

MINUTES

VILLAGE COUNCIL MEETING  
KEY-BISCAYNE, FLORIDA

TUESDAY, AUGUST 27, 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 Attorney Stephen J. Helfman.
2. **INVOCATION:** Reverend Susan Bruttell, St. Christopher by the Sea, gave an invocation.
3. **PLEDGE OF ALLEGIANCE:** Mayor Caplan led the Pledge of Allegiance.

The Attorney announced that Item 8A, Administration appeal on property located at 12-22-24 Crandon Boulevard, was withdrawn by the property owners.

4. **RICKENBACKER/BEAR CUT BRIDGE UPDATE:** Mr. Antonio Cotarelo, Miami-Dade County Engineer addressed the Council regarding the rehabilitation of the Bear Cut Bridge. Mr. Frank Digilio with Kiewit addressed the Council reporting that the Bridge will be rehabilitated to the same standards as when the bridge was constructed. Mr. Timothy Noles, Principal, Hardesty & Hanover addressed the Council regarding the structure of the bridge.

There was extensive discussion from Council regarding the Bear Cut Bridge.

The following resident addressed the Council: Carlos de la Cruz, 5 Harbor Point.

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5. **BRIEF COMMENTS BY COUNCIL:** Councilmember Kelly addressed the Council addressing the public to please drive at 25 miles on the bridge while it is under construction and Vice Mayor Lindsay addressed the Council stating that Commissioner Suarez attended the meeting where the bridge was discussed and is willing to hold a Workshop in the Village regarding the Bridge .

6. **AGENDA:** Councilmember Davey requested the addition of a discussion regarding the land underneath the Beach Club as Item 11A5 and the Village Manager requested the addition of a discussion regarding a joint agreement with MAST. There was no objection to the agenda changes.

7. **CONSENT AGENDA:** Councilmember Kelly requested to remove Items 7G and 7H from the Consent Agenda.

Councilmember Davey made a motion to approve the remainder of the consent agenda. The motion was seconded by Mayor Caplan 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 minutes of the June 18, 2013 Budget Workshop.

The minutes of the June 25, 2013 Regular Council Meeting.

The minutes of the July 2, 2013 Regular Council Meeting.

The minutes of the August 13, 2013 Special Council Meeting.

**A RESOLUTION OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 3 OF RESOLUTION 2013-24 RELATING TO THE BUDGET PUBLIC HEARING DATES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING THE SECOND AMENDMENT TO LEASE AGREEMENT BY AND BETWEEN THE VILLAGE OF KEY BISCAYNE, FLORIDA, AND THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, IN SUBSTANTIALLY THE FORM ATTACHED AS EXHIBIT "A"; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

The Clerk read the following resolution by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING A GRANT AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE VILLAGE FOR**

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**IMPROVEMENTS TO THE VILLAGE GREEN; AND 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.

The Clerk read the following resolution by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO PARTICIPATE IN THE MIAMI-DADE COUNTY PROPERTY APPRAISER'S TASK FORCE TO INVESTIGATE HOMESTEAD EXEMPTION FRAUD WITHIN THE VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

Chief of Police Charles Press addressed the Council regarding this resolution.

It was the consensus of Council to table this resolution to the October 8, 2013 Council Meeting.

8. **BUILDING, ZONING AND PLANNING:** 12-22-24 Crandon Boulevard: Appeal of an Administration Decision by the Building, Zoning and Planning Director. This item was withdrawn by the property owners.

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

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, REZONING PROPERTY LOCATED AT 971 CRANDON BOULEVARD FROM O-1 LIGHT INTENSITY OFFICE TO C-1 LIGHT INTENSITY COMMERCIAL; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

The Manager and Director Kurlancheek addressed the Council recommending approval of the ordinance based on the determination that the request is consistent with the Land Use designation in the Master Plan and the change of zoning criteria as set forth Zoning and Land Development Regulations.

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The Mayor opened the public hearing. Patricia Romano, 361 Beachwood Drive; Patricia Peralta, 761 Woodcrest Drive; Jim O'Neill, 210 Seaview Drive; Michael Hubbard, Providence Management and Roberto Matus, Attorney representing the owners of L'Esplannade addressed the Council. The Mayor closed the public hearing.

