

MINUTES

VILLAGE COUNCIL MEETING
KEY BISCAIYNE, FLORIDA

TUESDAY, DECEMBER 6, 2011

COUNCIL CHAMBER
560 CRANDON BOULEVARD

1. **CALL TO ORDER/ROLL CALL OF MEMBERS:** The meeting was called to order by the Mayor at 7:06 p.m. Present were Councilmembers Michael W. Davey, Enrique Garcia, Robert Gusman, Mayra P. Lindsay, James S. Taintor, Vice Mayor Michael E. Kelly and Mayor Franklin H. Caplan. Also present were Interim Village Manager John C. Gilbert, Village Clerk Conchita H. Alvarez and Village Attorneys Stephen J. Helfman and Chad Friedman.

2. **SPECIAL PRESENTATIONS:** The Mayor, on behalf of the Council, presented a proclamation to the Islander News on the occasion of the 45th anniversary of the Islander News.

At this time the selection of the Village Manager took place.

The following residents addressed the Council: Raul Llorente, 345 Cypress Drive and Ed Meyer, 798 Crandon Boulevard.

There was discussion from Council regarding the selection of the next Village Manager.

A ballot to select the Village Manager was provided to the Council. The Attorney read the votes from the Council as follows: Councilmember Davey voted for John C. Gilbert; Councilmember

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Garcia voted for John C. Gilbert; Councilmember Gusman voted for John C. Gilbert; Councilmember Lindsay voted for Mark Taxis; Councilmember Taintor voted for John C. Gilbert; Vice Mayor Kelly vote for Mark Taxis and Mayor Caplan voted for John C. Gilbert.

Mr. Gilbert received 5 votes and Mr. Taxis received 2 votes.

Councilmember Lindsay made a motion to appoint John C. Gilbert as the Village's next Manager. The motion was seconded by Vice Mayor Kelly and approved by a 7-0 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

At this time Manager Gilbert addressed the Council and the public thanking everyone for the vote of confidence on his appointment.

Ms. Amarylli Fridegotto and Ms. Gloria Kahn members of the Key Biscayne Concert Committee addressed the Council.

Mayor Caplan, pursuant to the Charter, addressed the Council and the public giving the State of the Village.

Fausto Gomez with Gomez Barker & Associates addressed the Council giving a legislative update.

3. **PUBLIC COMMENTS:** The following resident addressed the Council: Ray Sullivan, 625 Harbor Circle.

4. **AGENDA:** Councilmember Taintor requested the addition of a status report of the firefighters incident at the Tennis Center as Item 8A2; Mayor Caplan requested the addition of the appointment of a Councilmember to negotiate a contract with the new Village Manager as Item 8A3 and the Manager requested the withdrawal of Item 8D2. There was no objection to the agenda changes.

5. **APPROVAL OF MINUTES:** Councilmember Davey made a motion to approve the minutes of the November 17, 2011 Special 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. Councilmember Garcia was out of the room at the time the vote was taken.

Vice Mayor Kelly made a motion to approve the minutes of the November 22, 2011 Zoning Meeting. The motion was seconded by Councilmember Davey.

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Councilmember Taintor amended page 2 of the minutes to reflect the withdrawal of one candidate instead of two candidates.

Councilmember Lindsay clarified that her vote on the purchase of the fire vehicles was correctly reflected in the minutes October 25, 2011.

The minutes, as amended, were 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. Councilmember Garcia was out of the room at the time the vote was taken.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 4-32 "PROHIBITED WATER ACTIVITY" CREATING A VESSEL EXCLUSION ZONE WHICH LIMITS THE MASHTA FLAT AREA, AS FURTHER DESCRIBED ON EXHIBIT "A," WITHIN THE VILLAGE'S MUNICIPAL BOUNDARIES TO NON-MOTORIZED VESSELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Garcia made a motion to adopt the ordinance on first reading. The motion was seconded by Vice Mayor Kelly.

The Mayor opened the public hearing. Mario Garcia-Serra, Attorney representing the owners at 452 Harbor Drive addressed the Council. The Mayor closed the public hearing.

The Attorney addressed the Council regarding this ordinance.

