MINUTES
VILLAGE COUNCIL MEETING

TUESDAY, MAY 8, 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, James S. Taintor, Vice Mayor Michael E. Kelly and Mayor Franklin H. Caplan. Councilmember Mayra P. Lindsay was absent. Also present were Village Manager John C. Gilbert, Village Clerk Conchita H. Alvarez and Village Attorney Stephen J. Helfman.

2. **INVOCATION:** Reverend David Moran, Key Biscayne Presbyterian Church gave an invocation.

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

4. **BRIEF COMMENTS BY COUNCIL:** Councilmember Davey reminded the Council and the public that Relay for Life is this Friday; Vice Mayor Kelly pointed out that street signs is no longer on the pending list, this is due to the fact that it will be on the next agenda and the Mayor reported that the FIU Professors that were here for the Village Strategic Planning Sessions were very good.

5. **SPECIAL PRESENTATIONS:** The Mayor introduced Mr. Jose Javier Rodriguez, Candidate for the brand new State House seat which includes Key Biscayne. Mr. Rodriguez addressed the Council and the public.

6. **PUBLIC COMMENTS:** The following persons addressed the Council: Santiago Echemendia, attorney with Tew Cardenas representing the Sands; Ed Meyer, 798 Crandon Boulevard and Charles Sieger, Architect with Sieger Suarez, Miami

7. **AGENDA:** Councilmember Taintor requested to hear Item 11D1 after the approval of the minutes and also requested the addition of a discussion regarding Restaurant/Sidewalks as Item 11A1. There was no objection to the agenda changes.

8. **APPROVAL OF MINUTES:** Councilmember Davey made a motion to approve the minutes of the April 16, 2011 Special Council Meeting. The motion was seconded by Councilmember Garcia.

Councilmember Taintor requested that the following be added to the last page of the minutes of April 16, 2012: The insurance was purchased for 17 months. There was no objection to the request.

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

At this time Ms. Vivian Parks, new Finance Director for the Village of Key Biscayne, was introduced by the Village Manager to the Mayor and Council and also to the public. Ms. Parks addressed the Council.

9. **ORDINANCES:** The Clerk read the following ordinance, on first reading:

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, REPEALING CHAPTER 19 "PROPERTY MAINTENANCE" OF THE MIAMI-DADE COUNTY CODE, ADOPTED BY THE VILLAGE UPON INCORPORATION; AMENDING CHAPTER 6 "BUILDINGS AND BUILDING REGULATIONS" OF THE VILLAGE CODE OF ORDINANCES, BY CREATING ARTICLE II "PROPERTY MAINTENANCE"; PROVIDING FOR DEFINITIONS; PROVIDING FOR REGULATIONS RELATING TO STRUCTURES AND LOTS WITHIN THE VILLAGE; AMENDING THE CODE TO INCLUDE PENALTIES FOR VIOLATION OF THIS ARTICLE; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

The Manager and Jud Kurlancheek, Building, Zoning and Planning Director addressed the Council recommending approval of this Ordinance which establishes minimum property maintenance standards in all areas of the Village with the exception of single family and two family districts;

however standards for fences, pools, and spas in these areas are established due to public safety concerns.

> The Mayor opened the public hearing. Michele Estevez, 799 Crandon Boulevard addressed the Council. The Mayor closed the public hearing.

There was extensive discussion from Council regarding this ordinance, proposing several amendments to the Attorney. The Attorney will revise the ordinance for second reading by including all the proposed amendments.

The ordinance, as amended with the directions to the Attorney to make each of the corrections that have been noted during the discussions, was approved on first reading by a 6-0 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

The Clerk announced the second reading will be on June 12, 2012.

The Clerk read the following ordinance, on first reading:

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 6 "BUILDINGS AND BUILDING REGULATIONS," BY CREATING ARTICLE III "UNSAFE STRUCTURES," INCLUDING ENFORCEMENT PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

The Manager and Director Kurlancheek addressed the Council recommending approval of this Ordinance which expands the jurisdiction of the Board of Code Enforcement Special Magistrates to include prosecution of unsafe structure violations.

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

The ordinance, as amended with the directions to the Attorney to make each of the corrections that have been noted during the discussions, was approved on first reading by a 6-0 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

The Clerk announced the second reading will be on June 12, 2012.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 10 "FLOODS" IN ORDER TO UPDATE THE FLOODPLAIN MANAGEMENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

The Manager addressed the Council recommending the approval of this Ordinance which establishes regulations dealing with Flood Damage mitigation, eliminating conflicts with the 2010 Florida Building Code and complying with modifications requested by representatives of the Federal Emergency Management Agency (FEMA).

