

**MINUTES**

**KEY WEST BIGHT MANAGEMENT DISTRICT BOARD MEETING**

**OLD CITY HALL, 510 GREENE STREET**

**MARCH 9, 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, March 9, 2011.

The Chairman called the meeting to order at 9:05 a.m.

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

Board Members Karen Cabanas and Michael Wilson were absent.

Also present were Assistant City Attorney Ron Ramsingh, Port Operations Manager John Castro, Key West Bight Manager Mark Tait, Port and Transit Director Jim Fitton, 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:**

Chairman Knowles added to the agenda a presentation by Mayor Cates.

It was moved by Mr. Lane and seconded by Mr. Probert to approve the agenda as changed.

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

**APPROVAL OF MINUTES:**

- 1) February 9, 2011 (Regular)

It was moved by Ms. Ovide and seconded by Mr. Lane to approve the minutes of February 9, 2011.

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

**PRESENTATION:**

**ADD-ON: 1b) Mayor Cates – Ideas for the Key West Bight and Waterfront Building**

2) Quality of Life – Capt. Scott Smith, Key West Police Department

**ITEMS FOR ACTION:**

3) Key West Bight Operating Expense Reconciliation

Ms. Wilbarger reviewed with the Board the backup information including the MAXIMUS Study. She reported the costs went down from \$4.85 per foot to \$4.05 per foot. She stated the tenants will receive rent credits and the CAM charges will be reduced starting with the April billing.

Those tenants with an outstanding balance would have the credit applied.

Mr. McGrail had a list of questions he would forward to Ms. Wilbarger to answer.

It was moved by Mr. Lane and seconded by Mr. Probert to approve the Operating Expense Reconciliation as presented.

The Chairman requested the Clerk call the roll.

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

Nays: None

4) Key West Bight Parking Lot Rates

Ms. Wilbarger informed the Board that due to an emergency Mr. Wilkins was not available to give his presentation.

It was moved by Ms. Ovide and seconded by Mr. Lane to postpone the item to the April meeting.

There were no objections.

5) Approving Task Order 4-11 from CH2M Hill

Jim Fitton, Port and Transit Director, reported to the Board on modifications to prepare the Key West Ferry Terminal to accommodate international ferry traffic. The Task Order would provide the research required to create a joint domestic and international ferry terminal to meet Department of Homeland Security requirements. Ms. Wilbarger stated the funds would come from the Key West Bight Enterprise Funds as there are no Ferry Terminal reserves.

It was moved by Mr. McGrail and seconded by Ms. Ovide to approve the Task Order as presented.

The Chairman requested the Clerk call the roll.

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

Nays: Board Member Lane

6) Sunny Days Catamaran Greene Street Booth Lease Assignment

Ms. Wilbarger stated Sunny Days sold their business to Fury Catamarans and ceased operations. Part of the business transfer would be the lease assignment for the ticket booth on Greene Street.

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

The Chairman requested the Clerk call the roll.

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

Nays: None

7) Lease Renewal for Renata Lavenir dba Conch Electric Cars

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

Ms. Wilbarger introduced the item to the Board as a request for a lease renewal. She stated there had been several code violations for off premise canvassing. This information, along with the payment history, needs to be considered by the Board when deciding to continue a landlord tenant relationship. Ms. Wilbarger stated not only has the tenant been found in violation of the code she is also in default of the lease. The Board's options are to give her a new lease, deny the new lease and put the space up for rent or to consider not using the space at all. The annual base rent is currently \$16,500.00.

Speakers signed for the item were Ms. Lavenir and her attorney Sam Kaufman. Ms. Lavenir had prepared a letter for the Board that Mr. Kaufman distributed for them to read. (A copy of the letter is attached hereto and made a part of these minutes.)

Assistant City Attorney Ron Ramsingh answered questions regarding the code violations and fines related to this case.

Ms. Wilbarger stated the tenant has asked for a five year renewal but the Board could grant a lease for a shorter term if they chose to do so.

Chairman Knowles asked if they could grant a one-year lease with the tenant to be on probation and if there were any other violations the lease would be terminated immediately.

It was moved by Ms. Ovide and seconded by Mr. Lane to approve the lease for 1 year with probation.

The Chairman requested the Clerk call the roll.

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

Nays: None

Recused: Board Member McGrail

8) Lazy Way Unit G – Keir Loranger dba Dragon Fly Lease Renewal

Ms. Wilbarger introduced the item to the Board stating this tenant had been at Lazy Way for a long time and is asking for a 5-year lease renewal.

It was moved by Mr. Lane and seconded by Ms. Ovide that the lease be renewed as proposed.

The Chairman requested the Clerk call the roll.

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

Nays: None

9) Lazy Way Unit C Lease Assignment

Ms. Wilbarger introduced the item to the Board stating this tenant had found a purchaser for her business as she would be relocating to her home state. She requested they assign the remaining term on her lease. The potential assignee would be providing a six month security deposit \$5,000.00 in lieu of a letter of credit on this space. The potential tenants are property owners in Key West and there would be no change of use for this business.

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

The Chairman requested the Clerk call the roll.

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

Nays: None

- 10) Schooner Exploration Associates dba Schooner Appledore Lease Renewal for Ticket Booth

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

Ms. Wilbarger presented the item to the Board. She stated they were asking for a 5 year lease renewal for the ticket booth. She stated the owner requested that if the Appledore no longer came to Key West he could terminate the lease. This lease was before the Board for approval with that one change.

It was moved by Mr. Probert and seconded by Mr. Lane that the lease renewal for five-years be approved as presented.

