

MINUTES

VILLAGE COUNCIL MEETING
KEY BISCAZYNE, FLORIDA

TUESDAY, APRIL 12, 2011

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 Genaro “Chip” Iglesias, Village Clerk Conchita H. Alvarez and Village Attorney Stephen J. Helfman.
2. **INVOCATION:** Reverend Bud Schroeder, Key Biscayne Community Church gave an invocation.
3. **PLEDGE OF ALLEGIANCE:** Mayor Caplan led the Pledge of Allegiance.
4. **SPECIAL PRESENTATIONS:** Mr. Michael Futterman, CPA, Audit Partner with Marcum LLP presented to the Council the 2010 Comprehensive Annual Financial Report.
5. **PUBLIC COMMENTS:** The following resident addressed the Council: Ed Meyer, 798 Crandon Boulevard.
6. **AGENDA:** Councilmember Davey requested to hear Item 10D2 together with Item 8A1; Councilmember Kelly requested to hear Item 10A5 before Item 10A1; Councilmember Taintor

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requested the addition of a discussion regarding out of control parties as Item 10A8; the Attorney requested the addition of a request for an Executive Session as Item 10B1 and also requested the addition of an announcement regarding an Essay Competition sponsored by the firm as Item 10B2; Mayor Caplan requested the addition of some remarks on the passing of Mr. Frank Burke as Item 10A9 and also requested the addition of a discussion regarding vacation rentals as Item 10A10. There was no objection to the agenda changes.

7. **APPROVAL OF MINUTES:** Councilmember Davey made a motion to approve the minutes of the March 15, 2011 Zoning Meeting. The motion was seconded by Councilmember Garcia and 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.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, AMENDING SECTION 4-32 "PROHIBITED WATER ACTIVITY" CREATING A VESSEL EXCLUSION ZONE/SWIM AREA GENERALLY LOCATED WEST OF 380 HARBOR DRIVE TO 485 W. MATHESON DRIVE AS FURTHER DESCRIBED ON EXHIBIT "A"; PROVIDING FOR GENERAL EXCEPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

The Manager addressed the Council recommending the adoption of the ordinance creating a vessel exclusion zone/swim area for the area located west of 380 Harbor Drive to 485 W. Matheson Drive. Coastal Systems International conducted a preliminary consultation with the regulatory agencies that would have oversight of a permit requesting placement of buoys and they were advised by Florida Fish and Wildlife Commission that an ordinance creating such an area would be required and also a Uniform Waterways Marker Permit. This is the first step of proceeding with seeking approval for buoy placement for such purpose. There are several regulatory agencies, Fish and Wildlife Commission, State of Florida Department of Environmental Protection, Miami-Dade County Environmental Resources Management which would review any permits submitted to place buoys in the aforementioned area.

Ms. Penny Cut with Coastal Systems International addressed the Council.

The Mayor opened the public hearing. Yvonne Alvarez, 452 Harbor Drive, addressed the Council. The Mayor closed the public hearing.

There was extensive discussion from Council regarding this ordinance.

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It was the consensus of Council to amend the ordinance as follows: 1.) Amend the swim area from 398 Harbor Drive to 485 W. Matheson Drive; 2.) Change the location of the buoy system from west of the 398 to 485 W. Matheson Drive running parallel to the natural curvature of the beach; 3.) Amend Section 4-32. Prohibited water activity subsection (3) to remove “emergency or chase boats, motorboats or personal watercraft” and replace with “vessels used solely for”.

The ordinance, as amended, was adopted on first reading by a 5-2 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmembers Gusman and Lindsay voting No.

It was the consensus of Council to defer Item 10D2 in order to obtain other bids to do this project.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, ESTABLISHING CHAPTER 31 ENTITLED “PARKS AND RECREATIONAL OPEN SPACE LANDS TRUST FUND” OF THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Davey made a motion to approve the ordinance on second reading. The motion was seconded by Councilmember Garcia.

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

The ordinance was adopted, on second reading, by a 5-2 roll call vote. The vote was as follows: Councilmembers Davey, Gusman, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmembers Garcia and Lindsay voting No.

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

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING POLLUTION ELIMINATION CORPORATION (D/B/A PELCO) FOR THE OCEAN LANE PUMP STATION OL-1 VALVE REPLACEMENT PROJECT; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AGREEMENT RELATED TO THE SAME; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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The Manager addressed the Council recommending that the Village Council award the construction contract for the Valve Replacement at the Ocean Lane Drive Pump Station to Pelco, Inc.

Ramon Castella with C3TS addressed the Council regarding this 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 Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING H & R PAVING, INC. FOR THE MASHTA ISLAND RESURFACING IMPROVEMENTS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AGREEMENT RELATED TO THE SAME; AND PROVIDING FOR AN EFFECTIVE DATE.

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

The Manager addressed the Council recommending that the Village Council award the construction contract for the Mashta Island Resurfacing Improvements and Village Green Walking Path Resurfacing to H & R Paving, Inc.

Ramon Castella with C3TS addressed the Council regarding this 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.

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

Mayor and Councilmembers. At this time Item 10A5 was heard. Vice Mayor Kelly addressed the Council regarding the draft HR ordinance before the Council.

There was extensive discussion from Council regarding this proposed ordinance. The Attorney also addressed the Council regarding the proposed ordinance.

Julio Padilla, 325 Atlantic Road addressed the Council.

It was the consensus of Council to extend the meeting to 11:15 p.m.

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It was also the consensus of Council to place the HR Ordinance and an alternate for first reading on the May 10th agenda.

At this time Item 10A6 was heard. Councilmember Garcia requested an update report on the Beach Renourishment Project from the Manager.

Ms. Cut with Coastal Systems International gave an update report regarding this project.

Village Attorney. The Attorney requested an Executive Session regarding the Padilla litigation.

The Attorney also addressed the Council announcing an Essay Competition sponsored by the firm celebrating its 20th anniversary this year and also for serving as Village Attorney for the past 20 years. The essay contest asks students who are enrolled as a senior in high school to submit entries entitled "Why My Village is Special," highlighting why they consider their Village is a great place to live.

At this time there was consensus from Council to extend the meeting to 11:30 p.m.

The Mayor addressed the Council regarding vacation rentals as it relates to a proposed legislation by both Houses of the Florida Legislation.

There was consensus from Council to bring this issue back before Council in the form of an ordinance for first reading to the next Council Meeting.

The Mayor addressed the Council regarding Key Biscayne's presence at the Sony Ericsson Open.

Village Clerk. The Clerk announced that the Office of the Mayor issued the following proclamations during the month of April: proclaiming the month of April as Water Conservation month and proclaiming the week of April 13-23, 2011 as Childhood Cancer Awareness Week.

Village Manager. The Manager did not submit a report.

11. **OTHER BUSINESS/GENERAL DISCUSSION:** There was no further business discussed.
12. **SCHEDULE OF FUTURE MEETINGS/EVENTS:** A schedule of future meetings and events was presented to the Council.
13. **ADJOURNMENT:** The meeting was adjourned at 11:30 p.m.

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Respectfully submitted:

*Conchita H. Alvarez, MMC
Village Clerk*

Approved this 26th day of April, 2011:

*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.