

MINUTES  
ZONING MEETING

TUESDAY, FEBRUARY 28, 2012

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, Enrique Garcia, Robert Gusman, Mayra P. Lindsay, James S. Taintor, Vice Mayor Michael E. Kelly and Mayor Franklin H. Caplan. Also present were Village Manager John C. Gilbert, Village Clerk Conchita H. Alvarez and Village Attorney Stephen J. Helfman.
2. **PLEDGE OF ALLEGIANCE:** Mayor Caplan led the Pledge of Allegiance.
3. **BRIEF COMMENTS BY COUNCIL:** The Mayor addressed the Council congratulating Councilmember Gusman on the birth of his first grandchild; also reported that he will be making appointments to the Youth Athletics Advisory Board at the next Council Meeting; also reported that there is a Bike Safety meeting scheduled for tomorrow and also reported that there is a school facilities and programming meeting scheduled for Friday with Intergovernmental Affairs, Facilities and Schools for Choice and also addressed the Council regarding a self-assessment which is an ongoing project.

Councilmember Davey requested clarification of the Pending Business/Pending Litigation list. This list is to serve as a reminder of pending business/litigation and not as items for discussion.

February 28, 2012

4. **SPECIAL RECOGNITION:** Chief Charles Press addressed the Council reporting that the Police Department was re-accredited last week and received a flawless accreditation report.

The Manager also addressed the Council asking Chief Press to address the Council recognizing Officer Cheryl Dufrene for her outstanding service during the recent bicycle accident on the Rickenbacker Causeway.

5. **AGENDA:** Vice Mayor Kelly requested the addition of Housekeeping as Item 10A3. There was no objection to the agenda change.

6. **APPROVAL OF MINUTES:** Vice Mayor Kelly made a motion to approve the minutes of the February 7, 2012 Regular Council Meeting. The motion was seconded by Councilmember Davey.

The Clerk reported an amendment to page 6 of the minutes by adding the following: "Tot Lot Wall Project" to the third paragraph under the Village Manager's report.

The minutes, as amended, were 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.

7. **BUILDING, ZONING AND PLANNING:** All witnesses giving testimony in the public hearing were sworn in by the Village Clerk.

Hearing Number RV 34. The applicants Edward and Amy Easton, 18 Harbor Point are requesting the following variance: The applicants are requesting to waive 7 ft. 2.5 inches of the required 15 ft. North side yard setback in order to construct an approximate 186 sq. ft. addition to the second floor over the first floor which has a 7 ft. 9.5 inches setback

Vice Mayor Kelly made a motion to approve the variance. The motion was seconded by Councilmember Lindsay.

The Manager addressed the Council recommending approval of the variance as the request is consistent with the review criteria.

The Mayor opened the public hearing. Amy and Ed Easton, 18 Harbor Point and Deborah de Leon, Architect for the owners addressed the Council. The Mayor closed the public hearing.

February 28, 2012

The variance was 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.

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

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 2-101 “QUALIFYING PERIOD” OF ARTICLE V “ELECTIONS” OF THE VILLAGE CODE OF ORDINANCES, RELATING TO THE QUALIFYING PERIOD FOR THE MAYOR AND VILLAGE COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

The Clerk and the Attorney addressed the Council recommending approval of the ordinance in order to comply with statutory deadline for the mailing of the overseas absentee ballots.

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

The ordinance was adopted on first reading 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.

The Clerk announced the second reading on March 13, 2012.

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

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-103 “HOTEL RESORT DISTRICT;” PROVIDING FOR AMENDMENTS TO SECTION 30-103(A) RELATING TO THE PURPOSE AND USES; PROVIDING FOR AMENDMENTS TO SECTION 30-103(B) RELATING TO THE DEVELOPMENT REGULATIONS; PROVIDING FOR AMENDMENTS TO SECTION 30-184 “AMOUNT OF REQUIRED OFF-STREET PARKING” RELATING TO THE REQUIRED OFF-STREET PARKING FOR HOTELS AND MOTELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

This ordinance was deferred from the January 24, 2012 Zoning Meeting.

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

February 28, 2012

The Manager addressed the Council recommending approval of the ordinance since the request is consistent with the review criteria.

The Attorney addressed the Council regarding this ordinance.

