

MINUTES

ZONING MEETING  
KEY BISCAWAYNE, FLORIDA

TUESDAY, MAY 24, 2011

COUNCIL CHAMBER  
560 CRANDON BOULEVARD

1. **CALL TO ORDER/ROLL CALL OF MEMBERS:** The meeting was called to order by the Mayor at 7:00 p.m. Present were Councilmembers Michael W. Davey, Robert Gusman, Mayra P. Lindsay, James S. Taintor, Vice Mayor Michael E. Kelly and Mayor Franklin H. Caplan. Councilmember Enrique Garcia was absent. Also present were Village Manager Genaro “Chip” Iglesias, Village Clerk Conchita H. Alvarez and Village Attorney Stephen J. Helfman.

2. **PLEDGE OF ALLEGIANCE:** Mayor Caplan led the Pledge of Allegiance.

3. **SPECIAL PRESENTATION:** The Mayor, on behalf of the Council, presented a proclamation to the American Legion Auxiliary designating the week of May 26-28, 2011 as Poppy Week in Key Biscayne.

Lieutenant Gary Carter addressed the Council regarding the MDA Annual Firefighters street collection this weekend.

4. **AGENDA:** The Attorney requested the addition of an ordinance on first reading regarding the refinancing of the Civic Center as Item 6A4; Councilmember Lindsay requested to hear Item 8A2

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prior to Item 6A2; Vice Mayor Kelly requested the addition of a discussion regarding whiteflies as Item 8A5 and also requested the addition of a discussion regarding the SWAT Team obstruction on the Causeway last week as Item 8A6; Councilmember Lindsay requested to hear Item 8A2 prior to Item 6A2; Mayor Caplan requested the addition of a discussion regarding the 4th of July Parade as Item 8A7, also requested the addition of a discussion regarding the MDA Fundraiser as Item 8A8 and also requested a discussion regarding the traffic light at the MAST Academy as Item 8A9. There was no objection to the agenda changes.

5. **APPROVAL OF MINUTES:** Councilmember Davey made a motion to approve the minutes of the May 10, 2011 Regular Council Meeting. The motion was seconded by Vice Mayor Kelly and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

6. **ORDINANCES:** The Clerk read the following ordinance on first reading, by title:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-103 "HOTEL RESORT DISTRICT"; PROVIDING FOR AMENDMENTS TO THE MAIN PERMITTED USES AND THE DEVELOPMENT REGULATIONS; PROVIDING FOR AMENDMENTS TO SECTION 30-184 "AMOUNT OF REQUIRED OFF-STREET PARKING" RELATING TO THE REQUIRED OFF-STREET PARKING FOR APARTMENT BUILDINGS, HOTELS, AND MOTELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Councilmember Davey made a motion to defer the first reading of this ordinance to the July 5th, 2011 Council Meeting. The motion was seconded by Mayor Caplan.

There was discussion from Council and the Attorney on the deferral of the first reading of this ordinance.

The motion to defer this ordinance to the July 5th, 2011 Council Meeting failed by a 3-3 voice vote. The vote was as follows: Councilmembers Davey, Gusman and Mayor Caplan voting Yes. Councilmembers Lindsay, Taintor and Vice Mayor Kelly voting No.

Vice Mayor Kelly made a motion to approve the ordinance on first reading. The motion was seconded by Mayor Caplan.

The Mayor opened the public hearing. There were no speakers present. The Mayor closed the public hearing.

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Mayor Caplan made a motion to approve the following amendments: 1.) **Amend Section 30-103. Hotel Resort District.** by eliminating from (a) *Purpose and Uses*. “And multiple family residences.” from the District Purpose; 2.) Eliminate Apartment Building from the Main Permitted Uses; 3.) Amend (b) *Development Regulations*. Density, by deleting the whole paragraph except “Hotel 30 Units per acre.”; 4.) Change from the Maximum Height (1) within ~~200~~ 300 feet; 5.) Amend **Section 30.184. Amount of required off street Parking.** by eliminating Option 1 and in Option 2 eliminate “Motel”. The motion was seconded by Vice Mayor Kelly and approved by a 4-2 roll call vote. The vote was as follows: Councilmembers Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmembers Davey and Gusman voting No.

