



# City of Key West, FL

Old City Hall  
510 Greene Street  
Key West FL 33040

## Action Minutes - Final City Commission

---

Tuesday, March 15, 2011

6:00 PM

Old City Hall

---

**ADA Assistance:** It is the policy of the City of Key West to comply with all requirements of the Americans with Disabilities Act (ADA). Please call the TTY number at 305-809-1000 or the ADA Coordinator at 305-809-3951 at least five business days in advance for sign language interpreters, assistive listening devices, or materials in accessible format.

### CALL MEETING TO ORDER

6:02 P.M.

### ROLL CALL

**Absent** 1 - Commissioner Lopez

**Present** 6 - Commissioner Gibson, Commissioner Johnston, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

**INVOCATION - Deacon Peter Batty, St. Mary's Star of the Sea**

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**APPROVAL OF AGENDA**

### PROCLAMATIONS

1 Child Sexual Abuse Awareness Month

**Sponsors:** Mayor Cates

**Attachments:** [Proclamation](#)

Received and Filed

2 Keys Action to break the cycle of Dengue Clean-Up Weekend

**Sponsors:** Mayor Cates

**Attachments:** [Proclamation](#)

Received and Filed

**PRESENTATIONS**

- 3 Duval Street Shops - Laura Hall

**Sponsors:** Commissioner Weekley

**Received and Filed**

- 4 Strategic Plan Report - Mary Beth McCulloch

**Sponsors:** Commissioner Weekley

**Attachments:** [Presentation 2011](#)  
[Working Draft](#)  
[Chart](#)

**Received and Filed**

- 5 Keys ABCD Dengue Prevention Campaign  
Chris Tittel - Monroe County Health Department  
Coleen Fitzsimmons - Florida Keys Mosquito Control

**Sponsors:** Commissioner Lopez

**Attachments:** [Monroe County Health Department](#)  
[Florida Keys Mosquito Control](#)

**Received and Filed**

**City Attorney's Report**

**City Manager's Report**

**CONSENT AGENDA\***

**\*Item is considered to be routine and enacted by one motion with no separate discussion, unless requested by a Commission Member or citizen, in which event the item will be removed from the order and considered in its normal sequence on the agenda. The City of Key West may take action on any matter during this meeting, including items that are not set forth within this agenda.**

**MINUTES**

- 6 \*February 1, 2011 (Regular)

**Attachments:**     [Minutes](#)

**Passed**

## RESOLUTIONS

- 7                    \*Supporting Keys Action to break the cycle of Dengue Clean-up weekend April 29-May 1, 2011.

**Sponsors:**       Commissioner Lopez

**Attachments:**     [Resolution](#)

**Passed**

Enactment No: Res 11-071

- 8                    \*Approving the City Clerk performance evaluation.

**Attachments:**     [Resolution](#)  
[Evaluation Form](#)  
[Commissioner Gibson's Evaluation](#)  
[Commissioner Johnston's Evaluation](#)  
[Commissioner Lopez's Evaluation](#)  
[Commissioner Rossi's Evaluation](#)  
[Commissioner Wardlow's Evaluation](#)  
[Commissioner Weekley's Evaluation](#)  
[Mayor Cates's Evaluation](#)  
[Cheri Smiths Evaluation calculation](#)

**Passed**

Enactment No: Res 11-072

- 9                    \*Adopting the 2010 update of the Monroe County and Incorporated Municipalities Local Mitigation Strategy (LMS) as required by State and Federal regulations to qualify for certain mitigation grant funding.

**Sponsors:**       City Manager Scholl

**Attachments:**     [Resolution](#)  
[Executive Summary](#)  
[Local Mitigation Strategy 2010 update](#)

**Passed**

Enactment No: Res 11-073

- 10                   \*Accepting the attached 2010 Emergency Shelter Grant agreement #LPZ03 from the State of Florida Department of Children and Families in the amount of \$80,000.00; Authorizing a budget increase in a like

amount for the general fund.

