MINUTES

VILLAGE COUNCIL MEETING
KEY BISCAYNE, FLORIDA

TUESDAY, APRIL 9, 2013

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, Theodore Holloway, Michael E. Kelly, Edward London, James S. Taintor, Vice Mayor Mayra Lindsay and Mayor Franklin H. Caplan. Also present were Village Manager John C. Gilbert, Village Clerk Conchita H. Alvarez and Village Attorneys Stephen J. Helfman and Chad Friedman.

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

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

4. **RICKENBACKER/BEAR CUT BRIDGE UPDATE:** The Manager addressed the Council reporting that the barrier installed by Miami-Dade County on Bear Cut Bridge has significantly reduced accidents. The Manager also reported that Mayor Gimenez presented an executed contract to the Board of County Commissioners for the design built rehabilitation of the Bear Cut Bridge.

5. **BRIEF COMMENTS BY COUNCIL:** Councilmember Davey addressed the Council regarding Kite Boarding. Councilmember Taintor addressed the Council regarding the Key Biscayne Chamber of Commerce tent at the Sony Open Tournament. Councilmember Kelly congratulated Mike Rubin with Burn's Mens Store for his retirement.

6. **SPECIAL INTRODUCTIONS:** At this time the Manager introduced Lourdes Abadin, who introduced Bob Estrada with Estrada Hinojosa, Financial Consultant to the Village.

Melissa Fernandez with MAST Academy Robotics Club addressed the Council regarding their qualification for the International Competition which will be held in Anaheim, California. Several students with the MAST Academy Robotics Club addressed the Council regarding their project.

7. **PUBLIC COMMENTS:** The following residents addressed the Council: Ernest R. Matthiensen, 151 Crandon Boulevard; Pen Cosby, 166 Harbor Drive; Gene Stearns, 250 Cape Florida Drive and Alleen Nicholson, 769 Allendale Road.

8. **AGENDA:** Councilmember Davey requested the withdrawal of Item 12A2; Councilmember London requested the removal of Item 9G from the Consent Agenda and Mayor Caplan requested to hear Items 10A1 and 10A2 after the arrival of Village Attorney Stephen Helfman. There was no objection to the agenda changes.

9. **CONSENT AGENDA:** Councilmember Davey made a motion to approve the Consent Agenda. The motion was seconded by Councilmember Kelly.

Councilmember Taintor requested to remove Items 9A and 9D from the Consent Agenda and Councilmember London requested the removal of Item 9G from the Consent Agenda.

The following Consent Agenda was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Holloway, Kelly, London, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes.

The minutes of the February 19, 2013 Special Council Meeting.

The minutes of the February 26, 2013 Zoning Meeting.

The minutes of the March 12, 2013 Zoning Meeting.

The minutes of the March 26, 2013 Special Council Meeting.

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, URGING THE COUNTY MAYOR AND BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, TO TAKE ACTION TO PRESERVE THE EXISTING PLAYING FIELDS AND LIGHTS IN CRANDON PARK; PROVIDING FOR AN EFFECTIVE DATE.

At this time the items removed from the Consent Agenda were heard.

The minutes of the February 12, 2013 Regular Council Meeting. Councilmember Taintor proposed to approve these minutes at a later meeting. There was no objection to the request.

The minutes of the March 5, 2013 Regular Council Meeting. Councilmember Taintor requested that the title of the resolution proposed by Vice Mayor Lindsay be added to the minutes, even though, this title was not included in the agenda. The minutes , as amended, were approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Holloway, Kelly, London, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes.