The ordinance, as amended, was approved on first reading by a 4-2 roll call vote. The vote was as follows: Councilmembers Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmembers Davey and Gusman voting No.

The Clerk read the following ordinance on first reading, by title:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$4,505,000 OF STORMWATER UTILITY REVENUE REFUNDING BONDS OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; PROVIDING FOR A SUPPLEMENTAL RESOLUTION SETTING FORTH THE DETAILS OF SAID BONDS; AND PROVIDING AN EFFECTIVE DATE.**

Councilmember Davey made a motion to approve the ordinance on first reading. The motion was seconded by Councilmember Gusman.

The Manager and Lourdes Abadin, Financial Consultant for the Village, with Estrada Hinojosa, addressed the Council recommending approval of this ordinance which will authorize the issuance of not exceeding \$4,505,000 of Stormwater utility revenue refunding bonds of the Village of Key Biscayne for the purposes of refunding prior bonds.

The Mayor opened the public hearing. There were no speakers present. The Mayor closed the public hearing.

The ordinance was approved on first reading by a 6-0 roll call vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

The Clerk announced the second reading on June 14, 2011.

*May 24, 2011*

The Clerk read the following ordinance on first reading, by title:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$7,000,000 OF CAPITAL IMPROVEMENT REVENUE REFUNDING BONDS OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; PROVIDING FOR A SUPPLEMENTAL RESOLUTION SETTING FORTH THE DETAILS OF SAID BONDS; AUTHORIZING THE VILLAGE MANAGER TO NEGOTIATE WITH BANKS FOR PURCHASE OF THE BONDS AND TO ENTER INTO A RATE LOCK AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

Councilmember Davey made a motion to approve the ordinance on first reading. The motion was seconded by Councilmember Gusman.

The Manager and Lourdes Abadin, Financial Consultant for the Village with Estrada Hinojosa, addressed the Council recommending approval of this ordinance which will authorize the issuance of not exceeding \$7,000,000 of Capital Improvement revenue refunding bonds of the Village of Key Biscayne for the purposes of refunding prior bonds.

The Mayor opened the public hearing. There were no speakers present. The Mayor closed the public hearing.

The ordinance was approved on first reading by a 6-0 roll call vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

The Clerk announced the second reading on June 14, 2011.

The Clerk read the following ordinance on second reading, by title:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, CREATING SECTION 7-1 "VACATION RENTALS" OF THE CODE OF ORDINANCES; PROVIDING FOR VACATION RENTAL BUSINESS REGULATIONS; PROVIDING FOR AMORTIZATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Councilmember Gusman made a motion to approve the ordinance on second reading. The motion was seconded by Vice Mayor Kelly.

The Attorney addressed the Council regarding this ordinance.

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The Mayor opened the public hearing. Cassia Silva, 791 Crandon Boulevard, representing the Key Biscayne Chamber of Commerce; Andrew Gordon, 269 Cranwood Drive; Nancy Doke-Harrison, 669 S. Mashta Drive; Willie Borroto, 241 Harbor Drive; Scott House, President, Vacation Rentals Association; Claudia Selva, 300 Sunrise Drive; Teresita Shelton, 300 Sunrise Drive; Jose Ortega, 621 Mashta Drive and Gina Coleman, 370 Palmwood addressed the Council. The Mayor closed the public hearing.

There was extensive discussion from Council regarding this ordinance.

Vice Mayor Kelly made an amending motion to amend the ordinance to apply only to single family homes and a minimum rental period of 30 days. The motion was seconded by Councilmember Davey.

Mayor Caplan made an amending motion to amend the Kelly motion by adding under **Section 7-1** Vacation Rentals at the beginning of the second sentence the following: "The owner of"; eliminate number (1) under the same section; under number (2) add "All leases or occupancy agreements must incorporate a copy of these restrictions, in writing and a copy must be delivered to the Village or available on site at all times for inspection by the Village" and under number (3) former number (2) add "All use, occupancy and other activities.." at the beginning of that section; under Section 3 add to the last sentence "or to supersede" and "multifamily" and to add the following footnote to **Section 7-1** as follows: "These restrictions do not apply to any multi-family uses established within the PS Parkside Residential Zoning District on the Effective Date of this Ordinance". The motion was seconded by Vice Mayor Kelly and failed by a 3-3 roll call vote. The vote was as follows: Councilmembers Davey, Gusman and Vice Mayor Kelly voting Yes. Councilmembers Lindsay, Taintor and Mayor Caplan voting No.