There was extensive discussion from Council regarding this ordinance.

Alicia M. Verea-Feria with Tetra Tech addressed the Council regarding this ordinance.

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

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

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING PROFESSIONAL SERVICES AGREEMENT BETWEEN THE VILLAGE OF KEY BISCAYNE AND ESTRADA HINOJOSA & COMPANY, INC., CONCERNING FINANCIAL ADVISORY SERVICES; PROVIDING FOR AN EFFECTIVE DATE.

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

The Manager addressed the Council recommending adoption of the resolution approving the Professional Services Agreement with Estrada Hinojosa & Co. for specialized financial advisory services for a term expiring on June 1, 2013, subject to further annual renewals if necessary, at the

same annual retainer of $50,000. This retainer is the same amount as originally approved on June 14, 2011.

Lourdes Abadin with Estrada Hinojosa & Company Inc. addressed the Council.

Mayor Caplan made a motion to defer this resolution to the May 22, 2012 Council Meeting. The motion was seconded by Councilmember Taintor and approved by a 5-1 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmember Gusman voting No.

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

Mayor and Councilmembers. Councilmember Taintor addressed the Council regarding restaurants in shopping centers that have tables on the sidewalks and prevent people to walk from one store to the next.

Director of Building, Zoning and Planning Director, Jud Kurlancheek addressed the Council regarding this issue.

Village Attorney. The Attorney addressed the Council regarding a possible Code amendment/ballot question for the November 6, 2012 election.

There was extensive discussion from Council on this legislation.

It was the consensus of the Council to bring this ordinance for discussion at the May 22, 2012 Council Meeting.

Village Clerk. The Clerk reported that the Mayor issued the following proclamation during the month of April: "Civility Month" as recommended by the Florida Bar's City, County Local Government Section, and to reaffirm civility as an essential virtue in public life.

Village Manager. The Manager addressed the Council regarding the Rugose Spiraling Whitefly recommending that the Council approve funding for the continuance of Whitefly control to infested vegetation with the Rugose Spiraling Whitefly not to exceed $42,000 (of which $30,000 was approved by Council on July 5th 2011). The scope of work is for systemic treatments (drenching for palms and injection for hardwoods) to the highest infested areas, previously identified by Sutton Consulting Arborist, Inc. (Village arborist), in conjunction with a natural bio-control pilot program proposed by the University of Florida, to introduce identified natural enemies of the Rugose Spiraling Whitefly.

Dr. Catharine Mannion, Associate Professor and Extension Specialist of the University of Florida addressed the Council recommending systematic treatments as the preferred method in order to obtain the best long term effect possible and to promote the presence of whitefly predators.

There was extensive discussion from Council regarding this issue.

Councilmember Davey made a motion to approve the funding for the continuance of whitefly control to infested vegetation with the Rugose Spiraling Whitefly not to exceed $42,000. The motion was seconded by Councilmember Gusman and approved by a 5-1 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Taintor and Mayor Caplan voting Yes. Vice Mayor Kelly voting No.

The Manager addressed the Council regarding beach maintenance. Mr. Robert H. Barron, Coastal Management and Consulting Coastal Growers, Inc. addressed the Council regarding the problem of recent heavy seaweed deposits.

Tim Blankenship with Coastal Systems also addressed the Council.

The Manager also addressed the Council requesting authorization to approve a proposal from Universal Beach Services Corp. (Village Contractor) in the amount of $27,000 for an emergency beach maintenance event.

Councilmember Davey made a motion to authorize the proposal from Universal Services Corp., in the amount of $27,000 for an emergency beach maintenance event. Councilmember Garcia seconded the motion and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

The Manager addressed the Council regarding the Beach Renourishment Schedule and announced that he had in his hand the Miami-Dade County DERM Permit for Beach Restoration.

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

13. **PENDING BUSINESS/PENDING LITIGATION:** A list of pending business/pending litigation was presented to the Council.

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

15. **ADJOURNMENT:** The meeting was adjourned at 10:30 p.m.

May 8, 2012

Respectfully submitted:

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Conchita H. Alvarez, MMC
Village Clerk

Approved this 12th day of June , 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.