



V I L L A G E O F K E Y B I S C A Y N E

Office of the Village Manager

MEMORANDUM

Village Council

Franklin H. Caplan, *Mayor*

Michael W. Davey, *Vice Mayor*

Theodore J. Holloway

Michael E. Kelly

Mayra P. Lindsay

Ed London

James S. Taintor

Village Manager

John C. Gilbert

DATE: March 4, 2014

TO: Honorable Mayor and Members of the Village Council

FROM: John C. Gilbert, Village Manager

RE: Beach Park Ordinance

RECOMMENDATION

It is recommended that the Village Council review and comment upon the proposed Ordinance addressing prohibiting certain uses at the Village Beach Park.

BACKGROUND

The Village Council directed the Village Manager to research this matter during the December 10, 2013 Beach Workshop meeting. The memo attached as Exhibit "B" was provided to the Village Council at this meeting.

There have been a multitude of examples where the Beach Park has been used for weddings, large parties and animal shows. The Village code currently does not prohibit these activities at this facility; therefore, the Village is unable to address these activities when they occur.

The Beach Park was designed as a passive park with the goal of providing convenient and easy access to the waterfront for all residents. The park amenities were designed to provide a quality park and open space experience for the recreational enjoyment of all residents. The Village obtained the park in an agreement with the private developer Ocean Club. As part of the agreement, the Village received title to a 5.5-acre strip of land to be used as parkland. The estimated value of the land at the time was \$5,130,000. The agreement prohibited uses that would be deemed a nuisance.

The Parks and Recreation Department has received numerous complaints that the type of activities taking place at this park are interfering with the resident's park access and creates a nuisance to the adjoining property owners and users of the park.

The proposed Ordinance addressing these issues is attached as Exhibit "A".

Reviewed by Mr. Chad Friedman from Weiss Serota Helfman Pastoriza Cole & Boniske as to form and legal sufficiency.

Exhibit A

ORDINANCE NO. 2014-

AN ORDINANCE OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, AMENDING SECTION 19-13 “PUBLIC DEMONSTRATION, GATHERINGS, PERFORMANCES, ATHLETIC EVENTS, ETC.” OF THE VILLAGE CODE OF ORDINANCES PROHIBITING PARTY RENTALS, WEDDINGS AND ANIMAL SHOWS AT THE VILLAGE BEACH PARK; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the “Village”) currently has regulations governing prohibited activities in its parks; and

WHEREAS, the Village Council desires to amend the Village Code of Ordinances to include the prohibition of party rentals, weddings and animal shows at the Village’s Beach Park; and

WHEREAS, the Village finds that the adoption of this Ordinance is in the best interest and welfare of the residents of the Village.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, AS FOLLOWS¹:

Section 1. Recitals. That the above-cited recitals are hereby confirmed and adopted.

Section 2. Section 19-13 of the Village Code Amended. That Section 19-13 of the Code of the Village of Key Biscayne, Florida, is hereby amended to read as follows:

Sec. 19-13. Public demonstration, gatherings, performances, athletic events, etc.

(c) Party rentals, weddings, or animal shows shall be prohibited at the Village’s Beach Park.

¹ Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text. Highlighted words are changes made between First and Second Reading.

Section 3. **Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. **Inclusion in the Code.** That it is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Village of Key Biscayne, that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 5. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this ____ day of _____, 2014.

PASSED AND ADOPTED on second reading this ____ day of _____, 2014.

MAYOR FRANKLIN H. CAPLAN

ATTEST:

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

Exhibit B

MEMORANDUM

DATE: March 4, 2014
TO: John C. Gilbert, Village Manager
FROM: Todd Hofferberth, Parks and Recreation
RE: Ocean Front Park Use

RECOMMENDATION

It is recommended that a discussion take place regarding the management of the Village's Ocean Front Park (Beach Park).

BACKGROUND

The Parks and Recreation Department has received complaints regarding the various activities taking place at the Ocean Front Park. The Village's code does not restrict many of the activities taking place. The Department is seeking direction to address this matter. The Department is open to all suggestions as to how the community would like to see this facility managed. The park can continue to be used without reservation or restriction beyond what is currently provided in the Village's code. A reservation permit process can be created describing the permitted types of activities that may take place. The park can be deemed a passive park where the activities are restricted to passive uses only. In addition, the park currently does not have hours of operation. The park has experienced a good deal of vandalism between the hours of midnight and six (6) in the morning.

Sec. 19-13. Public demonstration, gatherings, performances, athletic events, etc.

(a)

No band, procession, military company, or any company or group with flags, banners, or transparencies, shall be allowed upon any park or parkway or within any park without written permission of the Village Council of the Village of Key Biscayne, said permit to clearly define the nature of the activity, the limit of its scope and time of setting forth such other restrictions and requirements as the Village may deem necessary.

(b)

No person or persons shall engage in any organized or pick-up athletic events, games, practice for same, or exercise, such as football, baseball, softball, soccer, volleyball, utilizing a substantial portion of any park or recreation area without written permit of the Recreation Department, said permit to clearly define the nature of the activity, the limit of its scope and time and setting forth such other restrictions and requirements as the Recreation Department may deem necessary.