Mayor Caplan made an amending motion to amend the ordinance to apply Village wide with a minimum rental period of 7 days with the exculpation. The motion dies for lack of a second.

Vice Mayor Kelly made a motion to amend the ordinance with a minimum rental period of 30 days and the exculpation clause. The motion was seconded by Councilmember Taintor and failed by a 3-3 roll call vote. Councilmembers Gusman, Taintor and Vice Mayor Kelly voting Yes. Councilmembers Davey, Lindsay and Mayor Caplan voting No.

Mayor Caplan made an amending motion to amend the ordinance to apply Village wide with a minimum rental period of 10 days with the exculpation clause. The motion was seconded by Councilmember Taintor and failed by a 3-3 roll call vote. The vote was as follows: Councilmembers Lindsay, Taintor and Mayor Caplan voting Yes. Councilmembers Davey, Gusman and Vice Mayor Kelly voting No.

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Councilmember Lindsay made an amending motion to amend the ordinance to apply Village wide with a minimum rental period of 14 days with the exculpation clause. The motion was seconded by Mayor Caplan and failed by a 3-3 roll call vote. The vote was as follows: Councilmembers Lindsay, Taintor and Mayor Caplan voting Yes. Councilmembers Davey, Gusman and Vice Mayor Kelly voting No.

Vice Mayor Kelly made an amending motion to amend the ordinance to apply Village wide with a minimum rental period of 21 days with the exculpation clause. The motion dies for lack of a second.

Councilmember Lindsay made an amending motion to amend the ordinance to apply Village wide with a minimum rental period of 15 days with the exculpation clause. The motion was seconded by Vice Mayor Kelly and approved by a 4-2 roll call vote. The vote was as follows: Councilmembers Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmembers Davey and Gusman voting No.

The ordinance, as amended, was approved on second reading by a 6-0 roll call vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

Councilmember Davey made a motion to extend the meeting to 11:15 p.m. The motion was seconded by Vice Mayor Kelly and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

At this time Item 8A2 was heard. Village Lobbyist Fausto B. Gomez, with Gomez Barker Associates, Inc. addressed the Council regarding the Local Government Pension Reform.

Fire Captain Michael Haring, Chairman of the Key Biscayne Police Officers and Firefighters Pension Board addressed the Council.

Mayor Caplan made a motion to extend the meeting to 11:30 p.m. The motion was seconded by Councilmember Davey and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

At this time Item 7B was heard.

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The Clerk read the following resolution, by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING A INTERLOCAL JOINT USE AGREEMENT WITH MIAMI-DADE COUNTY FOR CALUSA MANGROVE TRAIL (“CMT”) ; PROVIDING FOR PAYMENT OF NOT TO EXCEED \$300,000.00 TO THE COUNTY FOR THE COUNTY TO CONSTRUCT NECESSARY IMPROVEMENTS TO THE CMT; PROVIDING FOR VILLAGE MAINTENANCE OF THE CMT AND NEW IMPROVEMENTS; PROVIDING FOR VILLAGE SECURITY OF THE CMT; PROVIDING FOR RECORDING OF THE EXECUTED AGREEMENT BY THE VILLAGE CLERK; PROVIDING AN EFFECTIVE DATE.**

Councilmember Davey made a motion to approve the resolution. The motion was seconded by Mayor Caplan.

The Manager addressed the Council recommending approval of the Interlocal Agreement with Miami-Dade County for Calusa Mangrove Trail (CMT); providing for payment not to exceed \$300,000 to the County for the County to construct the improvements to CMT.

There was extensive discussion from Council regarding this resolution.

Parks and Recreation Director Todd Hofferberth addressed the Council regarding this agreement.

The resolution was approved by a 6-0 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

At this time Item 7C was heard.

The Clerk read the following resolution, by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING BANK PROPOSAL FOR THE PURCHASE OF THE STORMWATER UTILITY REVENUE REFUNDING BONDS OF THE VILLAGE; AUTHORIZING THE VILLAGE MANAGER AND OTHERS TO NEGOTIATE FINAL TERMS AND PREPARE DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Caplan made a motion to approve the resolution. The motion was seconded by Councilmember Lindsay.

