

ORDINANCE NO. 2011-2

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE,
FLORIDA, ESTABLISHING CHAPTER 31 ENTITLED
“PARKS AND RECREATIONAL OPEN SPACE LANDS
TRUST FUND” OF THE VILLAGE CODE OF ORDINANCES;
PROVIDING FOR SEVERABILITY; PROVIDING FOR
CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, from its founding, a principal goal of the Village has and continues to be the acquisition of land for public recreation and open space purposes; and

WHEREAS, consistent with that goal, the Village Council has from time to time established capital accounts/funds for the purpose of acquiring land for public recreation and open space; and

WHEREAS, the Village Council wishes to formalize its funding policy by creating a Parks and Recreational Open Space Lands Trust Fund for use in acquiring parks and recreational lands; and

WHEREAS, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. The preceding “Whereas” clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Parks and Recreational Open Space Lands Trust Fund. Chapter 31 “Parks and Recreational Open Space Lands Trust Fund” of the Village Code of Ordinances is hereby created to read as follows:

Sec. 31-1. Parks and Recreational Open Space Lands Trust Fund

(a) There is hereby created the Parks and Recreational Open Space Lands Trust Fund (the “PROS Lands Trust Fund”) for use in acquiring parks and recreational lands within the Village. The Village Manager is hereby authorized to establish the PROS Lands Trust Fund and to receive and disburse monies in accordance with the provisions of this section.

(b) The PROS Lands Trust Fund shall receive monies from the following sources:

(i) All funds derived from any borrowings by the Village for the acquisition of lands for parks and open space purposes.

(ii) All monies accepted by the Village in the form of federal, State, or other governmental grants, allocations, or appropriations, as well as foundation or private grants and donations for acquisition of parks and open space as provided for by this section.

(iii) Such additional allocations as may be made by the Village Council from time to time for the purposes set forth herein.

(iv) All interest generated from the funding sources identified above, except where monies received have been otherwise designated or restricted.

(c) The PROS Lands Trust Fund shall be maintained in trust by the Village Council solely for the purposes set forth herein, in a separate and segregated fund of the Village which will not commingle with other Village funds until disbursed for an authorized purpose pursuant to subsection (d) below.

(d) Disbursements from the PROS Lands Trust Fund shall be made only for the following purposes:

(i) Acquisition of properties which have been approved for purchase or lease by the Village Council in accordance with the provisions of this chapter; and

(ii) Improvements to the property which enhance the recreational and open space purposed for which the land was acquired.

(iii) All costs associated with each acquisition including, but not limited to, appraisals, surveys, title search work, real property taxes, documentary stamps and surtax fees, and other transaction costs.

(iv) Any other purpose upon the unanimous approval of the entire Village Council.

(e) Where any property acquired with PROS Lands Trust Fund monies is leased or sold by the Village, the proceeds from said lease or sale shall be committed to the PROS Lands Trust Fund for the purposes provided for herein. Such proceeds shall neither be committed to any other fund, nor

be used for any other purpose.

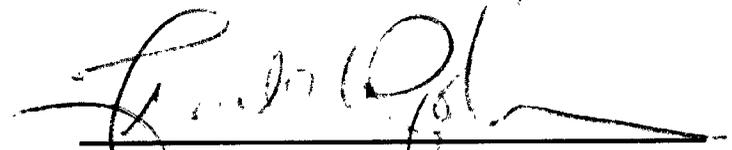
Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading

PASSED AND ADOPTED on first reading this 16th day of November, 2010.

PASSED AND ADOPTED on second reading this 12th day of April, 2011.

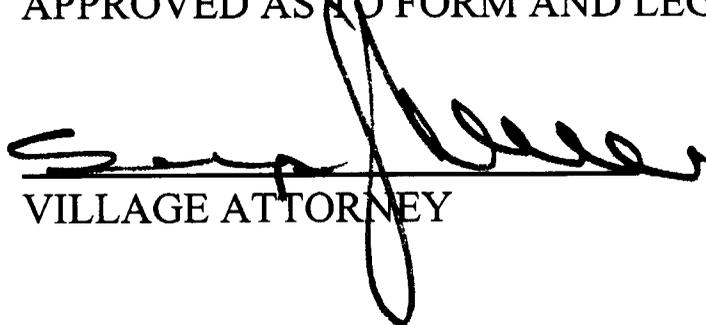

MAYOR FRANKLIN H. CAPLAN

ATTEST:



CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY


VILLAGE ATTORNEY



MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared V. PEREZ, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

VILLAGE OF KEY BISCAYNE
MEETING APRIL 12, 2011

in the XXXX Court,
was published in said newspaper in the issues of

03/31/2011

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida, each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



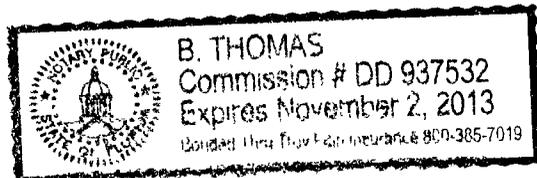
Sworn to and subscribed before me this

31 day of MARCH, A.D. 2011



(SEAL)

V. PEREZ personally known to me



VILLAGE OF KEY BISCAYNE

OFFICE OF THE VILLAGE CLERK

PUBLIC NOTICE

Notice is hereby given that the following ordinance will be considered on Second Reading by the Village Council of the Village of Key Biscayne at a meeting to be held on Tuesday, April 12, 2011 at 7:00 p.m. in the Council Chamber, located at 560 Crandon Boulevard, Key Biscayne, Florida:

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 31 ENTITLED "PARKS AND RECREATION" AND "OPEN SPACE LANDS TRUST FUND" OF THE VILLAGE CODE OF ORDINANCES, PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The proposed Ordinance may be inspected by the public at the Office of the Village Clerk. Interested parties may appear at the Public Hearing and be heard with respect to the proposed Ordinance. Any person wishing to address the Village Council on any item at the Public Hearing is asked to register with the Village Clerk prior to that item being heard.

In accordance with the Americans With Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in the proceeding because of that disability should contact the Office of the Village Clerk, 56 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149, telephone number (305) 365-5506, not later than two business days prior to the proceeding.

Should any person desire to appeal any decision of the Village Council with respect to any matter to be considered at this meeting, that person shall insure that a verbatim record of the proceedings is made including all testimony and evidence upon which any appeal may be based (F.S. 286.0105).

Comments of any interested party relative to this matter may be submitted in writing and or presented in person at the public hearing.

Conchita H. Alvarez, MMC
Village Clerk

3/31

11-4-107/1671874M