

DUCK KEY SECURITY DISTRICT ADVISORY BOARD MINUTES OF NOVEMBER 15, 2016

BOARD MEMBERS PRESENT:

Sherry Popham, Chair
A. Dennis Kulig
Mary Balazs
Sylvia Hernandez

BOARD MEMBER(S) ABSENT:

Rick Sherman, Vice Chair
Philip Kircher, Secretary
Tom Neville

QUORUM PRESENT:

Yes

OTHERS PRESENT:

Mike Eschmann, Duck Key Resident; Ron Oestreicher, Duck Key Resident; Brandon Mullar, Duck Key Resident; Dorian Mullar, Duck Key Resident; Lt. Derek Paul, MCSO; Capt David Dipre, FWC Monroe County; Beth Smith, Duck Key Resident; Loren Eggebraaten, Duck Key Resident; Richard Jones, Monroe County Marine Resources; Simon Leird, Keys Security, Inc.; Merlynn Boback, Duck Key Resident; Jim Boback, Duck Key Resident; Doc Lewis Adam, Duck Key Resident; Jan Adam, Duck Key Resident; Glenn Schofield, Duck Key Resident; Sandy McCormick, Duck Key Resident; Bob McCormick, Duck Key Resident; Fritz Anderson, Duck Key Resident; David Williamson, DKPOA President and Duck Key Resident; Donna Wittlington, Duck Key Resident; Jane Marter, Duck Key Resident; Susan Ward, Duck Key Resident and DKSDAB Staff

Proceedings:

- Meeting called to order 6:04 p.m. by Sherry Popham
- Location of meeting: Hawks Cay Resort, Dolphin C Conference Room
- Date of Meeting: November 15, 2016

MOTION to Approve/Amend the November 15, 2016 Agenda

Amend the Agenda: Move VI. New Business, B. to V. Old Business by Sherry Popham. A motion was made to approve the amendment to the November 15, 2016 Agenda first by Sylvia Hernandez, seconded by Mary Balazs.

MOTION CARRIED

MOTION to Approve/Amend the September 6, 2016 Minutes

A motion was made to approve the September 6, 2016 Minutes first by Mary Balazs, seconded by Sylvia Hernandez as presented.

MOTION CARRIED

STANDING REPORTS

Ex-Officio DKSDAB Member MCSO, Lt. Derek Paul, MCSO. Vehicle traffic has increased in the Florida Keys. Please lock boats and place equipment in locked storage to avoid crimes of opportunity.

Keys Security, Simon Leird. Calls for service slow on Duck Key; traffic has picked up on streets; communicate nightly with MCSO.

Hawks Cay representative, John Cedillo. N/A

DKPOA, David Williamson. January 28, 2017 Duck Key Island clean up; DKPOA annual meeting scheduled for month of March 2017.

FWC, Capt. David Dipre. Please call FWC, 305-684-8711, regarding marine violations, there is a good chance a patrol boat is nearby. Marine theft is always a problem.

OLD BUSINESS

- A. Camera update. Poles are installed; electric is installed; camera completion should be in two months.
- B. Safety on the water. No wake zones. Rich Jones Monroe County Marine Resources. Rich Jones addresses the Board: Monroe County is writing a new ordinance to replace the un-enforceable existing idle speed ordinance. Part of the new ordinance wordage is to remove 'idle speed no wake in all manmade canals' and replace with 'slow speed minimum wake'. Also, while drafting the new ordinance, consideration will be given to signage for individual canals. Duck Key has swift currents in most canals and idle speed would be too slow to maneuver a vessel safely. There is no set number that will be used to define slow speed minimum wake. It will be FWC's discretion to determine if a boat is driving in a reckless or careless manner. To address the ownership of the existing no wake buoys on the west side of Duck Key: they are owned and must be maintained by Duck Key Residents. In order to request replacing the missing ISNW buoy, Duck Key Residents must receive a permit from NOAA's Sanctuary Department. A vessel can be on a planing speed 300' from shoreline. Regarding the entrance to Duck Key from the ocean which is called the Pins, Duck Key Residents can contact USCG to apply for markers and lighting. Rich Jones of Monroe County Marine Resources contact is 305-289-2805.
- C. Referendum Follow Up. Phil Kircher requested his correspondence with Monroe County submitted with the minutes. Sherry Popham requested her Letter submitted with the minutes. Both referendums were defeated.

NEW BUSINESS

- A. Duck Key Security Contract – deferred renewal/discussion. This Agenda item is deferred due to the absence of three (3) Board Members.