**Sponsors:** City Manager Scholl

**Attachments:** [Resolution](#)  
[Executive Summary](#)  
[2010 Emergency Shelter Grant Agreement](#)  
[Award Notice](#)  
[2010 Application instructions for Grant Solicitation #LPZ03](#)

**Passed**

Enactment No: Res 11-074

11

\*Awarding the bid of Bella Construction of Key West, Inc. for Bayview Park Restroom construction in accordance with the terms specified in ITB #11-006 in amount not to exceed \$154,940.00; Authorizing the City Manager to execute contract documents contained in the bid package on behalf of the City of Key West.

**Sponsors:** City Manager Scholl

**Attachments:** [Resolution](#)  
[Executive Summary](#)  
[Bid 11-006 Bayview Park](#)  
[Addendum 2](#)  
[Addendum 3](#)  
[Addendum 4](#)  
[Bella Bid Package](#)  
[Hennis Bid Package](#)  
[Holder Bid Package](#)  
[Design](#)

**Passed**

Enactment No: Res 11-075

12

\*Accepting State of Florida Division of Emergency Management/FEMA Grant funding in the amount of \$730,490.00 for Phase II of the Patricia/Ashby Streets drainage area project; Authorizing the City Manager to execute contract no. 11hm-3b-11-54-02-002 with the Florida Division of Emergency Management; amending the FY 2011 Stormwater budget to accept the grant (25% match).

**Sponsors:** City Manager Scholl

**Attachments:** [Resolution](#)  
[Executive Summary](#)  
[Grant Agreement](#)

**Passed**

Enactment No: Res 11-076

- 13                   \*Extending the contract between the City and Monroe Association for Retarded Citizens, Inc. ("MARC") for trash collection services at Garrison Bight for a period of two years (and Key West Bight - simultaneously approved in CRA Resolution No. 11-091).

**Sponsors:**       City Manager Scholl

**Attachments:**    [Resolution](#)  
                          [Executive Summary](#)  
                          [Resolution 08-043](#)

**Passed**

Enactment No: Res 11-077

- 14                   \*Extending for two years the contract between the City and Clean Harbor Environmental Services, Inc. for oil spill response on an as-needed basis at the City Marina at Garrison Bight.

**Sponsors:**       City Manager Scholl

**Attachments:**    [Resolution](#)  
                          [Executive Summary](#)  
                          [Resolution 08-069](#)

**Passed**

Enactment No: Res 11-078

- 15                   \*Authorizing the acceptance of a Street Performer Application from David Malloy.

**Sponsors:**       City Manager Scholl

**Attachments:**    [Resolution](#)  
                          [Appeal](#)

**Passed**

Enactment No: Res 11-079

- 16                   \*Approving transfer of Mobile Vendor License (MVL) #5453095 from Terri L. Fisher to Chad and Dianne Lasage due to hardship.

**Sponsors:**       City Manager Scholl

**Attachments:**    [Resolution](#)  
                          [Letter](#)

**Passed**

Enactment No: Res 11-080

- 17                   \*Authorizing the settlement of Reefmakers, LLC v. City of Key West, Case No.: 2010-CA-1256-K; Authorizing the City Manager to execute

settlement documents.

**Sponsors:** City Manager Scholl

**Attachments:** [Resolution](#)

**Passed**

Enactment No: Res 11-081

- 18                    \*Approving the attached Worker's Compensation Mediation Settlement agreement between Humberto Bustillo and the City of Key West in the amount of \$20,000.00; Authorizing the City Manager to execute settlement documents.

**Sponsors:** City Attorney Smith

**Attachments:** [Resolution](#)  
[Executive Summary](#)

**Passed**

Enactment No: Res 11-082

- 19                    Approving an Easement of approximately 307.26 square feet at the end of Caraballo Lane to address the encroachment of a proposed security gate at the rear of property located at 327 William Street, Key West, Florida (re#00003270-000000).

**Sponsors:** City Manager Scholl

**Attachments:** [Resolution](#)  
[Executive Summary](#)  
[Application](#)  
[Deed](#)  
[Survey](#)  
[Noticing](#)  
[Mailing List](#)

**Postponed to April 5, 2011 meeting.**

- 20                    \*Approving an Easement of approximately 49 square feet to address the encroachment of a front porch, stairs and landscaping related to an historic structure located on the south side of Eaton Street at 1124 Eaton Street, Key West, Florida (re#00004700-000000).

