



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

MEMORANDUM

EXECUTIVE SUMMARY

TO: Jim Scholl, City Manager
Greg Veliz, Asst. City Manager

FROM: John Paul Castro, Utilities Director
Karen DeMaria, Urban Forestry Manager

DATE: November 4, 2015

SUBJECT: Agreeing to a Consent Order with the South Florida Water Management District Pertaining to the Unauthorized Trimming of Mangroves within the Jose Marti Mangrove Conservation Area.

Action Statement:

This resolution will approve a consent order with the South Florida Water Management District (SFWMD) pertaining to the City's accidental trimming and alteration of mangroves within the Jose Marti Mangrove Conservation Area. The City will be required to develop standard operating procedures (SOP) and a training program for staff regarding trimming of natural vegetation in areas where stormwater management features need maintenance. The City will also have to pay an amount of \$2500 to cover reasonable investigative costs incurred by the SFWMD.

Background:

From March through August 2006, the City of Key West cleared mangroves within the Jose Marti pond area as emergency measures to maintain the City's stormwater system. In April 2007, a Consent Agreement was signed with the SFWMD which included the processing and issuance of a SFWMD permit to the City that authorized improvements and continuing maintenance for specific stormwater areas within the City, including the Jose Marti pond area located at the corner of North Roosevelt and Jose Marti Drive. The permit required a Conservation Easement for the mangroves located in the Jose Marti pond and the regular maintenance of the stormwater system to include trimming of mangroves. The Jose Marti Conservation Easement was approved by the City Commission on April 3, 2007 (Resolution no. 07-114).

In October 2014, it was determined that the mangroves in the Jose Marti pond needed maintenance trimming as they were overgrown and impacting the City stormwater system in the area. After verifying that the trimming was authorized by the SFWMD permit and after flagging the boundary of the Conservation Easement using GPS, City crews started trimming the mangroves in the pond area in November 2014 and completed the work in April 2015.

Work was done using a skiff trimming the branches along the waterward side of the mangrove area. Branches were carried to the shoreline and stacked in the police department parking lot area. On April 13, 2015, the City crews completed the trimming of the mangroves in the Jose Marti pond area. While cleaning up the mangrove branches piled in the parking lot area after they had completed a morning of waterward mangrove trimming work, the crew decided to remove some dead branches, including a damaged white mangrove tree within the Conservation Easement Area. Numerous red mangrove prop roots were also cut. The impacted area is approximately 28 ft by 12 ft wide.

City Resolution 07-114 that referenced and recorded the conservation easement, states in the deed that removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic or nuisance vegetation in accordance with a District approved maintenance plan is prohibited. The removal of the dead branches and the damaged white mangrove tree and the cutting of the red mangrove prop roots violates this section of the deed.

The State of Florida Mangrove Preservation Act requires that the trimming of mangrove areas be supervised by a professional mangrove trimmer or a certified arborist. The City Urban Forester Manager, a certified arborist, did supervise the crews during the waterward mangrove trimming work. The Urban Forester left the site during the landward clean up on April 13, 2015 and when she returned to the site, saw the unauthorized landward trimming work. After discussing the situation with the city crews, the unauthorized trimming was reported to the SFWMD by the Urban Forestry Manager.

Purpose and Justification:

Since the mangrove area affected by this trimming work is part of a SFWMD stormwater permit which required the Conservation Easement, all discussions and coordination regarding resolution of the unauthorized trimming work has been between the City and the SFWMD. The Urban Forestry Manager has been in direct contact with SFWMD personnel to document the impacted area, including the unauthorized and authorized trimming of the entire waterward side of the Conservation Easement Area, and to coordinate the resolution of this issue.

On October 26, 2015, the City was sent a Consent Order requesting the following:

1. The City will be required to develop standard operating procedures (SOP) and a training program for staff regarding trimming of natural vegetation in areas where stormwater management features need maintenance. The SOP and training program will be submitted to the SFWMD for their review and approval prior to implementation.
2. The City will have to pay an amount of \$2500 to cover reasonable investigative costs incurred by the District.

City staff has reviewed this Consent Order from SFWMD and believes it is a fair proposal.

Options:

1. Approve the Consent Order from the SFWMD. This option will resolve the issue and is recommended by staff.
2. Do not approve the Consent Order Agreement. This option is not recommend because City Staff acknowledges it was at fault and believes this settlement is a fair way to satisfactorily resolve the issue.

Financial Impact:

This consent order will require the payment of \$2500 and will also require City staff time to create the SOP and staff time to create the training program. Once the training program has been reviewed and approved by the SFWMD, staff time will be used to implement the training and staff time will be required for staff to attend the training.

Recommendation:

Staff recommends Option #1, that the City Commission approves this Consent Order with the SFWMD.