- B. Review/discussion of MCSO extra detail costs. This Agenda item is deferred due to the absence of three (3) Board Members.
- C. Election of 2017 Officers. Sherry Popham nominated for Chair: Mary Balazs. Sherry Popham nominated for Secretary: Sylvia Hernandez. Sherry Popham nominated for Vice Chair: Rick Sherman. Mary Balazs accepted the Chair nomination; Sylvia Hernandez accepted the Secretary nomination; Rick Sherman was absent.

All in favor:

Sherry Popham: Yes

Mary Balazs: Yes

Sylvia Hernandez: Yes

A.Dennis Kulig: Abstains

Election of 2017 Duck Key Security District Advisory Board Officers Passes:

Mary Balazs, Chair

Rick Sherman, Vice Chair

Sylvia Hernandez, Secretary

PUBLIC COMMENTS:

Topics of discussion from public: Does DKSDAB have a documented plan for the security funds in reserve for a natural disaster; will Monroe County maintain the vacant lots they have purchased; can DKSDAB meetings be podcasted; small signs that give the speed of a vehicle are very effective for speed abatement; make the Board Meeting Signage easier to understand by adding Public Meeting; does FWC plan to have a patrol boat docked on Duck Key like they did in the past; a new camera box has made it very difficult for one resident to exit his property safely; does DKSDAB plan to oppose the referendum's outcome (answered by Sherry Popham: no – both referendums were defeated but BOCC does not need DKSDAB's voice to create a new MSTU for Duck Key).

ADJOURNMENT OF MEETING first by Mary Balazs and seconded by Sylvia Hernandez

Meeting closed: 7:55 pm

Requested Attachments to the minutes: Sherry Popham's letter; Phil Kircher's paperwork

Next Scheduled Meeting: January 3, 2017 at 6:00 pm

Next Scheduled Meeting Location: Hawks Cay Resort

Minutes submitted by: Susan Ward, 258 W Seaview Drive, Duck Key, FL 33050 susaneward@gmail.com
305-393-7157

pskircher@hotmail.com

From: pskircher@hotmail.com on behalf of Philip Kircher
Sent: Thursday, November 03, 2016 1:35 PM
To: 'Shillinger-Bob'
Cc: Rice-David; Lamarche-Tamara; 'SCP MBY'; Limbert-Christine; 'dennis kulig'; 'Mary Balazs'; 'tom neville'; 'Sylvia Hernandez'; 'Rick Sherman'; susan ward (susaneward@gmail.com)
Subject: RE: Duck Key Referendums

Mr. Shillinger,

The second referendum is on the November ballot because the Duck Key Security District Advisory Board voted to equalize the tax assessments between the developed and undeveloped lots. The DKSDAB never requested including language that established the \$300 assessment as a “minimum”, or removing the existing assessment cap. Our request for this was sent in months before there was any discussion about creating a Beautification and Improvement District.

You have copied John Schwarz and Dave Williamson on this and the other emails about the referendum. So from your comments, it is now my understanding that these are the “[representatives of Duck Key](#)” you had the conference call with and had sent the draft referendum to for *their* comments and approval. And that this is how the verbiage removing the assessment cap and adding the word “minimum” was introduced into the referendum.

Neither Mr. Williamson nor Mr. Schwarz is a member of the DKSDAB. They are residents of Duck Key and are the driving force behind the referendum to create a Beautification and Improvement District.

DKSDAB members were never advised that there had been a conference call, emails or draft verbiage that went out for comment. Nor were we told that this would be discussed at the August 17 BOCC meeting.

So you can imagine how infuriating it is to now discover that we the DKSDAB were not consulted on the referendum that we requested. The referendum is written so ambiguously, that even I, the board member who requested this in the first place, do not want to vote for it.

Also, since I am now just seeing this for the first time, I also take exception to this line in your email from July 26th - **WHEREAS, the Duck Key District advisory board and some residents of Duck Key have indicated that they support expanding the services of the DKSD “and support creating the Duck Key Beatification and Improvement District (DKBID) that may potentially replace and expand upon the current DKSD”.** That is not a true statement. The DKSDAB voted to look into expanding its role but we never voted to support creating a new board.

The DKSDAB requested a referendum to equalize out the lot assessments only, and that is not what we got. As Secretary, of the board, I would like to know why and how the decision was made to have conference calls, emails and request comments from residents, instead of members of the DKSDAB. We need to make sure this breakdown in communication doesn’t happen again.