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The Manager addressed the Council reporting that after careful review of the competitive bids received, it is recommended that the Village Council authorize the Village Manager to enter into negotiations with Pinnacle Public Finance to purchase the \$4,505,000 Stormwater Utility Revenue Bonds, Series 2011 to refinance the Stormwater Utility Revenue Bonds, Series 1999. This proposed refinancing will produce approximately \$275,000 in present value savings. Additionally it will provide debt relief to cover the cash flow constraints created from October 1, 2010 thru March 1, 2011, when the adjustments to the Stormwater Rates were approved and became effective.

In the event that the Village is not able to negotiate a successful agreement with Pinnacle Public Finance, it is also recommended that the Council approve that the Manager negotiate with the next highest ranked bidders.

The resolution was approved by a 6-0 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

At this time Item, 6A2 was heard.

Councilmember Lindsay made a motion to extend the meeting to midnight. The motion was seconded by Mayor Caplan and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

The Clerk read the following ordinance on first reading, by title:

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA BY AMENDING CHAPTER 23 "RETIREMENT," SECTION 23-57 "FIREFIGHTER DEFERRED RETIREMENT OPTION PROGRAM (DROP)" TO ALLOW POLICE OFFICER MEMBERS OF THE PLAN TO PARTICIPATE IN DROP; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Mayor Caplan made a motion to approve the ordinance on first reading. The motion was seconded by Councilmember Gusman.

The Manager addressed the Council recommending the adoption of this ordinance which amends the Code of Ordinances of the Village of Key Biscayne, Chapter 23 "Retirement", Section 23-57 "Firefighter Deferred Retirement Option Program" to allow police officer members to participate in such plan.

Village Attorney Raquel Elejabarrieta and Fire Captain Haring addressed the Council.

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The Mayor opened the public hearing. There were no speakers present. The Mayor closed the public hearing.

The ordinance was approved on first reading by a 5-1 roll call vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor and Mayor Caplan voting Yes. Vice Mayor Kelly voting No.

The Clerk announced the second reading on June 14, 2011.

7. **RESOLUTIONS:** The Clerk read the following resolution, by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, PROVIDING FOR RATIFICATION OF THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE VILLAGE OF KEY BISCAIYNE AND THE KEY BISCAIYNE POLICE OFFICER'S ASSOCIATION, LOCAL 6023, INTERNATIONAL UNION OF POLICE ASSOCIATIONS, AFL-CIO, FOR THE BARGAINING UNIT CONSISTING OF THE VILLAGE'S POLICE LIEUTENANTS; AUTHORIZING THE VILLAGE MANAGER TO SIGN THE COLLECTIVE BARGAINING AGREEMENT ON BEHALF OF THE VILLAGE; AUTHORIZING THE VILLAGE MANAGER TO TAKE ALL ACTION NECESSARY TO IMPLEMENT THE COLLECTIVE BARGAINING AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

Councilmember Davey made a motion to approve the resolution. The motion was seconded by Councilmember Gusman.

The Manager addressed the Council recommending the adoption of the resolution, which authorizes and approves the ratification of the Collective Bargaining Agreement between the Village of Key Biscayne and the Key Biscayne Police Officer's Association, Local 6023, International Union of Police Associations, AFL-CIO, for the bargaining unit that consists of Police Lieutenants.

The resolution was approved by a 5-1 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor and Mayor Caplan voting Yes. Vice Mayor Kelly voting No.

8. **REPORTS AND RECOMMENDATIONS:** There were no reports or recommendations discussed.

9. **OTHER BUSINESS/GENERAL DISCUSSION:** There was no further business discussed.

10. **SCHEDULE OF FUTURE MEETINGS/EVENTS:** A scheduled of future meetings and events was presented to the Council.

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11. **ADJOURNMENT:** The meeting was adjourned at midnight.

*Respectfully submitted:*

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*Conchita H. Alvarez, MMC  
Village Clerk*

*Approved this 14th day of June, 2011:*

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*Franklin H. Caplan  
Mayor*

***IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE VILLAGE COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING OR HEARING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.***