

MINUTES

KEY WEST BIGHT MANAGEMENT DISTRICT BOARD MEETING

OLD CITY HALL, 510 GREENE STREET

JANUARY 19, 2011

A regular meeting of the Key West Bight Management District Board of the City of Key West, Florida, was held in Commission Chambers, Old City Hall, 510 Greene Street, on Wednesday January 19, 2011.

The Chairman called the meeting to order at 9:03 a.m.

Answering roll call were Board Members Jimmy Lane, Paul McGrail, Kathryn Ovide, Dan Probert, Michael Wilson and Chairman Michael Knowles presiding.

Absent was Board Member Karen Cabanas.

Also present were Assistant City Attorney Ron Ramsingh, Senior Project Manager Doug Bradshaw, John Paul Castro Operations Manager, Key West Bight Manager Mark Tait, Senior Property Manager Marilyn Wilbarger and Clerk of the Board Sue Harrison.

Others in attendance were Jack Anderson from the Tenants Association.

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 Mr. Probert and seconded by Ms. Ovide to approve the agenda as presented.

The Chairman asked for objections and seeing none, the agenda was accepted.

APPROVAL OF MINUTES:

- 1) December 15, 2010 (Regular)

It was moved by Ms. Ovide and seconded by Mr. Probert to approve the minutes of December 15, 2010.

The Chairman asked for objections and seeing none the minutes were approved.

PRESENTATION:

- 2) Harry Bethel Award

ITEMS FOR ACTION:

- 3) RESOLUTION - A Resolution of the Key West Bight Management District Board for the City of Key West, Florida, directing the procedure for receipt of Key West Bight Management District Board materials from the City Clerk; Directing the City Manager and the City Attorney to establish timelines to assist the City Clerk

Ms. Ovide said she was sponsoring this resolution for consideration by the Board. She stated she had spoken with the City Attorney and he suggested this was in line with what the City Commission follows for meeting preparation. This would be consistent with the process in use.

Under discussion, Mr. Probert asked if this was for all boards or just for this board. Ms. Ovide said Mr. Smith indicated this was good for all boards to use.

It was moved by Ms. Ovide and seconded by Mr. Lane to approve the Resolution.

The Chairman requested the Clerk call the roll.

Yeas: Board Members Lane, Ovide, Wilson and Chairman Knowles

Nays: Board Members McGrail and Probert

- 4) Proposed 2011 Meeting Dates

It was moved by Mr. Lane and seconded by Mr. Probert to accept the dates for the 2011 Key West Bight Management District Board meetings as presented.

The Chairman requested the Clerk call the roll.

Yeas: Board Members Lane, Ovide, Probert, Wilson and Chairman Knowles

Nays: Board Member McGrail

5) Key West Ice Cream Factory Late Fee Waiver Request

Ms. Wilbarger stated the payment history had been provided as well as the information from the lease to enable the Board to make an informed decision.

Chairman Knowles asked if there was a policy in place stating there would be one late fee per year waived. Ms. Wilbarger stated prior to Mr. Archer leaving each tenant was allowed a one time waiver of late fees. It was not an established policy limiting it to one but it was a management practice. After Mr. Archer's retirement former Chairman Bethel elected to have all late fees presented to this Board to consider. She stated they had not changed nor established a policy going forward.

Ms. Ovide asked about the penalty of 15% of the unpaid balance leveled on accounts in arrears. She said it was clear this was not being applied to everyone in the Accounts Receivable Report. Ms. Wilbarger stated this was dependant upon the lease. Mr. Lane stated the section was not pursuant to the policy but it was pursuant to the lease and this was an agreement between two parties and that is what should be followed. Mr. Lane asked if this tenant had ever had a waiver of a late fee. Ms. Wilbarger stated waivers had been previously granted. The last was a partial late payment and no penalty was charged in February 2010.

Mr. McGrail said they should be consistent and grant a waiver in this case.

Ms. Ovide did not want to send the message that it was OK to be late but she felt there were some inconsistencies here. She supported the waiver.

It was moved by Ms. Ovide and seconded by Mr. Wilson to approve a waiver of the late fee.

The Chairman requested the Clerk call the roll.

Yeas: Board Members McGrail, Ovide, Probert, Wilson and Chairman Knowles

Nays: Board Member Lane

Chairman Knowles ask Assistant City Attorney Ramsingh if all the leases could be amended to make them consistent. Mr. Ramsingh stated they could amend leases only if both parties agreed, but if the tenant objected they had a binding contract for the term of that contract.

Mr. Lane asked how many contracts they had and Ms. Wilbarger stated on the upland side in excess of 30 and on the marina side over 200.

Mr. Knowles said when the leases came up for renewal this should be a point to be reviewed.

