



VILLAGE OF KEY BISCAIYNE

Office of the Village Manager

MEMORANDUM

Village Council
Franklin H. Caplan, *Mayor*
Mayra P. Lindsay, *Vice Mayor*
Michael W. Davey
Theodore J. Holloway
Michael E. Kelly
Ed London
James S. Taintor

Village Manager
John C. Gilbert

DATE: November 12, 2013

TO: Honorable Mayor and Members of the Village Council

FROM: John C. Gilbert, Village Manager

RE: Red Light Traffic Camera "Local Hearing Officer Appointment"

RECOMMENDATION

It is recommended that the Village Council consider the Village Manager's appointment of Mr. Forrest G. McSurdy to serve as the Village's Local Hearing Officer to conduct hearings related to violations of Section 316.0083 of the Florida Statutes and Section 26-46 of the Village Code of Ordinances (Red Light Traffic Camera Violations).

The cost of the Local Hearing Officer will be \$250.00 per hearing. The first Red Light Traffic Camera hearing will be held Wednesday, December 18th, 2013, and then four (4) hearings annually (in January, April, July and October).

BACKGROUND

Florida Statutes Section 316.0083 entitled, "Mark Wandall Traffic Safety Program", as amended on July 1, 2013, was adopted by the Village of Key Biscayne via Ordinance 2013-6 amending Chapter 26 of the Village Code of Ordinances (the "Village Code") to comply with the provisions of the amended Statute.

Section 26-46; entitled "Definitions" and "Local Hearing Officer" directed the Village Manager to appoint a "Local Hearing Officer" authorized to conduct hearings related to a notice of violation issued pursuant to Florida State Statues 316.0083, and this enabling Ordinance. This Section also called for the ratification of the appointment by the Village Council.

Section 26-52; entitled "Notice of Violation Hearing Procedures" states in part: "A Petitioner who elects to request a hearing shall be scheduled for a hearing by the clerk of the Local Hearing Officer to appear before a Local Hearing Officer with notice to be

sent by first-class mail”; “The Local Hearing Officer shall take testimony from a traffic infraction enforcement officer and the Petitioner, and may take testimony from others. The Local Hearing Officer shall review the photographic or electronic images or the streaming video made available under F.S. § 316.0083(1)(b)1.b., as amended. Formal rules of evidence do not apply, but due process shall be observed and govern the proceedings”; and “At the conclusion of the hearing, the Local Hearing Officer shall determine whether a violation under F.S. § 316.0083, as amended, has occurred, in which case the hearing officer shall uphold or dismiss the violation. The Local Hearing Officer shall issue a final administrative order including the determination and, if the notice of violation is upheld, require the Petitioner to pay the penalty assessed.”

Mr. McSurdy has been an elector of the Village of Key Biscayne since 1991. For the past 32 years in the Miami area, Mr. McSurdy has been practicing law as a good standing member of the Florida Bar. Mr. McSurdy has the experience and qualifications to responsibly and professionally perform the requisite duties (see attached Resume).

Mr. McSurdy is also being recommended by the Police Department who received applications and conducted interviews for this position.

Mr. Chad Freidman from Weiss Serota Helfman Pastoriza Cole & Boniske provided Resolution and attests to form and legal sufficiency.

RESOLUTION NO. 2013-

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, RATIFYING THE VILLAGE MANAGER'S APPOINTMENT OF FORREST G. MCSURDY AS THE LOCAL HEARING OFFICER AUTHORIZED TO CONDUCT HEARINGS RELATED TO A NOTICE OF VIOLATION ISSUED PURSUANT TO SECTION 316.0083, FLORIDA STATUTES AND SECTION 26-46 OF THE CODE OF ORDINANCES OF THE VILLAGE OF KEY BISCAYNE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne, Florida (the "Village") wishes to conduct hearings related to notices of violation that are issued pursuant to Section 316.0083, Florida Statutes, and Section 26-46 of the Village Code of Ordinances; and

WHEREAS, in order to issue said notices of violation, the Village must appoint a Local Hearing Officer to conduct hearings related to those violations; and

WHEREAS, the Village has determined that Forrest G. McSurdy has the requisite qualifications and experience to perform the duties of the Local Hearing Officer (see attached Résumé as Exhibit "A"); and

WHEREAS, the Village Council has determined that it is in the best interests of the Village to ratify Forrest G. McSurdy as the Local Hearing Officer.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. Ratification. The Village Council hereby ratifies the appointment of Forrest G. McSurdy as the Local Hearing Officer.

Section 3. **Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED this 12th day of November, 2013.

MAYOR FRANKLIN H. CAPLAN

ATTEST:

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

Exhibit A

(All Documents behind Resolution)

Forrest G. McSurdy
785 Crandon Boulevard, #906
Key Biscayne, Florida 33149
(305) 361-8151
fgmcsurdy@comcast.net

Employment:

Stern & McSurdy, P.A. Plantation, Florida	October 1999 to present Partner - Commercial and construction loan foreclosures & foreclosure appellate work
David J. Stern, P.A. Plantation, Florida	December 1995 to present Foreclosure litigation department head & General Counsel
McDermott, Will & Emery Miami, Florida	July 1991 to Dec. 1995 Partner - Real estate litigation
Hauser & McSurdy, P.A. Miami, Florida	Jan. 1990 to July 1991 Partner - Real estate
McDermott, Will & Emery Miami, Florida	Feb. 1987 to Jan. 1990 Partner - Real estate
Hauser & Metsch, P.A.	Sept. 1984 to February 1987 Associate - Real estate
Paul, Landy, Beiley & Harper Miami, Florida	March 1982 - Sept. 1984 Associate - Litigation
Hall & Hauser, P.A. Miami, Florida	Oct. 1981 - March 1982 Associate - Litigation

Education:

University of South Florida Trust School Tampa, Florida (Florida Bankers Association)	Graduate 1999
University of Miami School of Law Coral Gables, Florida	J.D. 1981
Dickinson College Carlisle, Pennsylvania	B.A. 1978

Admitted:

Florida Supreme Court	October 1981
United States District Court Southern District of Florida	December 1981
United States Court of Appeals Eleventh Circuit	January 1982

Other:

Adjunct Law Professor University of Miami School of Law	1987 - 1991
Old Republic National Title Insurance Co. through Attorneys Title Insurance Fund	1987 to present
Treasurer, Campaigns to Elect Robert Oldakowski, Mayor, Key Biscayne	2002 & 2004