**Sponsors:** City Manager Scholl

**Attachments:**    [Resolution](#)  
                          [Executive Summary](#)  
                          [Agreement](#)  
                          [Application](#)  
                          [Deed](#)  
                          [Survey](#)  
                          [DRC Comments](#)  
                          [DRC Minutes](#)  
                          [Photos](#)  
                          [Sanborn Map](#)  
                          [Property Appraiser](#)  
                          [Mailing list](#)

Postponed indefinitely.

#### Approval of the Consent Agenda

A motion was made by Commissioner Rossi, seconded by Commissioner Weekley to Approve the Consent Agenda. The motion was carried unanimously.

- 21                    Extending the deadline for negotiations regarding the Glynn Archer site originally established in Resolution 10-337.

**Sponsors:**       Mayor Cates

**Attachments:**    [Resolution](#)  
                          [Resolution 10-337](#)  
                          [Glynn Archer Update](#)

A motion was made by Commissioner Weekley, seconded by Commissioner Gibson, that the Resolution be passed . The motion carried by the following vote:

**Absent:**    1 -    Commissioner Lopez

**Yes:**      6 -    Commissioner Gibson, Commissioner Johnston, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: 11-083

- 22                    Authorizing the establishment of a City Charter and District Boundary Review Committee; Providing for duties; Providing for subsequent appointment of members by Resolution.

**Sponsors:**       Commissioner Weekley

**Attachments:**    [Resolution](#)

A motion was made by Commissioner Weekley, seconded by Commissioner Rossi, that the Resolution be passed . The motion carried by the following vote:

**Absent:** 1 - Commissioner Lopez

**Yes:** 6 - Commissioner Gibson, Commissioner Johnston, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: 11-084

23

Authorizing the American Cancer Society and the Key West Sunrise Rotary Club to conduct a "Rocking Away Cancer" event at Bayview Park on Saturday, April 9, 2011 from 12:00 Noon to 6:00 P.M.; Pursuant to terms and conditions set forth by the City Manager; Granting a Special Event Permit pursuant to Section 6-86 of the Code of Ordinances from 12:00 Noon to 6:00 P.M.; Authorizing the sale and consumption of alcoholic beverages on the date and during the hours stated above.

**Sponsors:** City Manager Scholl

**Attachments:** [Resolution](#)  
[Application](#)

**A motion was made by Commissioner Rossi, seconded by Commissioner Johnston, that the Resolution be passed as amended. The motion carried by the following vote:**

**Absent:** 1 - Commissioner Lopez

**Yes:** 6 - Commissioner Gibson, Commissioner Johnston, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: 11-085

24

Approving the City Manager performance evaluation.

**Sponsors:** City Manager Scholl

**Attachments:** [Resolution](#)  
[City Managers Evaluation Form](#)  
[Tabulation of Performance Evaluations](#)  
[Commissioner Gibson's Evaluation](#)  
[Commissioner Johnston's Evaluation](#)  
[Commissioner Lopez's Evaluation](#)  
[Commissioner Rossi's Evaluation](#)  
[Commissioner Wardlow's Evaluation](#)  
[Commissioner Weekley's Evaluation](#)  
[Mayor Cates's Evaluation](#)

**A motion was made by Commissioner Rossi, seconded by Commissioner Wardlow, that the Resolution be passed . The motion carried by the following vote:**

**Absent:** 1 - Commissioner Lopez



**Yes:** 6 - Commissioner Gibson, Commissioner Johnston, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: 11-086

25

~~Authorizing the Award of invitation to Bid #11-008, Smathers Beach Renourishment, to Charley Toppino & Sons, Inc. in an amount not to exceed \$743,573.50; Authorizing the City Manager to execute the contract.~~ Rejecting all Bids in response to Bid #11-008, Smathers Beach Renourishment, for lack of responsiveness.

**Sponsors:** City Manager Scholl

**Attachments:** [Resolution](#)  
[Executive Summary Revised](#)  
[City Clerk's Bid Tabulation](#)  
[Request for Proposal](#)  
[Charley Toppino & Sons Bid Proposal](#)  
[FDEP Sand Letter](#)  
[American EarthMovers Bid](#)  
[DN Higgins Bid](#)

**A motion was made by Commissioner Johnston, seconded by Commissioner Weekley, that this Resolution be Passed . The motion carried by the following vote.**

**Absent:** 1 - Commissioner Lopez

**Yes:** 6 - Commissioner Gibson, Commissioner Johnston, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: 11-087

26

Authorizing pursuant to Section 2-797(3) the purchase of a Caterpillar 938H Wheel Loader from Kelly Tractor Company in the amount of \$209,587.00 through piggybacking on the Florida Sheriff's Association Contract.