Mr. Lane asked what was done regarding leases outside the Bight. She stated no late fees were waived.

Mr. McGrail suggested a 5% penalty and one pass per calendar year on a late payment.

6) Recommendation of Award RFP #001-11 for Design/Build Key West Bight Retail Shop

Mr. Bradshaw, Senior Project Manager, described the project for the Board. The RFP had been issued and four responses were received. He and Ms. Wilbarger had reviewed the responses and ranked them on a point system of 100 and they asked the two high ranked proposers to come before the Board to make their presentations.

Ten minute presentations were made by SeaTech and D. L. Porter.

The Board ranked the presenters and the Clerk read the rankings.

The ranking for the first choice received 1 point and the second choice received 2 points. The firms were ranked as follows:

First Choice with 8 points - SeaTech

Second Choice with 10 points - D. L. Porter

(The ranking forms are attached hereto and made a part of these minutes.)

It was moved by Ms. Ovide and seconded by Mr. Lane to accept the ranking and award the RFP to SeaTech.

The Chairman requested the Clerk call the roll.

Yeas: Board Members Lane, McGrail, Ovide, Probert, Wilson and Chairman Knowles

Nays: None

7) Schooner Wharf Lease Amendment

Mr. McGrail recused himself and stepped down from the dais.

Ms. Wilbarger presented the lease amendments to the Board. She stated this request for a lease amendment was to incorporate the existing ticket sales in the use section of the lease and provide for the expansion of the existing ticket booth until such time as the building restoration incorporates the function within the structure. The Schooner Western Union is a Schooner Wharf tenant. Ms. Wilbarger stated the lease does not specifically spell out the right to sell tickets however, the survey in the lease does show a ticket booth.

The following person spoke on the matter:

William Barry, 618 Dey Street, President for the Schooner Western Union Preservation Society

It was moved by Ms. Ovide and seconded by Mr. Probert to approve the lease amendment as presented.

The Chairman requested the Clerk call the roll.

Yeas: Board Members Lane, Ovide, Probert, Wilson and Chairman Knowles

Nays: None

Recused: Board Member McGrail

REPORTS:

8) Manager's Report

Accounts Receivable List

Ms. Wilbarger stated progress has been made with the accounts receivable and the Board had been provided with a new balance sheet dated January 19. She stated the Turtle Kraals litigation is still outstanding and they continue to escrow the difference. B. O.'s had made significant progress in his outstanding balance and has made \$16,000.00 in payments in the last three weeks. Lost Reef Dive Shop is still behind but they do make their full month's payment. This is a long standing tenant and they have been able to catch up as season progresses. Legal proceedings have begun against Key West Art Works.

Ms. Wilbarger introduced John Paul Castro who is the new operations manager. He will be taking over the responsibility for the maintenance and janitorial staff and the daytime security. Over time he will eventually take over the major projects as Mr. Bradshaw phases out into his engineering roll. Mr. Castro reviewed the projects. He said they were working on the repainting of 201 William Street, the Waterfront Market Building, the restrooms and the Ferry Terminal. The boardwalk IPE decking RFP is nearing completion. Staff has met with mbi/k2m for the Common Area Enhancement which includes completing construction drawing for Phase I, and in the near future they will have hardscape, landscape, signage and lighting for the plaza and tie in the decking that was approved. He is working on replacing the railings at the Ferry Terminal. He was recommending the removal of the trailer office in the light loading dock on the west side of Waterfront Market. They could do this project in-house and would like to have this done before the painting begins.

Ms. Wilbarger stated they were still waiting on the report from Chen and Associates regarding the structural repairs. She would like the Board's opinion on what direction to proceed with the trailer demolition. It was the consensus of the Board for them to proceed as described.

Dream Chaser Upgrade Request

Mr. Tait asked if the Board had any questions regarding this item where the tenant has requested replacing his vessel with another of the same size. There were no questions.

Mr. Wilson had a question regarding a letter the Board received about people being turned away from the fuel dock. Mr. Tait had discussed the issue with those involved and updated the Board as to what happened when the people were asked to move their vessel from the fuel dock. He stated the letter in question was the only letter of the kind that he has seen in his twelve years working in his position. He did say the fuel dock closes at 5:00 p.m. at this time of year and the pumps shut down at 4:45 p.m. During the summer months the fuel dock stays open later.

Mr. Probert had a concern that they did not get the letter until last week when the letter had been received by the City on November 29. He checked with the Dock master and the boat races were happening at that time and the marina was at maximum capacity. He felt every courtesy had been extended. He wanted to see a response to the letter. Mr. Tait would handle that.

