

MINUTES

VILLAGE COUNCIL MEETING  
KEY BISCAWAYNE, FLORIDA

TUESDAY, JULY 3, 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, Acting Village Clerk Jennifer Duque and Village Attorney Stephen J. Helfman.
2. **PLEDGE OF ALLEGIANCE:** Mayor Caplan led the Pledge of Allegiance.
3. **BRIEF COMMENTS BY COUNCIL:** Vice Mayor Kelly reported to Council regarding the trucks traveling through Holiday Colony for the beach renourishment project. Vice Mayor Kelly also reported to Council regarding supporting the selection of Village Manager, John C. Gilbert. Councilmember Taintor requested a report from the Village Attorney, Stephen J. Helfman, regarding the second reading for the Hotel Resort ordinance. The Village Attorney addressed the Council providing an overall report to the Council. Councilmember Taintor requested a status report from the Village Attorney regarding the bicyclist safety on the Rickenbacker Causeway resolution. The Village Attorney addressed the Council providing an overall report to the Council. Councilmember Lindsay requested a report from the Village Attorney regarding lobbyist registration with the Village of Key Biscayne. The Village Attorney addressed the Council providing an overall report to the Council.

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4. **SPECIAL PRESENTATIONS:** The Market Company, Ms. Claire Tomlin, made a presentation to Council regarding relocating the market in a more prominent place.
5. **PUBLIC COMMENTS:** The following residents addressed the Council: Michele Estevez, 798 Crandon Boulevard; John Murray, Ocean Club General Manager; Cecil Sanchez 260 Cypress Drive and Manual Cambo 621 Harbor Drive.
6. **AGENDA:** Village Manager requested moving Item 9AE to 9AB and a discussion regarding the 4<sup>th</sup> of July Fireworks as Item 10D4.
7. **APPROVAL OF MINUTES:** There were no minutes considered by Council.
8. **ORDINANCES:** The Acting Clerk read the following ordinance on first reading, by title:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING SECTION 19-13 "PUBLIC DEMONSTRATION, GATHERINGS, PERFORMANCES, ATHLETIC EVENTS, ETC." TO REQUIRE ALL PERSONS WHO USE THE VILLAGE'S PUBLIC PARKS TO CONDUCT FITNESS CLASSES/TRAINING TO REGISTER WITH THE VILLAGE, MEET CERTAIN REQUIREMENTS AND PAY A REGISTRATION FEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; 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.

Mr. Todd Hofferberth, Parks and Recreation Director, and Mr. Stephen Helfman, Village Attorney, addressed the Council regarding the ordinance.

The Mayor opened the public hearing. Michele Estevez, 798 Crandon Boulevard addressed the Council. The Mayor closed the public hearing.

There was extensive discussion from Council discussed regarding fitness training on the Village Public Parks.

The ordinance was approved 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.

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The Acting 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 \$23,000,000 OF SCHOOL IMPROVEMENT REVENUE BONDS OF THE VILLAGE OF KEY BISCAYNE, FLORIDA FOR THE PURPOSE OF PROVIDING A PORTION OF THE FINANCING OF A PERMANENT SECONDARY EDUCATIONAL FACILITY AND RECREATIONAL FIELDS LOCATED AT THE MAST ACADEMY CAMPUS AS WELL AS NECESSARY RENOVATIONS OF THE KEY BISCAYNE K-8 CENTER; PROVIDING FOR SUPPLEMENTAL RESOLUTIONS SETTING FORTH THE DETAILS OF SAID BONDS; AND PROVIDING AN EFFECTIVE DATE.**

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

Mr. John C. Gilbert, Village Manager, Ms. Lourdes Abadin, Financial Consultant for Estrada Hinojosa & Company and Mr. Jeff de Carlo, Weiss Serota Helfman Pastoriza Cole & Boniske, P.L., addressed the Council regarding the ordinance.

The Mayor opened the public hearing. The following persons addressed the Council: Leo Brito, 775 Curtiswood Drive, Manual Cambo, 621 Harbor Drive and Heidi Brito, 775 Curtiswood Drive. The Mayor closed the public hearing.

There was extensive discussion from Council discussed regarding fitness training on the Village Public Parks.

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

**AN ORDINANCE AUTHORIZING ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH THE SCHOOL BOARD OF MIAMI-DADE COUNTY REGARDING THE FINANCING OF A PERMANENT SECONDARY EDUCATIONAL FACILITY AND RECREATIONAL FIELDS LOCATED AT THE MAST ACADEMY CAMPUS AS WELL AS NECESSARY RENOVATIONS OF THE KEY BISCAYNE K-8 CENTER AT A COST NOT TO EXCEED \$23,000,000; PROVIDING FOR AUTHORIZATION; 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.

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The Mayor addressed the Council regarding the approval of an Interlocal Agreement with the School Board of Miami-Dade County regarding the financing of a permanent secondary educational facility and recreational fields located at the MAST Academy campus.

