



V I L L A G E O F K E Y B I S C A Y N E

Office of the Village Manager



Village Council

Mayra P. Lindsay, *Mayor*
Edward London, *Vice Mayor*
Franklin H. Caplan
Luis F. de la Cruz
Gary R. Gross
Theodore Holloway
Michael E. Kelly

DATE: April 12, 2016
TO: Honorable Mayor and Members of the Village Council
FROM: John C. Gilbert, Village Manager
RE: Red Light Traffic Camera "Local Hearing Officer Appointment"

Village Manager
John C. Gilbert

RECOMMENDATION

It is recommended that the Village Council consider the Village Manager's appointment of Mr. Frank Alexander Hernandez to serve as the Village's Local Hearing Officer to conduct hearings related to violations of Section 316.0083 of the Florida Statutes and Section 26-46 of the Village Code of Ordinances (Red Light Traffic Camera Violations).

The cost of the Local Hearing Officer will be \$250.00 per hearing.

BACKGROUND

Florida State Statutes 316.0083 entitled "Mark Wandall Traffic Safety Program" as amended July 1, 2013 was adopted by the Village of Key Biscayne via Ordinance 2013-6 amending Chapter 26 of the Village Code of Ordinances (the "Village Code") to comply with the provisions of the amended Statute.

Section 26-46; entitled "Definitions"; "Local Hearing Officer" directs the Village Manager to appoint a "Local Hearing Officer" authorized to conduct hearings related to a notice of violation issued pursuant to Florida State Statues 316.0083, and this enabling Ordinance. This Section also calls for the ratification of the appointment by the Village Council.

Section 26-52; entitled "Notice of Violation Hearing Procedures" states in part: "A Petitioner who elects to request a hearing shall be scheduled for a hearing by the clerk of the Local Hearing Officer to appear before a Local Hearing Officer with notice to be sent by first-class mail"; "The Local Hearing Officer shall take testimony from a traffic infraction enforcement officer and the Petitioner, and may take testimony from others. The Local Hearing Officer shall review the photographic or electronic images or the

streaming video made available under F.S. § 316.0083(1)(b)1.b., as amended. Formal rules of evidence do not apply, but due process shall be observed and govern the proceedings”; and “At the conclusion of the hearing, the Local Hearing Officer shall determine whether a violation under F.S. § 316.0083, as amended, has occurred, in which case the hearing officer shall uphold or dismiss the violation. The Local Hearing Officer shall issue a final administrative order including the determination and, if the notice of violation is upheld, require the Petitioner to pay the penalty assessed.”

Mr. Hernandez is a member of the Florida Bar in good standing practicing law in the Miami area. His resume is attached to the proposed Resolution.

Mr. Hernandez is also recommended by the Police Department, which received applications and conducted interviews for the position. Additionally, Mr. Hernandez successfully passed a background exam conducted by the Police Department.

Reviewed by Jose L. Arango from Weiss Serota Helfman Pastoriza Cole & Boniske as to form and legal sufficiency.

RESOLUTION NO. 2016 - _____

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, RATIFYING THE VILLAGE MANAGER'S APPOINTMENT OF FRANK ALEXANDER HERNANDEZ AS THE LOCAL HEARING OFFICER AUTHORIZED TO CONDUCT HEARINGS RELATED TO NOTICES OF VIOLATIONS ISSUED PURSUANT TO SECTION 316.0083, FLORIDA STATUTES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the "Village") wishes to conduct hearings for notices of violations issued pursuant to Section 316.0083, Florida Statutes; and

WHEREAS, in order to conduct such hearings, a Local Hearing Officer, as defined by Section 26-46 of the Village Code of Ordinances (the "Village Code"), must be appointed by the Village Manager; and

WHEREAS, such appointment by the Village Manager must be ratified by the Village Council pursuant to Section 26-46 of the Village Code; and

WHEREAS, the Village Council has determined that Frank Alexander Hernandez is qualified to perform the duties of a Local Hearing Officer (see attached resume as Exhibit "A"); and

WHEREAS, the Village Council has determined that it is in the best interests of the Village to ratify the appointment of Frank Alexander Hernandez as the Local Hearing Officer.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. Ratification. The Village Council hereby ratifies the appointment of Frank Alexander Hernandez as the Local Hearing Officer pursuant to Section 26-46 of the Village Code.

Section 3. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED this _____ day of April, 2016.

MAYOR MAYRA PEÑA LINDSAY

ATTEST:

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

VILLAGE ATTORNEY

EXHIBIT "A"

Resume of Frank Alexander Hernandez

Frank A. Hernandez

Address: 9990 SW 77 Ave. PH9 Miami, FL 33156 Phone: 305-794-0179

E-mail: frank.hernandez@yaborlaw.com

PROFESSIONAL EXPERIENCE

Member in Good Standing of the Florida Bar since October 10, 2005

Frank A. Hernandez PA

Miami, FL

Fall 2012 – Present

Single Attorney Law Firm (one assistant)

Focus of Practice is Criminal Defense, with a small amount of Family and Civil

Miami-Dade State Attorney's Office

Miami, FL

Fall 2005 – Fall 2012

Attended Court Daily for 3 years

6 Felony Trials

15 Misdemeanor Trials

50+ Bench Trials

Trails spanning most of the criminal spectrum: DUI, Battery, Criminal Mischief,
Stalking, Narcotics Possession, Sale, and Trafficking, Thefts, Fraud etc.

Criminal motion work: suppression, compulsion, deposition, dismissal, etc.

Performed direct and cross examination of experts in trial

County Court Commit Fall 2005 – Spring 2007

Responsible for day-to-day operations of one county courtroom; managed full
courtroom caseload of hundreds of cases daily; oversaw training of 7 new
attorneys; in court supervisor for new attorneys; gave plea approval; Advanced
DUI Training Seminar

Juvenile Division Spring 2007 – Fall 2007

caseload in the range of 100-150 cases set for trial; all trials were bench trials;
deposition work

Felony Division Fall 2007 – Spring 2008

Responsible for day-to-day operation of one felony courtroom; caseload in range
of 150-200 cases set for trial; continued deposition work

Felony Screening Unit Spring 2008 – Fall 2012

Screening of incoming cases; organize investigation in order to make filing
decisions; take sworn testimony of victims, witnesses, police officers, and
defendants; caseload in range of 150-200; worked hand-in hand with Economic
Crimes Unit to devise office wide strategy for prosecuting Federal income tax
fraud in State Court

EDUCATION

Florida Coastal School of Law

Jacksonville, FL

Fall 2003 – Spring 2005

Cumulative Grade Point Average: 3.24

St. Thomas University School of Law

Miami, FL

Fall 2002 – Spring 2003

Cumulative Grade Point Average: 3.65

Florida State University

Tallahassee, FL

Fall 1997 – Spring 2002

Bachelor of Arts in Economics and Philosophy

LANGUAGES

English

Spanish

High School Level of Italian