9) Tenants Association Report

Mr. Anderson welcomed Mr. Wilson to the Board. Mr. Anderson briefed the Board regarding the Tenants Association. He stated there was no meeting held the previous day due to a lack of members. He said he was not sure how the boat races are going for marina business but he has noticed the parking lot has been full. They noticed an improvement in business since they had parking available. He asked if he could see some figures with regard to the change this year compared to previous years when the lot had been closed for the races for nearly two weeks. Mr. Tait said they could get that information. Mr. McGrail asked if he could include in the report the free parking days prior to Christmas.

10) Old Business (Report)

Mr. Tait passed out to the Board information regarding the Butler Act Disclaimer. He had reviewed the document and it looked complete and ready to send to the state.

Ms. Wilbarger said Mr. Wilkins was still working on the report for the parking information and that would come back to the Board next month.

Ms. Wilbarger spoke briefly about the Common Area Usage Plan that Mr. Ingram has been working on. They would try to delineate service areas in strategic locations throughout the Bight where they could consolidate things like dock boxes and ice machines.

Ms. Ovide asked about the removal of the card rack. Ms. Wilbarger said that was a use on Flagler Station's porch. This was not anything in which the City had any involvement.

Ms. Wilbarger provided the Board with pictures of the interior of the Waterfront Market space and described in detail what was shown in the pictures. She said the public notice for proposals was to be placed in the paper and it would run several times over a 30-day period.

Mr. Probert asked about the Schooner Wharf. Mr. Bradshaw said they were waiting for a full task order for design and construction drawings for rebuilding. He said the tenants were on board and hopefully there would be minimal disruption to their business. He was expecting something in the next few weeks. The time line would be about three to four months to bid out and receive the bids and hopefully they could begin construction in the summer.

PUBLIC COMMENTS:

There was no public comment.

BOARD COMMENTS

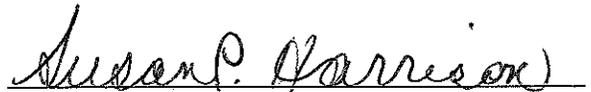
Mr. McGrail addressed the Board. He expressed he had been upset since the previous meeting and would like to convey why he is on the Board. He stated he had lived in the Bight area for 30 years

and had his business here for 22 years. For 15 years he had worked with the Board and before becoming a member. He said he was passionate about what happens at the Key West Bight. He did bring tenant issues before the Board and he felt the fact that the Board existed at all was because of the tenants, otherwise there would be no purpose here. He said he was there to represent the tenant's needs and concerns. He felt that attacks on his person character were unacceptable. His opinion was that this Board spent a disproportionate amount of time on collections efforts and not nearly enough time on trying to foster a good business environment. He stated he would make every effort to get to the point and with his comments and asked the Board conduct itself with some decorum, some personal conduct and professional courtesy.

Mr. Wilson stated he had walked through the Bight and talked with the tenants. He wanted the Board to think about the annual 5% increase in the rent and thought it to be ludicrous. He had dropped the rent on his properties to keep them occupied. He thought that should be readdressed. He was happy to hear there was a new maintenance person in charge as this seemed to be lacking at the Bight, this was from his conversation with the tenants.

ADJOURNMENT:

There being no further business the Chairman adjourned the meeting at 10:51a.m.


Susan P. Harrison, CMC, Clerk of the Board
Senior Deputy City Clerk

RANKING FORM
January 19, 2011

FIRM

- D.L. Porter Constructors, Inc. 2
- SeaTech, Inc. 1

RANKER'S NAME: Jimmy Lane
Jimmy Lane

RANKING FORM
January 19, 2011

FIRM

- **D.L. Porter Constructors, Inc.**
- **SeaTech, Inc.**

X
2

RANKER'S NAME:

Paul McGrail

Paul McGrail

RANKING FORM
January 19, 2011

FIRM

- D.L. Porter Constructors, Inc. 2
- SeaTech, Inc. 1

RANKER'S NAME: Kathryn Ovide
Kathryn Ovide

RANKING FORM
January 19, 2011

FIRM

- **D.L. Porter Constructors, Inc.** 2
- **SeaTech, Inc.** 1

RANKER'S NAME: Dan Probert 1/19/11
Dan Probert

RANKING FORM
January 19, 2011

FIRM

- **D.L. Porter Constructors, Inc.** 1
- **SeaTech, Inc.** 2

RANKER'S NAME: Mike Wilson
Mike Wilson

RANKING FORM
January 19, 2011

FIRM

- D.L. Porter Constructors, Inc. 2
- SeaTech, Inc. 1

RANKER'S NAME:

Michael Knowles
Michael Knowles

APPOINTED OFFICERS (continued)

- 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, PAUL MCGRAIL, hereby disclose that on JANUARY 19, 20 11 :

(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:

Item #7 - Schooner Wharf Lease Amendment

1/19/2011
Date Filed January 19, 2011


Signature Paul McGrail

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.