Sincerely,

Philip Kircher
Secretary
Duck Key Security District Advisory Board
(305) 902-8201

From: Shillinger-Bob [mailto:Shillinger-Bob@MonroeCounty-FL.Gov]
Sent: Wednesday, November 02, 2016 6:08 PM

To: 'Philip Kircher'

Cc: Rice-David; Lamarche-Tamara; 'SCP MBY'; David Williamson (dwilliamson@keys-energy.com); 'John Schwarz (johnsct@gmail.com)' (johnsct@gmail.com); Limbert-Christine

Subject: RE: Duck Key Referendums

Mr. Kircher:

I haven't had time to search for further emails yet. Based upon the email that I forwarded to you last week (and have re-attached for your convenience), which indicates that I sent the draft question containing the language in question via an email as a follow up to a conference call where the referendum wording was discussed, I don't know if I will find an incoming email containing an express request for that language. That having been said, the language in the second referendum question was chosen after consultations with representatives of Duck Key.

I will send any relevant emails that I do find.

Regards,



Bob Shillinger
County Attorney
Monroe County Attorney's Office
1111 12th Street, Suite 408
Key West, FL 33040
(305) 292-3470
(305) 292-3516 (fax)

No trees were harmed in the sending of this E-mail, however, a great number of electrons were terribly inconvenienced. Please note that Florida has a broad public records law and that any communication with the County could be considered a public record. If you do not wish for your email address to become a public record, use the telephone or some other method of conveying your message.

From: Philip Kircher [<mailto:pskircher@hotmail.com>]

Sent: Wednesday, November 02, 2016 3:54 PM

To: Shillinger-Bob

Subject: RE: Duck Key Referendums

Mr. Shillinger,

Were you able to identify where the request to add "Minimum" to the second referendum originated with?

Sincerely,

Philip Kircher

Secretary

Duck Key Security District Advisory Board

(305) 902-8201

From: Shillinger-Bob [<mailto:Shillinger-Bob@MonroeCounty-FL.Gov>]

Sent: Friday, October 21, 2016 5:17 PM

To: 'Philip Kircher'

Subject: RE: Duck Key Referendums

Mr. Kircher:

Here's what I've found so far. I'll look further next week.



Bob Shillinger
County Attorney
Monroe County Attorney's Office
1111 12th Street, Suite 408
Key West, FL 33040
(305) 292-3470
(305) 292-3516 (fax)

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From: Philip Kircher [<mailto:pskircher@hotmail.com>]
Sent: Friday, October 21, 2016 1:57 PM
To: Shillinger-Bob
Subject: Re: Duck Key Referendums

Mr. Shillinger,

Were you able to review your emails regarding the second referendum?

Sincerely,

Philip Kircher
Secretary
Duck Key Security District Advisory Board
(305) 902-8201

On Oct 17, 2016, at 6:21 PM, Shillinger-Bob <Shillinger-Bob@MonroeCounty-FL.Gov> wrote:

All,

It is too late to correct the language on the referenda questions. At this point, the absentee ballots have been mailed out. We had to provide the language by the end of August so the Supervisor of Elections could print the ballots in time to comply with her advertising deadlines so we placed the questions before the BOCC for approval at the August 17th meeting. That was the opportunity for public comment on the language.

As to the question about the use of the word "minimum" in the language in the second question - I will go back and look at the emails exchanged on this to confirm but - my recollection is that we wrote the question as we were requested to write it. I will reply again once I've had an opportunity to review the emails later this week.

Bob

Sent from my iPhone

On Oct 17, 2016, at 5:38 PM, Rice-David <Rice-David@MonroeCounty-FL.Gov> wrote:

Philip,

I am sending your comments to our County attorney Bob Shillinger to respond to your questions. Thank you for your input.

David

Sent from my iPad

On Oct 17, 2016, at 3:12 PM, Philip Kircher <pskircher@hotmail.com> wrote:

Commissioner Rice,

There is a fatal flaw in the way the second referendum has been written. It states that the \$300 assessment will be established as a "minimum" with no cap on what it could ultimately be.

When the Security Board originally requested this referendum back in January, this was what was passed –

"Assessment Discussion. Topics discussed between the Board Members: the vacant (unoccupied) lots require more security due to trespassing; on Duck Key – approximately 380 homes, 20 County owned lots and 300 vacant lots.

MOTION: ALL LOTS, UNOCCUPIED OR OCCUPIED, HAVE THE SAME ASSESSEMENT. FIRST BY PHILIP KIRCHER AND SECONDED BY SYLVIA HERNANDEZ.
MOTION CARRIED"

We went from that vote to this referendum –

"If the Duck Key Beautification and Improvement District is not approved by the voters, should Monroe County remove the current non-ad valorem special assessment cap for the Duck Key Security District of \$30 per unimproved lot and \$300 per improved lot and set the minimum assessment at \$300 per year?"