The Attorney also addressed the Council regarding the uses allowed in the ordinance.

The ordinance was adopted on first reading by a 6-1 roll call vote. The vote was as follows: Councilmembers Davey, Holloway, London, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes. Councilmember Kelly voting No.

The Clerk announced the second reading of this ordinance will be on October 8, 2013.

At this time the Manager introduced MAST Academy Principal, Ms. Josephine Otero. Ms. Otero addressed the Council.

10. **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 \$2,316 TO THE KEY BISCAYNE COMMUNITY FOUNDATION, INC. (KBCF) FOR VILLAGE VOLLEYBALL PROGRAMS; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

The Clerk reminded the Council that pursuant to the Charter all donations or charitable contributions need to be approved by a unanimous vote of the Council.

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

The Manager and Vice Mayor Lindsay addressed the Council regarding this resolution.

Jill Stephens, 159 East Enid Drive addressed the Council.

Todd Hofferberth, Parks and Recreation Director also addressed the 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.

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

Mayor and Councilmembers. Mayor Caplan, with consensus of Council, reappointed Pension Board Trustee Martha Broucek to a two year term, commencing on August 30, 2013.

Councilmember Holloway addressed the Council proposing to eliminate all fees associated with Business Tax Receipts (approximately \$100,000 in revenue per year) based on the intent to be fair to businesses operating within the Village in today's economy.

Director Kurlancheek addressed the Council regarding the fees associated with Business Tax Receipts.

The Village Attorney addressed the Council regarding this issue informing the Council that if the Council wants to go ahead with eliminating the Business Tax it will require an ordinance approved in first and second reading.

Councilmember Davey made a motion to hear the first reading of the ordinance eliminating the Business Tax on September 3, 2013. The motion was seconded by Councilmember London and failed by a 3-4 voice vote. The vote was as follows: Councilmembers Davey, Holloway and London voting Yes. Councilmembers Kelly, Taintor, Vice Mayor Lindsay and Mayor Caplan voting No.

Councilmember Kelly made a motion to hear the first reading of the ordinance eliminating the Business Tax on October 8, 2013. 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.

The Mayor provided for the information of Council and the public the comments on Consent Decree regarding the Miami-Dade County Wastewater Treatment Plants and alleged violations of the Federal Clean Water Act, NPDES Permit Conditions, and the Florida Air and Water Pollution Control Act. This information was also presented to the Miami-Dade League of Cities and will also be presented to the National League of Cities.

The Mayor also addressed the Council regarding a gymnasium at MAST. There was extensive discussion from Council regarding this issue.

Councilmember Davey addressed the Council regarding the land underneath the Beach Club. It was the consensus of Council to write a letter to the owners of the property and find out if they are interested in selling the land to the Village.

Village Attorney. The Attorney did not submit a report.

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Village Clerk. The Clerk did not submit a report.

Village Manager. The Manager addressed the Council regarding a joint use agreement with MAST Academy Fields. This item will be presented to Council at the September 3, 2013 Council Meeting. There was extensive discussion from Council regarding the gymnasium.

The Manager submitted, as requested by Council, a staff report on how other municipalities in South Florida are addressing the installation of artificial grass.

Mayor Caplan made a motion directing staff to draft an ordinance addressing the artificial grass for first reading at the first available meeting. The motion was seconded by Councilmember Kelly 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.

12. **OTHER BUSINESS/GENERAL DISCUSSION:** There was no further business discussed.
13. **PENDING BUSINESS/PENDING LITIGATION:** A list of pending business/litigation was presented to the Council.
14. **SCHEDULE OF FUTURE MEETINGS/EVENTS:** A schedule of future meetings and events was presented to the Council.
15. **ADJOURNMENT:** The meeting was adjourned at 10:05 p.m.

*Respectfully submitted:*

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*Conchita H. Alvarez, MMC*  
*Village Clerk*

*Approved this 3rd day of September 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.***