



# City of Key West, FL

Old City Hall  
510 Greene Street  
Key West FL 33040

## Action Minutes - Final City Commission

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Tuesday, February 1, 2011

6:00 PM

Old City Hall

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**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

6:00 p.m.

### ROLL CALL

**Present** 7 - Commissioner Gibson, Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

### INVOCATION - Reverend Dr. Daryl Robinson

### PLEDGE OF ALLEGIANCE TO THE FLAG

### APPROVAL OF AGENDA

### PROCLAMATIONS

1 U-14 Boys Soccer Day

**Sponsors:** Mayor Cates

**Received and Filed**

2 Wesley House Valentines Day

**Sponsors:** Mayor Cates

**Received and Filed**

**PRESENTATIONS**

Add-on

Strategic Planning Committee - Commissioner Weekley

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**

- 3                    October 19, 2010 (Regular)  
  
                         **Passed**
  
- 4                    November 3, 2010 (Regular)  
  
                         **Passed**
  
- 5                    November 16, 2010 (Regular)  
  
                         **Passed**

**RESOLUTIONS**

- 6                    \*Authorizing Finnegan's Wake to conduct St. Patrick's Day Celebration on March 17, 2011, from 9:00 A.M. to Midnight; Pursuant to terms and conditions set forth by the City Manager; Authorizing the closure of James Street between Grinnell and Margaret Streets from 9:00 A.M. to Midnight; Authorizing the sale and consumption of alcoholic beverages within the enclosed area.  
  
                         Sponsors:        City Manager Scholl  
  
                         **Passed**

Enactment No: Res 11-026

- 7 \*Granting a Special Event Permit pursuant to Section 6-86 of the Code of Ordinances to Solaris Gregory for an event to take place at 404 South Street during the hours of 5:00 P.M. to 10:00 P.M. on Saturday, March 19, 2011.

**Sponsors:** City Manager Scholl

**Passed**

Enactment No: Res 11-027

- 8 \*Authorizing AIDS Help to conduct their Annual Taste of Key West at the Truman Waterfront along the East Quay Wall on Monday, April 18, 2011, from 6:00 P.M. to 9:00 P.M. (set up starting at 8:00 A.M.); Pursuant to terms and conditions set forth by the City Manager; Authorizing the sale and consumption of alcoholic beverages within an enclosed area; Granting an exemption from the Noise Control Ordinance pursuant to Section 6-86 of the Code of Ordinances during the event.

**Sponsors:** City Manager Scholl

**Passed**

Enactment No: Res 11-028

- 9 \*Authorizing the acceptance of a Street Performer Application from Rev. William McKinzie.

**Sponsors:** City Manager Scholl

**Passed**

Enactment No: Res 11-029

- 10 \*Awarding the bid of ThyssenKrupp Elevator Corporation, for a City of Key West Elevator/Lift Maintenance and Service Contract in response to Invitation to Bid (ITB) #11-004.

**Sponsors:** City Manager Scholl

**Passed**

Enactment No: Res 11-030

- 11                    \*Awarding the bid of Aramark Uniform Services, a Division of Aramark Uniform and Career Apparel, LLC, for the provision of City Staff Uniform Rentals in accordance with, and in response to the specifications contained in ITB 11-005.

**Sponsors:**        City Manager Scholl

**Passed**

Enactment No: Res 11-031

- 12                    \*Approving the attached "Florida Department of Transportation Landscape and Tree Grates Maintenance Memorandum of Agreement with the City of Key West.

**Sponsors:**        City Manager Scholl

**Passed**

Enactment No: Res 11-032

**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.**

- 13                    Authorizing a purchasing exception pursuant to Section 2-797 of the Code of Ordinances, to allow the purchase of a used Terex LT38 Aerial Boom Truck from Ring Power Corp. in a total amount not to exceed \$39,000.00.

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

**No:** 1 - Commissioner Johnston

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

Enactment No: Res 11-033

14 Extending the contract for Sidewalk Enhancements Phase VII - Leon Street Sidewalks Project with Charley Toppino and Sons, Inc. until September 13, 2011.

**Sponsors:** City Manager Scholl

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

**Yes:** 7 - Commissioner Gibson, Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

15 Extending the contract for Sidewalk Enhancements Phase VI - Duck Avenue Sidewalks and Bike Path Project with Charley Toppino and Sons, Inc. until August 29, 2011.

**Sponsors:** City Manager Scholl

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

**No:** 3 - Commissioner Johnston, Commissioner Rossi and Commissioner Wardlow

**Yes:** 4 - Commissioner Gibson, Commissioner Lopez, Commissioner Weekley and Mayor Cates

Enactment No: Res 11-034

16 Extending the contract for Sidewalk Enhancements Phase IV - Virginia Street Sidewalks and Applerouth Lane Sidewalks with Charley Toppino and Sons, Inc. until August 24, 2011.

**Sponsors:** City Manager Scholl

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

**Yes:** 7 - Commissioner Gibson, Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: Res 11-035

- 17 Approving the attached proposed "Key West City Marina Charter Boat Row Dock Rules and Regulations" for the City Marina at Garrison Bight.

**Sponsors:** City Manager Scholl

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

**Yes:** 7 - Commissioner Gibson, Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: Res 11-036

- 18 Approving the attached updated policy for the "City Marina Slip Lottery Process" for the City Marina at Garrison Bight.

**Sponsors:** City Manager Scholl

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

**Yes:** 7 - Commissioner Gibson, Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: Res 11-037

- 19 Extending the Employment Agreement between the City and City Manager for an additional one-year term under the same terms and conditions.