That is terribly written and confusing for all the voters on the island. It gives the impression that we not only want to raise the taxes to \$300 for the empty lots, but remove the \$300 cap on the improved lots. We never asked for that and have no intention of doing so. Now everyone I'm speaking with thinks if they vote yes for the second referendum their taxes could go sky high. Why did the county attorney write it this way? Why did we on the board not have a chance to look at and comment on the verbiage for the referendum we asked for?

In speaking with the residents on the island after this past Tuesday's meeting, it appears that both referendums are going to be voted "no" by wide margins. But when I can speak with people one on one and explain that all the second referendum does is

equalize the assessments and be firm on the \$300 cap, then virtually everyone is in favor of that.

What is on the ballot is not what we requested. Is it too late to correct the verbiage for the referendum?

Sincerely,

Philip Kircher
Secretary
Duck Key Security District Advisory Board
305-902-8201



Duck Key Security District Advisory Board

Monroe County Florida



11/13/16

To: DKSDAB

From: Phil Kircher

Re: Board Memo on cost for replacing Duck Key Security with Monroe County Police.

At the request of the board, I have compiled this information for evaluation.

Our current expenditure for Duck Key Security is approximately \$65,000. This is for seven day week coverage for 8 hours a day with additional coverage on weekends and holidays.

Coverage for an off duty Monroe County Police Officer runs \$40 an hour with a three hour minimum. In order to get the same 64 hours per week of coverage we currently pay for Duck Key Security, that works out to \$133,040, so clearly that is not a workable number. In order to stay around the \$65,000 budget, that would work out to about 31 hours a week of coverage. That is about 4.5 hours a day with no additional weekend or holiday coverage we now get.

Neither referendum passed, so our new revenue expectations are now nonexistent. Our current security expenditures are going to significantly increase with the additional new cameras coming on line. Combined, we will now exceed our revenue and will be running a deficit. As such, our budget will not support replacing the current Duck Key security with a police officer. We may also have to reduce or end the additional police security that we have been paying for over lobster mini season and holidays.

I should also note that there have been many residents that have objected to replacing the security with a police officer. In addition to the costs, there is the fact that any county emergency would take immediate priority. We would have no police security for example, when there is a hurricane or a major accident on overseas highway. Other residents have said they do not want to be closely monitored by the police. And since we would not operate with a contract with the county, there would be no guarantee that an off duty police officer would be available every day.

Statement regarding DKSD 2016 Referendum

This is not the forum to discuss your support or opposition to DKBID. Only DKSD.

I am disappointed that the referendum did not pass since it would have meant that every property owner could have joined forces to craft an ordinance to the benefit our District. In hindsight, I strongly believe that the political climate of our national election created an environment that made its passage unlikely at this point in time even if Residents in the Community had not aggressively lobbied against it.

If I could go back and do something different it would have been to confirm that our own Board understood what the Referendum meant and how the process worked. There were no questions along these lines at our meetings and thus, I erred in assuming that meant that each of you fully understood what we had voted on and what the next steps and timetable were. In hindsight, a primer on basic County government would have been useful. The referendum was simply a process to let the BOCC know how Duck Key felt about the issue. It was not binding and we were not voting on the final language of the Ordinance. To be quibbling over terminology at this point was premature. If it had passed, legislation would have to be introduced and crafted in the sunshine and properly advertised with multiple public hearings for the public to comment and be heard. The process is open and doesn't leave room for a conspiracy as has been suggested. This was pointed out quite clearly at our last Community meeting but so many were focused on their own agenda, few listened.

Individuals advancing the cause of DKBID agreed with the DKSDAB that having both items on the same referendum was not preferable for either cause. In terms of educating all about the process, it is important to point out that this was necessary due to the nature of the vehicle we were using to gauge public input. It had to piggyback the national election ticket and given both items dealt with Duck Key, they ended up appearing together. This was purely a County legal staff decision and not the result of any request from a member of the public.