The Clerk read the following resolution by title:

A CAPITAL PROJECT AUTHORIZING RESOLUTION F THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, AUTHORIZING THE PURCHASE AND SUSTAINMENT OF FIRST RESPONDER TRAINING AND EQUIPMENT, INCLUDING FUNDING FOR COURSE INSTRUCTOR AND SUPPLIES FOR NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) COMPLIANCE THROUGH INCIDENT COMMAND SYSTEM (ICS) TRAINING; APPROVING THE INTERLOCAL AGREEMENT FOR JOINT COMPLETION OF AN URBAN AREAS SECURITY INITIATIVE PROGRAM BETWEEN THE CITY OF MIAMI AND THE VILLLAGE OF KEY BISCAYNE FOR THE PURPOSE OF CARRYING OUT FY2011 URBAN AREAS SECURITY INITIATIVE PROGRAM OBJECTIVES; AUTHORIZING VILLAGE MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Davey made a motion to approve the resolution. The motion was seconded by Councilmember Kelly and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Holloway, Kelly, London, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes.

At this time Items 11A and 11B were heard.

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

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING A DONATION OF $17,000 TO THE KEY BISCAYNE COMMUNITY FOUNDATION, INC. TO BE USED FOR A CAT TRAP-NEUTER-RETURN (TNR) PROGRAM; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

The Manager addressed the Council regarding this resolution.

Councilmember Davey made a motion to approve the resolution. The motion was seconded by Councilmember Kelly and approved by a 7-0 roll call vote. The vote was as follows: Councilmembers Davey, Holloway, Kelly, London, Taintor, Vice Mayor Lindsay 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, AUTHORIZING BINGO GAMES, IN ACCORDANCE WITH SECTION 849.0931, FLORIDA STATUTES, TO BE PLAYED AT ANY MUNICIPAL PROPERTY; PERMITTING THE ACTIVE SENIORS ON THE KEY (ASK) CLUB TO PLAY BINGO AT THE VILLAGE COMMUNITY CENTER; AND PROVIDING FOR AN EFFECTIVE DATE.

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

The Attorney addressed the Council regarding this resolution.

Councilmember Taintor made an amending motion to eliminate "Community Center" and insert "any municipal property". The motion was seconded by Vice Mayor Lindsay and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Holloway, Kelly, London, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes.

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

At this time Item 12A was heard.

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

Mayor and Councilmembers. Councilmember Holloway addressed the Council requesting that the Mayor appoint a committee to confirm the status of items from the "Village Goes Green Initiative". The Manager addressed the Council regarding this issue. It was the consensus of Council to form such a committee consisting of five members. The Mayor requested that the Council submit names for this committee for appointment at a later meeting.

Councilmember Holloway also addressed the Council proposing to direct the Manager to identify potential lobbyists to represent the Council's interest at Miami-Dade County. It was the consensus of Council to direct the Manager to identify a potential lobbyist to represent the Council's interest at Miami-Dade County.

At this time Items 10A and 10B were heard.

10. **ORDINANCES:** The Clerk read the following ordinance on second reading, by title:

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 30 "ZONING AND LAND DEVELOPMENT REGULATIONS" BY AMENDING ARTICLE II "DEFINITIONS," SECTION 30-11, BY CREATING A "PERMANENT HARDSCAPE FEATURE" DEFINITION, AND AMENDING ARTICLE IX "LANDSCAPE REGULATIONS," SECTION 30-235, RELATING TO TREE REMOVAL PERMIT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

This ordinance is continued from the March 12, 2013 Council Meeting.

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

The Attorney addressed the Council regarding this ordinance.

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

Mayor Caplan made an amending motion that if a tree is dead, it doesn't require an arborist to certify that the tree is dead. The motion was seconded by Vice Mayor Lindsay and approved by a 5-2 voice vote. The vote was as follows: Councilmembers Holloway, Kelly, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes. Councilmembers Davey and London voting No.

The ordinance, as amended, was approved by a 5-2 roll call vote. The vote was as follows: Councilmembers Holloway, Kelly, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes. Councilmembers Davey and London voting No.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, CREATING CHAPTER 5 "PROPERTY MAINTENANCE STANDARDS;" PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

It was the consensus of Council to continue the second reading of this ordinance to the May 14, 2013 Council Meeting.

At this time Item 11C was heard.