The Mayor opened the public hearing. The following persons addressed the Council: Leo Brito, 775 Curtiswood Drive, Manual Cambo, 621 Harbor Drive, Charles Viscito, 141 Crandon Boulevard, Alan Fein, 525 Allendale Road, Evelyn Sheehan, 151 Crandon Boulevard and Heidi Brito, 775 Curtiswood Drive. The Mayor closed the public hearing.

There was discussion from Council discussing the Interlocal Agreement with the School Board of Miami-Dade County for the financing of a permanent secondary educational facility and recreational fields located at MAST Academy campus.

The Village Attorney addressed the Council regarding the approval of the Interlocal Agreement with the School Board of Miami-Dade County.

The ordinance was approved 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.

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

**A RESOLUTION OF THE VILLAGE OF KEY BISCAYNE FLORIDA; DETERMINING THE PROPOSED MILLAGE RATE, THE CURRENT YEAR ROLLED-BACK RATE, AND THE DATE, TIME AND PLACE FOR THE FIRST AND SECOND PUBLIC BUDGET HEARINGS AS REQUIRED BY LAW; DIRECTING THE CLERK AND MANAGER TO FILE SAID RESOLUTION WITH THE PROPERTY APPRAISER OF MIAMI-DADE COUNTY PURSUANT TO THE REQUIREMENTS OF FLORIDA STATUTES AND THE RULES AND REGULATIONS OF THE DEPARTMENT OF REVENUE OF THE STATE OF FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.**

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

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.

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The Acting Clerk read the following resolution by title:

**A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING A CHANGE ORDER TO THE AGREEMENT BETWEEN THE VILLAGE AND EASTMAN AGGREGATE ENTERPRISES, LLC FOR THE BEACH RENOURISHMENT PROJECT; 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 Mr. Timothy K. Blankenship, Coastal Systems International, Inc., addressed the Council regarding approval of an agreement between the Village and Eastman Aggregate Enterprises, LLC for the beach renourishment project.

There was extensive discussion from Council discussing the beach renourishment project.

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 Acting Clerk read the following resolution by title:

**A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING LEGO CONSTRUCTION COMPANY FOR THE CONSTRUCTION OF THE VILLAGE GREEN TOT LOT ENCLOSURE; AUTHORIZING THE VILLAGE MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT RELATED TO THE SAME; 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 Mr. Todd Hofferberth, Parks and Recreation Director, addressed the Council regarding the selection of LEGO Construction Company for the construction of the Village Green tot lot enclosure.

There was discussion from Council discussing the tot lot enclosure project.

Councilmember Davey made a motion to approve the resolution. The motion was seconded by Councilmember Garcia and approved by a 5-2 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Taintor and Mayor Caplan voting Yes.

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Councilmember Lindsay and Vice Mayor Kelly voting No.

The Acting Clerk read the following resolution by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE VILLAGE, ALL CO-PERMITTEES NAMED IN NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT NO. FLS000003-003 AND MIAMI-DADE COUNTY RELATING TO COSTS AND ACTIVITIES AS A RESULT OF SAID PERMIT; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

The Manager addressed the Council regarding the approval of an Interlocal Agreement between the Village, all co-permittees named in National Pollutant Discharge Elimination System (NPDES).

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 Acting Clerk read the following resolution by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING AND AWARDED A CONTRACT WITH ENERGOV SOLUTIONS, LLC TO PROVIDE BUILDING PERMIT SOFTWARE FOR THE BUILDING, ZONING AND PLANNING DEPARTMENT; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE CONTRACT FOR SUCH SOFTWARE; PROVIDING FOR IMPLEMENTATION; 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 Mr. Jud Kurlancheek, Building, Zoning and Planning Director, addressed the Council recommending approval of the resolution approving a contract with Energov Solutions, LLC to provide building permit software for the Building, Zoning and Planning department.

There was discussion from Council discussing the contract with Energov Solutions, LLC.

The resolution was approved by a 7-0 voice vote, conditional to the proper insurance provisions

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in the contract. 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. The Council did not submit a report.

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Clerk did not submit a report.

Village Manager. The Manager and Mr. Jud Kurlancheek, Building, Zoning and Planning Director, addressed the Council regarding parking strategies surrounding the Civic Center.

The Manager introduced to Council the newly hired Public Works Superintendent, Mr. Tony Brown.

The Manager addressed the Council regarding the repaving of W. Heather Drive.

The Manager addressed the Council regarding the Village of Key Biscayne Fourth of July Fireworks.

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

12. **OTHER 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 11:00 p.m.

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*Respectfully submitted:*

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*Jennifer Duque,  
Executive Assistant to the Village Manager/Acting Village Clerk*

*Approved this 3<sup>rd</sup> day of July, 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.***