The email we sent to the BOCC was a direct copy of our minutes. Our Board did not have any specific discussion about the actual language of any mins or maxes but we certainly did lament how long it was going to take us to increase to the assessment we wanted based on how narrowly the previous ordinance was written. County legal staff obviously thought it should be addressed. No one asked for the word minimum to be used. Discussions with them revealed they saw wisdom in not repeating the same mistake of writing the language so narrowly that we would have to go through the expense and time consuming process of a referendum every few years when the Board decided there were more projects the Community wanted to fund. They had the foresight to understand that we cannot presume to know what a future seated Board is going to decide they want or need. In terms of the actual language of the Referendum for DKSD, it has been suggested that no one on the DKSDAB had any input. On the contrary, in my role as duly elected Chair of DKSD, I was privy to the final draft and found it to be in substantial compliance with what we had voted on. The language read exactly like we asked - Unimproved lots charged the same as improved. The essence of our request constituted a minimum assessment equal to the improved lots but we did not address a max assessment. Based on what County stated at our Community meeting, this was to be determined when the legislation was introduced. My review of all correspondence during this process reveals that No Other Individuals provided input to the County on this issue other than our Board and me as Chair. I was involved in every conference call with the County on DKBID and can attest to this. Specifically, David Williamson and John Schwarz have been publically accused of taking action to cause the defeat of our referendum and I want to go on record saying this could not be further from the truth. For those who envision a conspiracy where this is none, I would have to ask - to what end? All involved share a common goal of betterment of our community even if we do not agree on the means of achievement.

While my objective here is to set the stage to move forward in a positive way, there is one other accusation that was made during this process that needs to be addressed. A statement was made that a \$20k payment was made to someone at the County. To what end is unclear and, quite honestly, unimaginable. The very nature of this statement implies that someone in our ranks offered our Commissioner and County Staff a bribe. Given that this would be slander, absent any proof, I feel it is imperative that it be denounced publicly. Speaking for myself as

one who could be the unnamed participant, I will say I am highly offended and believe that the person or persons responsible for the spread of this rumor owe apologies, at a minimum, to those they have accused as there is no evidence to support this ugly untruth. I'm always fond of saying, you are entitled to, and I respect, your right to our own opinion but that doesn't give you the right to create your own facts. Our County Commissioner and Staff also did not take kindly to this rumor. Consideration is still being given to the appropriate repercussions for specific individuals roles in the proliferation of this rumor.

In terms of all of the Board Members having the opportunity to review the draft language, I would point out that you did. Again, I believe that ignorance of the process came into play here. In our discussions about what would happen to our DKSD request, we addressed the need for the County to have the language ready by August so it could go before the BOCC and then qualify to be on the November ballot. These hearings, and the specific opportunity to speak on this issue, were widely advertised in all the major papers and held in three locations across the Keys in-between our DKSD meetings. I received many phone calls from residents, as did the County, so I am confident that those following the process closely and many others saw them. The press certainly did as this was what precipitated all of their calls and articles. Again, from the standpoint of understanding the government process, we do not dictate to our Commissioner or Legal staff on any matter. We Advise and then look to their expertise to make final decisions. I did find it puzzling that the language the opponents of our measure deemed problematic was the word "minimum" and yet this never came up until after these hearings and our final community meeting. It seemed an afterthought that was successfully, though inaccurately, used to broaden the opposition. We as Board Members agreed that asking for a tax increase was going to be difficult. I asked each of you to put on your flak jackets and be prepared for the arguments that might arise in opposition. I am disappointed that Members of our own Board, even after being advised that all property owners (not just voters) would be involved in the process of crafting the actual legislative language, did not chose to spend their time educating others versus joining forces to ensure its defeat. As we move forward each of us need to be cognizant that when we speak publicly we have a responsibility to clearly delineate when we are speaking at the behest of the Board or on our own behalf.

I am hopeful that words spoken by the opponents of this measure indicating their passion for the betterment of Duck Key and their desire to participate in a voluntary effort to do so will stand true to their word. I would very much like to see us united and involved whether it is on the issues of Safety and Security, which our Board addresses, or all of the matters that concern the future of our Islands and nearshore waters. I have asked the County Legal team to explore whether other options exist for making the change we agreed was needed in lot assessments in hopes we will not have to wait another four years to reach accomplish our objective. I will report as they respond.

In closing, The Monroe County BOCC and Community of Duck Key always struggle to find individuals who are willing to serve as a DKSD Advisory Board Members. It can be difficult because the multiple roles individuals play in their daily lives means they inherently possess many different interests and loyalties. At any given time these interests may compete. Members of the Security Board are stewards of the public trust and as such, are required to put the public's interest before their own. Impropriety occurs when Board Members, faced with conflicting interests, put his or her personal interest ahead of the public interest. Several seats will be coming available in the near future. If you feel capable of rising above the fray and putting the interests of the Community above our own, please let this Board and our Commissioner know of your willingness to serve in this capacity.

I thank each of you for the opportunity to have served in this capacity.