The Mayor opened the public hearing. Luis Lauredo, 201 Crandon Boulevard; Al Cardenas and Santiago Echemendia with Tew Cardenas, representing the owners of Red Dragon/Silver Sands; Katherine Connors, Real Estate Appraiser from Jacksonville, Florida, Scott W. Brush, ISHC and Carlos Cuevas, on behalf of the owners of the Silver Sands; John Shubin with Shubin and Bass representing Consultatio LLC; former Mayor Robert Vernon, 475 Ridgewood Road; Barry Goldmeier, 1000 Mariner Drive and Rafael Momene, 881 Ocean Drive addressed the Council. The Mayor closed the public hearing.

Councilmember Lindsay made a motion to amend Section 4 by striking ~~windstorm/hurricane event~~ and adding any natural disaster or other casualty. The motion was seconded by Mayor Caplan and approved by a 7-0 voice. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

Councilmember Taintor made a motion to eliminate the Motel use from Section 30-184 (a). The motion was seconded by Mayor Caplan 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.

Councilmember Gusman made a motion to continue the hearing of this ordinance to the June 12, 2012 Council Meeting. The motion was seconded by Councilmember Garcia and approved by a 5-2 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Taintor and Mayor Caplan voting Yes. Councilmember Lindsay and Vice Mayor Kelly voting No.

At this time the Council took a 10 minute recess.

The meeting was reconvened at 10:15 p.m.

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

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 8 "ENVIRONMENT" TO CREATE ARTICLE VIII "SOIL EROSION, FUGITIVE DUST AND SEDIMENT CONTROL" TO PROVIDE FOR SOIL EROSION AND SEDIMENT POLLUTANT MANAGEMENT AND CONTROL REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

*February 28, 2012*

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

The Manager addressed the Council recommending the adoption of the Ordinance which establishes regulations dealing with soil erosion, fugitive dust, and sediment control.

Alicia M. Vereza-Ferea with Tetra-Tech addressed the Council regarding this ordinance.

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

The ordinance was adopted, on second reading, 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.

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

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 8 "ENVIRONMENT" TO CREATE ARTICLE VII "STORMWATER CONTROL" IN ORDER TO PROVIDE FOR STORMWATER MANAGEMENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

The Manager addressed the Council recommending adoption of the Ordinance which establishes regulations dealing with discharges into the Village's Stormwater System.

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

The ordinance was adopted, on second reading, 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.

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

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING ENERGOV SOLUTIONS, INC. TO PROVIDE BUILDING PERMIT SOFTWARE FOR THE BUILDING, ZONING, AND PLANNING DEPARTMENT;**

February 28, 2012

**AUTHORIZING THE VILLAGE MANAGER TO NEGOTIATE AN AGREEMENT CONSISTENT WITH THE TERMS SET FORTH IN THE PROPOSAL ATTACHED AS EXHIBIT "A"; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

The Manager and Director Kurlancheek addressed the Council recommending approval of the resolution which directs the Administration to negotiate with EnerGov Solutions, L.L.C. for purposes of selecting the best permit software solution for the Building, Zoning and Planning Department. If an agreement cannot be reached, then the Administration will enter into negotiations with Computer Software Inc. who is the second ranked firm.

The Manager and Director Kurlancheek acknowledged Mr. Fred Simmons, Jr., Manager, VPM, Transit Unit from Miami-Dade County for his assistance during this process.

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.

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

Mayor and Councilmembers. Vice Mayor Kelly addressed the Council regarding Rickenbacker Causeway Safety.

It was the consensus of Council to direct staff to draft a resolution urging Miami-Dade County Commissioners to enhance the enforcement on the Rickenbacker Causeway in order to prevent more tragedies.

Councilmember Taintor addressed the Council regarding the bicycle/accident death on the Rickenbacker Causeway on Tuesday, February 14th.

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Office of the Mayor issued the following proclamation during the month of February: Dedication of the Ransom Everglades Aquatic Center.

Village Manager. The Manager updated the Council on the RFQ for a Health Insurance Broker Record of Services.

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

February 28, 2012

12. **PENDING BUSINESS/PENDING LITIGATION:** A list of pending business/pending litigation was presented to the Council.
13. **SCHEDULE OF FUTURE MEETINGS/EVENTS:** A schedule of future meetings and events was presented to the Council.
14. **ADJOURNMENT:** The meeting was adjourned at 10:55 p.m.

*Respectfully submitted:*

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*Conchita H. Alvarez, MMC  
Village Clerk*

*Approved this 13th day of March, 2012:*

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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.***