The ordinance was adopted on first reading by a 5-2 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmembers Gusman and Lindsay voting No.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-100(F)(4) OF THE VILLAGE CODE OF ORDINANCES RELATING TO DOCKS AND MOORING PILES WITHIN THE SINGLE FAMILY DISTRICTS; PROHIBITING DOCKS ON CERTAIN PROPERTIES; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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The Mayor opened the public hearing. Santiago Echemendia and Ed with Tew Cardenas representing the owner at 9 Harbor Drive; Mario Garcia-Serra, representing the owners at 452 Harbor Drive; Robert Vernon, Chairman of the Dock Committee; Bibi Villazon with Trident Environmental and Ivonne Alvarez, 425 Harbor Drive addressed the Council. The Mayor closed the public hearing.

Councilmember Garcia made an amending motion to amend **Section 30-100 (f)(4) Docks and Mooring piles** by removing lot 15 on Harbor Point, to permit a dock to project a maximum of 100 ft. including mooring piles and require waivers from both adjacent neighbors. The motion was seconded by Councilmember Gusman and approved by a 6-1 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Lindsay, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmember Taintor voting No.

The Attorney also addressed the Council regarding this ordinance. There was extensive discussion from Council regarding this ordinance.

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 7-0 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

Mayor Caplan made a motion to adopt the ordinance, as amended, with the elimination of the allowance to the existing dock regulations that came in on first reading and revert to the ordinance as amended tonight. The motion was seconded by Councilmember Davey and approved by a 7-0 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

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

A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAIYNE, AUTHORIZING THE PURCHASE OF FIRST RESPONDER TRAINING AND EQUIPMENT: INCLUDING FUNDING FOR OVERTIME, COURSE INSTRUCTOR AND SUPPLIES; APPROVING AN INTERLOCAL AGREEMENT FOR JOINT COMPLETION OF AN URBAN AREAS SECURITY INITIATIVE PROGRAM (THE "AGREEMENT") BETWEEN CITY OF MIAMI AND THE VILLAGE OF KEY BISCAIYNE FOR THE PURPOSE OF CARRYING OUT FY2009 URBAN AREAS SECURITY INITIATIVE PROGRAM OBJECTIVES; AUTHORIZING VILLAGE MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

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

The Manager addressed the Council recommending the approval of the resolution which will authorize an agreement with City of Miami for the purchase of equipment and training not to exceed Fifty Two Thousand Seven Hundred and Fifty Nine Dollars provided by the Urban Areas Security Initiative (UASI) as part of a 2009 Homeland Security Initiative.

The resolution was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING AN AGREEMENT WITH BELL DAVID PLANNING GROUP, INC. FOR THE PREPARATION OF THE EVALUATION AND APPRAISAL REPORT (EAR) BASED AMENDMENTS; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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

The Manager and Director of Building, Zoning and Planning, Jud Kurlancheek addressed the Council recommending approval of the resolution and agreement which provides for consultant services with The Bell David Planning Group. These services will assist the Village in addressing the State of Florida Department of Economic Opportunity's Objections, Recommendations, and Comments (ORC) regarding an ordinance that was approved on first reading that amended our Master Plan based on the recommendations contained in the Evaluation and Appraisal (EAR) report. The Bell David Planning Group will assist staff in the preparation of the January 17th, 2012 workshop.

The resolution was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

8. **REPORTS AND RECOMMENDATIONS:** The following items were discussed:

Mayor and Councilmembers. The Mayor addressed the Council regarding the appointment of the Charter Revision Commission pursuant to Section 7.06 of the Village Charter.

The Mayor appointed the following residents: Councilmember Davey, Members Martha F. Broucek, Edward J. Briscoe, Mort Fried and Paul Auchter.

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Village Attorney. The Attorney did not submit a report.

Village Clerk. The Clerk did not submit a report.

Village Manager. The Manager addressed the Council giving an update of the Exclusion Zone permitting process.

At this time the Council proceeded to nominate a Councilmember to negotiate a contract with the new Village Manager.

Vice Mayor Kelly appointed Councilmember Lindsay to negotiate a contract with the new Village Manager. The motion was seconded by Councilmember Davey and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

9. **OTHER BUSINESS/GENERAL DISCUSSION:** There was no further business discussed.
10. **SCHEDULE OF FUTURE MEETINGS/EVENTS:** A schedule of future meetings and events was presented to the Council.
11. **ADJOURNMENT:** The meeting was adjourned at 11:15 p.m.

Respectfully submitted:

Conchita H. Alvarez, MMC
Village Clerk

Approved this 10th day of January, 2012:

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.