The Chairman requested the Clerk call the roll.

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

Nays: None

Recused: Board Member McGrail

- 11) Lazy Way Unit A – Yours and Mayan Lease Renewal

Ms. Wilbarger presented the item to the Board. She stated this lease renewal for five-years was for their expanded space at Unit A.

It was moved by Mr. Lane and seconded by Mr. Probert that the lease renewal be accepted as presented.

The Chairman requested the Clerk call the roll.

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

Nays: None

12) Marketing 201 William Street Vacant Space – Letters of Interest

Ms. Wilbarger reported on the letters of interest received so far for the space. The two proposals received were considered to be incomplete and neither met the requirements of the public notice.

Ms. Wilbarger requested that they re-advertise the space for another month and continue to accept proposals. She stated they just received the Structural Engineering report from Chen and Associates and the report is expected to come before them for approval next month.

It was moved by Ms. Ovide and seconded by Mr. McGrail that the request to continue advertising for the property be approved as presented.

The Chairman requested the Clerk call the roll.

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

Nays: None

Mr. Probert commented that the space is actually being paid for by the settlement last year for four years of base rent.

**REPORTS:**

13) Tenants Association Report

Jack Anderson from the Tenants Association reported they had held their annual meeting the previous evening for their elections and the results would be provided at the next meeting. He congratulated staff for lowering the CAM.

14) Manager's Report

Ms. Wilbarger handed out the monthly accounting report current as of that day and reviewed the tenant accounts with the Board.

Mr. Ramsingh filed papers to evict on Key West Artworks. They will be served and the case will proceed from there. The City is evicting the assignees and suing the tenant and assignees for damages.

15) Old Business

There was no old business report.

**PUBLIC COMMENTS:**

Jack Anderson, Tenants Association

**BOARD COMMENTS**

Ms. Ovide asked Mr. Tait how the new dingy dock parking charges would be enforced. Mr. Tait stated between 7:00 a.m. and close (at sunset) staff on hand would be able to control and enforce the charges. This area is open to all tenants and is not an exclusive use.

Mr. McGrail commented on the congregation area at Margaret Street. Ms. Wilbarger stated it was presently a bicycle rack. She said the shelter at Margaret and Caroline would probably be removed as part of the common area improvement plan and the area landscaped.

**ADJOURNMENT:**

There being no further business the Chairman adjourned the meeting at 10:22 a.m.

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

Conch Electric cars of Key West  
Renata Lavenir  
100 Grinnell Street  
305.294.0995

I first wanted to thank the board and staff for having me as part of your vendor at the Ferry for the last seven years. I really appreciate the opportunity that has been given to me. And being here in front of you today is good because it made me realize that sometimes we take things for granted. And I want to improve as a person as part of the Key West Bight as a vendor. I can do more and be more an example and challenge my company to be better. I appreciate the opportunity that you have given me. There is so much more that we can do together to for the tourist industry, coming to the Island. I am open to any suggestion you wish to talk to me about. As a business owner sometimes we forget to ask guidance.

What am I doing to prevent future violations?

I only have two drivers to pick up and drop off people. They have signed a waiver to in no way solicit, they would be fired immediately. Since the gates have been removed at the ferry terminal in November 2010, we really have an increased of business. Because we are not obstructed by those gates and do not have any reason to step out on the common area to be able to rent electric cars. The gates have been in place since 2006 just after I signed my second term lease. There is still the black post to be removed.

I will never again be in Code Enforcement court, because we have finally our location doing the best it can do with the Key West express recommendation, the Chamber of commerce, the Disney Boat from Orlando reserving cars in advance. It seems like the first 4 years of business where not an issue we only have electric cars. Tourists appreciate the golf cart tour of Key West, and we get many thanks. Our reputation precedes us.

I was approach by the Key West Bight and they offered me the location at the ferry in 2005. We went through the building department approval and got a two year lease, before the end of the term I got a renewal for 5 years without asking.

In my lease there is on page 1 a PERCENTAGE RENT (Par.3) 6 % of Tenant's Gross Sales over \$140,875.

So the better I do the better you do. So I hope we can continue working together and help each other.

I have paid and learned my lessons.

I believed in the potential of the ferry terminal before when it was just starting to grow and I am grateful to have been part of this process of expansion. Thank you again.



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

LAST NAME—FIRST NAME—MIDDLE NAME <b>McGrail, Paul</b>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>Key West Bight Management District Board</b>
MAILING ADDRESS <b>328 Simonton Street</b>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY <b>Key West</b>	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
COUNTY <b>Monroe</b>	NAME OF POLITICAL SUBDIVISION: <b>City Of Key West</b>
DATE ON WHICH VOTE OCCURRED <b>March 9, 2011</b>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" 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:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, 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. (Continued on other side)

**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 March 9, 2011:

(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:

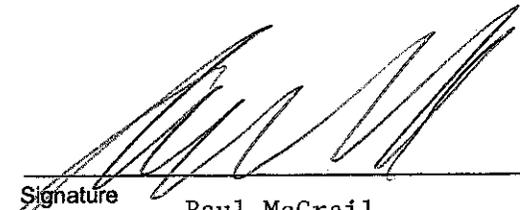
Item #7: Lease Renewal for Renata Lavenir dba Conch Electric Cars

Date Filed

3/9/11

March 9, 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.



**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.

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I, Paul McGrail, hereby disclose that on March 9, 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 #10: Schooner Exploration Associates dba Schooner Appledore Lease Renewal for Ticket Booth.

Date Filed March 9, 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.