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, RATIFYING AGREEMENTS FOR APPRAISAL SERVICES WITH INVESTORS RESEARCH ASSOCIATES, INC. AND WARONKER & ROSEN, INC.; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR EFFECTIVE DATE.

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

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

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

At this time Item 12A1 was heard.

Councilmember Kelly addressed the Counncil requesting that the Manager address the Village's policy for trees on the swale.

Councilmember Kelly made a motion that the Manager should follow the same policies set forth in the tree ordinance for trees on the swale. The motion was seconded by Councilmember Taintor and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Holloway, Kelly, London, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes.

At this time Item 12A5 and 12A6 were heard.

Councilmember Holloway also discussed with the Council the creation of a Citizens Academy open to all Key Biscayne residents. Councilmember Holloway included the below informational link. http://www.floridaleagueofcities.com/Assets/Files/Publications/CitizensAcademyGuide.pdf

The Manager addressed the Council regarding the Citizens Academy.

Councilmember Davey made a motion to create a Citizens Academy, the motion was seconded by Councilmember Kelly and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Holloway, Kelly, London, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes.

Councilmember Taintor addressed the Council regarding the Villa Harbor vested rights application.

The Attorney addressed the Council regarding the vested rights application for Villa Harbor. There was extensive discussion from Council regarding this issue.

At this time Item 12D3 was heard.

Village Manager. The Manager also addressed the Council giving an update on the Dog Park and will give a more detailed report at the May 14th Council Meeting.

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Office of the Mayor issued the following proclamations during the months of March and April: Key Biscayne Fire Rescue Day and Water Conservation Month.

At this time Item 12D2 was heard.

The Manager addressed the Council regarding the proposals received for the Strategic Planning Session. The Manager is requesting approval from Council to approve a resolution at a future meeting approving SMCOV as the consultant to guide the strategic planning process for the upcoming fiscal year.

It was the consensus of Council to direct the Manager the bring this item back including an offsite location. This item will be heard at a short Council Meeting followed by the Zoning Workshop scheduled for April 23, 2013.

The Manager addressed the Council requesting authorization to negotiate a contract to install athletic field lighting on the Village Green North.

> Alex Miller, 575 Crandon Boulevard addressed the Council regarding lighting the Village Green North.

Parks and Recreation Director Todd Hofferberth addressed the Council regarding the lights on the Green.

Councilmember Kelly made a motion to authorize the Village Manager to negotiate a contract to install athletic field lighting on the Village Green North with the component of some type of lens that will make the lights less intrusive to the neighbors. The motion was seconded by Vice Mayor Lindsay and approved by a 4-2 voice vote. The vote was as follows: Councilmembers Kelly, London, Vice Mayor Lindsay and Mayor Caplan voting Yes. Councilmembers Davey and Taintor voting No. Councilmember Holloway was out of the room at the time the vote was taken.

At this time the Attorney addressed the Council regarding two proposals from the following engineering firms: Simpson Gumpertz & Heger and New Millennium for assessment and evaluation of the repair options for the Bear Cut Bridge.

Councilmember Holloway made a motion to extend the meeting to 11:05 p.m. The motion was seconded by Councilmember Davey and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Holloway, Kelly, London, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes.

There was expensive discussion from Council regarding Bear Cut Bridge.

Councilmember Davey made a motion to extend the meeting to 11:30 p.m. The motion was seconded by Councilmember Holloway and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Holloway, Kelly, London, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes.

Gene Stearns, 250 Cape Florida Drive addressed the Council.

Councilmember Kelly made a motion to authorize the Manager to engage a qualified structural engineering firm, with bridge expertise, for the specific purpose of studying and providing a written report and analysis on whether the foundation system of the Bridge, including the pilings for an amount not to exceed $50,000. The motion was seconded by Councilmember Davey and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Holloway, Kelly, London, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes.

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

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

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

16. **ADJOURNMENT:** The meeting was adjourned at 11:25 pm

Respectfully submitted:

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Conchita H. Alvarez, MMC
Village Clerk

Approved this __ day of __May__ 2013:

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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.