**Sponsors:** City Manager Scholl

**Attachments:** [Resolution](#)  
[Executive Summary](#)  
[Price Quote from Kelly Tractor](#)  
[Florida Sheriff's Association Bid Quote](#)  
[Caterpillar 938H Specs and Brochure](#)

**A motion was made by Commissioner Rossi, seconded by Commissioner Johnston, that the Resolution be passed . The motion carried by the following vote:**

**Absent:** 1 - Commissioner Lopez

**Yes:** 6 - Commissioner Gibson, Commissioner Johnston, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: 11-088

27

Approving the attached lease agreement between the City and Simonton Beach Enterprises, LLC for the building on property located at Simonton Beach (described in attached lease).

**Sponsors:** City Manager Scholl

**Attachments:** [Resolution](#)  
[Executive Summary](#)  
[Draft Lease](#)  
[Public Notice](#)  
[Proposal](#)

**A motion was made by Commissioner Wardlow, seconded by Commissioner Rossi, that the Resolution be passed . The motion carried by the following vote:**

**Absent:** 1 - Commissioner Lopez

**Yes:** 6 - Commissioner Gibson, Commissioner Johnston, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: Res 11-089

28

Authorizing the award of Task Order No. 01 for biological, physical, and construction monitoring for the renourishment of Smathers Beach project to PBS&J, Inc. in an amount not to exceed \$447,135.77.

**Sponsors:** City Manager Scholl

**Attachments:** [Resolution](#)  
[Executive Summary](#)  
[PBS&J Task Order 01](#)  
[Annual Cost Estimate](#)  
[2011-2013 PBSJ Contract](#)  
[JCP permit Smathers Beach](#)  
[USACE Permit](#)

**A motion was made by Commissioner Wardlow, seconded by Commissioner Johnston, that the Resolution be passed . The motion carried by the following vote:**

**Absent:** 1 - Commissioner Lopez

**Yes:** 6 - Commissioner Gibson, Commissioner Johnston, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: Res 11-090

#### **ORDINANCES - SECOND READING (Public Hearing)**

29

An Ordinance of the City of Key West, Florida, amending Chapter 6 of the Code of Ordinances entitled "Amusements and Entertainment"; by

amending Section 6-1, to add definitions; Section 6-2 to amend permit, application and appeal processes, adding palm weaving permits and extending 2010 permits; Amending Section 6-3, regarding locations; Amending Section 6-4 by amending permit regulations and prohibitions; Amending Section 6-7 regarding revocation of permits; Amending Section 6-8, adjusting permit fees; Amending Section 6-9 regarding penalty enforcement; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

**Sponsors:** Commissioner Weekley

**Attachments:** [Ordinance](#)  
[Map](#)

**A motion was made by Commissioner Weekley, seconded by Commissioner Rossi, that the Ordinance be postponed to April 5, 2011 meeting . The motion carried by the following vote:**

**Absent:** 1 - Commissioner Lopez

**Yes:** 6 - Commissioner Gibson, Commissioner Johnston, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

30

An Ordinance of the City of Key West, Florida, amending Chapter 122 of the Code of Ordinances entitled "Zoning" by amending Section 122-1338, and 122-1346 to provide for clarification to the Transfer of Transient Units Ordinance; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

**Sponsors:** City Manager Scholl

**Attachments:** [Ordinance](#)  
[Executive Summary](#)  
[PB Resolution 2011-005](#)  
[PB Staff Report](#)  
[CC Workshop Minutes 4.20.10](#)  
[PB Workshop Minutes 7.14.10](#)

**A motion was made by Commissioner Mark Rossi, seconded by Commissioner Jimmy Weekley, that the Ordinance be Adopted . The motion passed by an unanimous vote.**

Enactment No: Ord 11-06

## CITIZEN COMMENTS

## COMMISSION COMMENTS

## ADJOURNMENT

9:53 P.M.