal proposal for the City to take a vote. He asked the City Planner, Amy Kimball-Murley to address the issue.

Ms. Amy Kimball-Murley, Planning Director, described the process the County was following regarding the Wisteria Island issue. Staff reviewed the applications and she stated the information provided was superficial at this stage. She stated this was a County Land Use Modification amendment. The whole process could take several months. The City was at a technical impact review stage for this project.

Commissioner Gibson asked for updates on the Port and Transit Director. Mr. Scholl stated there were nineteen applicants considered and the selection was narrowed down to three that met the requirements. He stated two of the three were interviewed, as one was not available, and the applicant selected was due to start near the end of July.

Commissioner Rossi asked about the Waterfront Market. Ms. Wilbarger stated according to the settlement agreement they would vacate the property before June 30, 2010. Notice will be made and proposals will be accepted to lease the space.

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. 10-171

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE ROTARY CLUB OF KEY WEST TO CONDUCT A PICNIC WITH ALL ROTARY CLUBS AT BAYVIEW PARK AND THE SOFTBALL FIELDS ON SATURDAY, JUNE 5, 2010 FROM 12:00 NOON TO 4:00 P.M. PURSUANT TO TERMS AND CONDITIONS SET FORTH BY THE CITY MANAGER; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE ENCLOSED AREA; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-172

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING SLOPPY JOE'S TO CONDUCT AN EVENT FOR HEMINGWAY DAYS ON SATURDAY, JULY 24, 2010 FROM 12:00 NOON TO 11:00 P.M. PURSUANT TO TERMS AND CONDITIONS SET FORTH BY THE CITY MANAGER; AUTHORIZING THE CLOSURE OF GREENE STREET BETWEEN DUVAL AND ANN STREETS FROM 12:00 NOON TO 11:00 P.M.; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE ENCLOSED AREA; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-173

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, EXTENDING THE CONTRACT FOR STORMWATER GRAVITY INJECTION WELLS PHASE IV WITH CEB CONSTRUCTION, INC. THROUGH JUNE 30TH, 2010; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-174

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE TRANSFER OF HISTORIC TELEGRAPH CABLE EXCAVATED AT THE INTERSECTION OF CATHERINE AND WHITEHEAD STREETS TO THE MEL FISHER MARITIME MUSEUM; AUTHORIZING THE CITY MANAGER TO ENTER INTO A TRANSFER AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE

The said Resolutions were thereupon declared by the Mayor to have been duly passed and adopted and were authenticated with the signatures of the Mayor and the Clerk of the Commission.

RESOLUTION NO. 10-175

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING RICK'S & DURTY HARRY'S ENTERTAINMENT COMPLEX TO CONDUCT A SEAFOOD LOBSTER FESTIVAL ON SATURDAY, AUGUST 7, 2010, FROM 10:00 A.M. TO 12:00 MIDNIGHT, PURSUANT TO TERMS AND CONDITIONS SET FORTH BY THE CITY MANAGER; AUTHORIZING THE CLOSURE OF THE 100, 200, 300, 400 & 500 BLOCKS OF DUVAL STREET BETWEEN FRONT AND SOUTHARD STREETS INCLUDING THE GREENE STREET INTERSECTION AND TELEGRAPH LANE FROM 10:00 A.M. TO 12:00 MIDNIGHT; GRANTING A SPECIAL EVENT PERMIT PURSUANT TO SECTION 6-86 OF THE CODE OF ORDINANCES FROM 12:00 NOON TO 11:00 P.M.; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE ENCLOSED AREA; PROVIDING FOR AN EFFECTIVE DATE

Commissioner Rossi recused himself from the item and stepped down from the dais.

It was moved by Commissioner Weekley and seconded by Commissioner Johnston 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 with Commissioner Rossi recused.

The said Resolution was thereupon declared by the Mayor to have been duly passed and adopted and was authenticated with the signatures of the Mayor and the Clerk of the Commission.

SO ORDERED

RESOLUTION NO. 10-176

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE CITY ATTORNEY'S PERFORMANCE EVALUATION; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

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

The Mayor requested the Clerk 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 with the signatures of the Mayor and the Clerk of the Commission.

SO ORDERED

VARIANCE: 1908 FLAGLER AVENUE

RESOLUTION NO. 10-177

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, TO ALLOW A VARIANCE TO SECTION 18-28 OF THE CODE OF ORDINANCES OF KEY WEST, FLORIDA REGARDING THE SALE OF ALCOHOL WITHIN 300 FEET OF CHURCH, SCHOOL, CEMETERY OR FUNERAL HOME FOR PROPERTY LOCATED AT 1908 FLAGLER AVENUE; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution and reported there were 56 notices sent to property owners within 300 feet and 2 responses were received, both were objections.

The Clerk read the names, addresses and comments of the objectors:

John McCormick, 1921 Venetia Street
Marie Rendueles, 1425 Second Street

The following people spoke on the matter:

Shawn Smith, City Attorney
Owen Trepanier, Trepanier and Associates
Amy Kimball-Murley, City Planner
Nayma Valera
Mike Mongo, 1218 Pearl Street

It was moved by Commissioner Rossi and seconded by Commissioner Wardlow that the Resolution be passed and adopted with the conditions as recommended by the Planning Department and

with the additional conditions to place “No Loitering” signs around the property and that the restaurant would actively enforce no loitering on the property and that no alcohol sales leave the property.

The Mayor requested the Clerk 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 with the signatures of the Mayor and the Clerk of the Commission.