**Sponsors:** Commissioner Gibson, Commissioner Johnston, Commissioner Lopez and Commissioner Rossi

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

**No:** 1 - Commissioner Wardlow

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

Enactment No: Res 11-038

20 Approving the attached "First Amendment to Agreement for the Transportation and Disposal of Solid Waste" between the City and Waste Management, Inc. of Florida.

**Sponsors:** City Manager Scholl

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

**Yes:** 7 - Commissioner Gibson, Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: Res 11-039

21 Authorizing the first of two extensions of the attached Contract, for a term of seven years, between the City and Waste Management, Inc. of Florida.

**Sponsors:** City Manager Scholl

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

**Yes:** 7 - Commissioner Gibson, Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: Res 11-040

22 Approving a budget transfer in sufficient amount for adjusted personnel costs from the General Fund City Manager Operating Contingency Account to the Citizen Review Board (CRB) Account; Approving the attached "Contract Employee Employment Agreement" between Stephen Muffler and the City of Key West.

**Sponsors:** City Manager Scholl

**Withdrawn**

- 23 Directing Staff to prepare and attempt to obtain Quit Claim Deeds for the benefit of the Florida Department of Transportation (FDOT) on the south side of North Roosevelt Boulevard, for the purpose of implementing the FDOT Plan to improve the road and construct sidewalks; Granting relief from the City’s Land Development Regulations where such conveyances impair future development.

**Sponsors:** City Manager Scholl

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

**Yes:** 7 - Commissioner Gibson, Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: Res 11-041

- 24 Approving the attached First Amendment to Lease Agreement between the City and Island Tranquility, Inc. for property in the 700 block of Eisenhower Drive, as described within the First Amendment to Lease Agreement.

**Sponsors:** City Manager Scholl

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

**Yes:** 7 - Commissioner Gibson, Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: Res 11-042

**ORDINANCES – FIRST READING**



25

An Ordinance of the City of Key West, Florida, amending Chapter 70 of the Code of Ordinances entitled "Traffic and Vehicles", Article XI "Wreckers and Towing Service" by adding Division 3 "Non-consensual Private Towing Services", Sections 70-701, 70-702, 70-703, 70-704, 70-705, 70-706, 70-707, 70-708, 70-709, 70-710, 70-711, 70-712 and 70-713 to provide for authority, purpose and definitions in enacting regulations governing nonconsensual tows; Providing for the issuance of operating permits; Providing for the setting of rates and requirements for non-consensual tows; Requiring prior express instruction of real property owner or duly authorized agent prior to tow; Instituting notice requirements for non-consensual tow services; Requiring maintenance of a manifest and records retention; Providing for enforcement and penalties; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

**Sponsors:** Mayor Cates

**A motion was made by Commissioner Rossi, seconded by Commissioner Weekley, that this Ordinance be Postponed until February 15, 2011. The motion carried by the following vote:**

**No:** 1 - Commissioner Gibson

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

26

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

**A motion was made by Commissioner Weekley, seconded by Commissioner Rossi, that this Resolution be Postponed until March 1, 2011. The motion carried by the following vote:**

**Yes:** 7 - Commissioner Gibson, Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

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

27

An Ordinance granting a Franchise to Duck Tours Seafari Inc. to operate a non-exclusive city-wide amphibious sightseeing operation; Providing terms and conditions, including the following: providing that Ordinance does not prohibit City from operating a shuttle service; Defining the territory to be served; Authorizing City inspection of sightseeing vehicles; Providing for the observance of current and future rules and regulations, insurance requirements and indemnification; Limiting assignment of the Franchise; Providing consideration for grant of the Franchise and contingent relief; Directing the procedure for designation of stops and operational requirements of Franchisee; Providing for inspection of books and records; Authorizing the issuance of permits; Establishing the duration of the Franchise; Providing for the establishment of rates, fees and routes; Specifying default provisions and procedure for notice, suspension and/or termination upon default, including appeal provisions; Providing remedies upon bankruptcy of Franchisee; Indicating Franchise is not a waiver of other City requirements; Clarifying that no joint venture is created; Prohibiting discrimination; providing for construction and interpretation of provisions; Indicating time is of the essence; Providing for attorneys fees, waiver of jury trial and specifying venue in the event of litigation; Providing for notice, acknowledgement, acceptance and cumulative provisions; Specifying the Franchise constitutes the entire agreement between the parties and may only be amended by subsequent Ordinance of the City Commission; Providing for elimination of permanent injunction upon institution and compliance with the Franchise Agreement; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

**Sponsors:** Commissioner Rossi

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

**Yes:** 7 - Commissioner Gibson, Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: Ord 11-02

**ORDINANCES - THIRD READING (Public Hearing)**

28                    An Ordinance of the City of Key West, Florida, amending Chapter 18 of the Code of Ordinances entitled "Businesses" by amending Section 18-28 to provide criteria for the granting of a special exception from the prohibition against alcohol sales in proximity to churches, schools, cemeteries and funeral homes; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

**Sponsors:**            Commissioner Johnston

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

**Yes:** 7 - Commissioner Gibson, Commissioner Johnston, Commissioner Lopez, Commissioner Rossi, Commissioner Wardlow, Commissioner Weekley and Mayor Cates

Enactment No: Ord 11-03

**TROLLEY STOP APPEAL**

29                    City View Trolley Stop Appeal - 410 Wall Street

**Sponsors:**            City Manager Scholl

**Withdrawn**

**CITIZEN COMMENTS**

**COMMISSION COMMENTS**

**ADJOURNMENT**

**9:23 p.m.**