SO ORDERED

ORDINANCE - FIRST READING:

ORDINANCE NO. SECOND READING JUNE 15, 2010

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, PURSUANT TO SECTION 7.03 OF THE CITY CHARTER, CALLING FOR A REFERENDUM FOR THE AUTHORITY TO SELL REAL PROPERTY OWNED BY THE CITY OF KEY WEST AND COMMONLY KNOWN AS 529 FRONT STREET (RE NUMBER 00072082-000600); AUTHORIZING THE CITY CLERK TO TAKE ALL NECESSARY ACTION TO PLACE THIS MEASURE ON THE BALLOT FOR NOVEMBER 2, 2010; 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:

Tom Milone, 832 Caroline Street
Ed Scales, 201 Front Street
Shawn Smith, City Attorney
Mark Finigan, Assistant City Manager
Jim Scholl, City Manager

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

The Mayor requested the Clerk call the roll.

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

Nays: Mayor Cates

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. 10-11

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, PURSUANT TO SECTION 8.01 OF THE KEY WEST CHARTER, PROPOSING THAT SECTION 6.01 OF THE KEY WEST CHARTER BE AMENDED TO PROVIDE THAT RUNOFF ELECTIONS IF NECESSARY, SHALL BE HELD ON THE FIRST TUESDAY FOLLOWING THE FIRST MONDAY IN NOVEMBER BETWEEN THE TWO CANDIDATES RECEIVING THE GREATEST NUMBER OF VOTES; SETTING THE GENERAL ELECTION OF NOVEMBER 2, 2010, AS THE DATE OF REFERENDUM; 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 Rossi 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, Rossi, 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. POSTPONED TO JUNE 15, 2010

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 42 OF THE CODE OF ORDINANCE ENTITLED "MISCELLANEOUS OFFENSES" BY AMENDING SECTION 42-9 TO PROVIDE FOR AN EXEMPTION FROM THE NUDITY PROHIBITION IN AREAS SPECIFICALLY DESIGNATED FOR THAT PURPOSE BY RESOLUTION OF THE CITY COMMISSION;; 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 Rossi for the Ordinance to be postponed to June 15, 2010.

The Mayor requested the Clerk call the roll.

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

Nays: None

The said Ordinance was thereupon declared by the Mayor to have been postponed.

SO ORDERED

ORDINANCE NO. 10-12

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING SECTION 58-34 OF THE CODE OF ORDINANCES ENTITLED "COLLECTION AND DISPOSAL, UNLAWFUL DISPOSAL" BY ADDING SUBSECTION (F) TO PROHIBIT THE STORING OR DISPOSING OF CERTAIN MATERIALS IN VEHICLES OR TRAILERS; 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 Weekley and seconded by Commissioner Rossi for the Ordinance to be passed on second reading as read.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Rossi, 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. 10-13

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF ORDINANCES ENTITLED "PARKING, STOPPING AND STANDING" BY AMENDING SECTION 70-116 TO PROHIBIT THE STORING OR DISPOSING OF CERTAIN MATERIALS IN VEHICLES OR TRAILERS, AND BY AMENDING SECTION 70-121 TO PROVIDE FOR REVISED AND ADDED PENALTIES FOR VIOLATIONS OF PROVISIONS OF CHAPTER 70; 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 Weekley and seconded by Commissioner Rossi for the Ordinance to be passed on second reading as read.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Rossi, 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:

Ron Demes

COMMISSION COMMENTS:

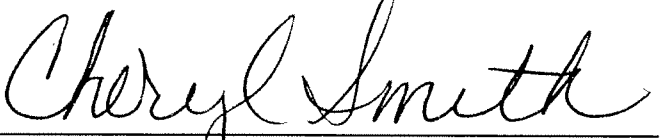
Commissioner Weekley congratulated the Police Department for the quick response regarding the recent murder and assault incidents. Mr. Weekley also commented on Nancy's Secret Garden and the Chabad property and asked about the appraisal process. Assistant City Attorney Mark Finigan stated the appraisals were ordered and hoped to have them in two weeks.

Commissioner Johnston reported the Higgs Beach restoration which included the crosswalks and bathrooms was progressing. There also was a police presence every day. She stated architect Bill Horn had been engaged to work on a long term plan for Higgs Beach utilizing \$400,000.00 of TDC money.

Commissioner Wardlow asked Mr. Scholl if Gary Bowman could provide an update to the Commission regarding ongoing projects such as City Hall, Sidewalks and North and South Roosevelt Boulevard upgrades before he retires.

ADJOURNMENT:

There being no further business the Mayor adjourned the meeting at 7:37 p.m.


Cheryl Smith, MMC, CPM
City Clerk

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME ROSSI, MARK	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE KEY WEST CITY COMMISSION
MAILING ADDRESS 24 HILTON HAVEN DRIVE	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY KEY WEST	COUNTY MONROE
DATE ON WHICH VOTE OCCURRED JUNE 1, 2010	NAME OF POLITICAL SUBDIVISION: CITY OF KEY WEST
MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

You must abstain from voting and disclose the conflict in the situations described above and in the manner described for elected officers. In order to participate in these matters, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, MARK ROSSI, hereby disclose that on JUNE 1, 2010 :

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

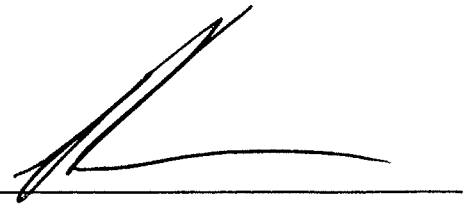
(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Authorizing Rick's & Durty Harry's Entertainment Complex to conduct a Seafood Lobster Festival on Saturday, August 7, 2010 from 10:00 A.M. to 12:00 Midnight.

Date Filed

6/1/10

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.