MINUTES

VILLAGE COUNCIL MEETING
KEY BISCAYNE, FLORIDA

TUESDAY, JUNE 11, 2013

COUNCIL CHAMBER
560 CRANDON BOULEVARD

1. **CALL TO ORDER/ROLL CALL OF MEMBERS:** The meeting was called to order by the Mayor at 7:15 p.m. Present were Councilmembers Michael W. Davey, Theodore Holloway, Edward London, Michael E. Kelly, 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:** Monsignor Jose Luis Hernando, St. Agnes Catholic Church was unable to attend the meeting.

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

4. **SPECIAL INTRODUCTIONS:** Representative Jose Javier Rodriguez addressed the Council giving a brief Legislative Session update.

Mr. Manny Reyes with Gomez Barker & Associates, Village's Lobbyist, also addressed the Council giving a more extensive Legislative Session update.

Mr. George Herrera, CPA, Audit Partner with Marcum LLP presented to the Council the 2012 Comprehensive Annual Financial Report.

Chief of Fire Rescue Eric Lang addressed the Council giving an update on the Fire Department Accreditation process.

Deputy Police Chief Joe Monteagudo and D.A.R.E. Officer Vicky Hernandez introduced Cross Guard James Farrell and recognized him for his twenty years of service to the Village.

5. **RICKENBACKER/BEAR CUT BRIDGE UPDATE:** Mr. Frank Digilio with Kiewit Infrastructure Group addressed the Council. Mr. Eugenio Ochoa with Millennium also addressed the Council.

6. **BRIEF COMMENTS BY COUNCIL:** Mayor Caplan congratulated the Village Clerk for her twenty years of service to this community.

7. **PUBLIC COMMENTS:** The following residents addressed the Council: Michele Estevez, 798 Crandon Boulevard; Patricia Woodson, 940 Mariner Drive; Jim O'Neill, 210 Seaview Drive; Catherine Dowd, 101 Ocean Lane Drive; Betty Sime Conroy, 785 Crandon Boulevard; Robert Matus, Attorney for L'Esplannade; Michael Hubbard, L'Esplannade Condo Association; Patricia Romano, 361 Beechwood; Patricia Peralta, 761 Woodcrest Road; Timothy Stickney, addressed the Council.

8. **AGENDA:** Councilmember Taintor requested to remove Item 9B from the Consent Agenda. There was no objection to the request.

9. **CONSENT AGENDA:** Mayor Caplan made a motion to approve the following consent agenda. 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 minutes of the May 14, 2013 Regular Council Meeting.

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING GORGEOUS LANDSCAPES & LAWNS, INC. TO TRIM AND PRUNE TREES WITHIN THE VILLAGE; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT ATTACHED HERETO AS EXHIBIT "A"; AND PROVIDING FOR AN EFFECTIVE DATE.

At this Item 9B was heard.

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, CONFIRMING THE VILLAGE'S ABILITY TO FUND AND SUPPORTING THE PERMITTING, DESIGN, CONSTRUCTION, AND MONITORING OF THE VILLAGE'S BEACH RENOURISHMENT PROJECT; PROVIDING FOR AN EFFECTIVE DATE.

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

There was extensive discussion from Council regarding this resolution. It was the consensus of Council to direct the Attorney to bring back the resolution with the changes discussed by Council.

Mayor Caplan withdrew his motion.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING A CONVEYANCE OF APPROXIMATELY 57.5 FEET OF THE OCEAN DRIVE RIGHT OF WAY, AS FURTHER LEGALLY DESCRIBED ON EXHIBIT "A," TO CONSULTATIO KEY BISCAYNE LLC IN ACCORDANCE WITH RESOLUTION 2011-24; PROVIDING FOR AUTHORIZATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Davey made a motion to adopt the ordinance on first 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.

The ordinance was adopted on first reading by a 6-0 roll call vote. The vote was as follows: Councilmembers Davey, Holloway, Kelly, Taintor, Vice Mayor Lindsay and Mayor Caplan voting Yes. Councilmember London was out of the room at the time the vote was taken.

The Clerk announced the second reading of this ordinance on June 25, 2013.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING THE VILLAGE OF KEY BISCAYNE CODE OF ORDINANCES BY AMENDING SECTION 2-42 "CIVIL PENALTIES AND RELATED TERMS CONSTRUED" OF ARTICLE III "CODE ENFORCEMENT" OF CHAPTER 2 "ADMINISTRATION", AND BY AMENDING ARTICLE IV "DANGEROUS INTERSECTION SAFETY" OF CHAPTER 26 "TRAFFIC AND VEHICLES" TO ENSURE CONSISTENCY WITH SECTION 316.0083, FLORIDA STATUTES, "THE MARK WANDALL TRAFFIC SAFETY ACT", AS AMENDED BY THE FLORIDA LEGISLATURE THROUGH THE ENACTMENT OF CS/CS/HB HOUSE BILL 7125 DURING THE 2013 LEGISLATIVE SESSION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR CLERK DESIGNATED; PROVIDING FOR SAVINGS; PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Davey made a motion to adopt the ordinance on first reading. The motion was seconded by Councilmember Holloway.

The Attorney, the Manager and Deputy Police Chief Joe Monteagudo addressed the Council regarding this ordinance.

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

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

The Clerk announced the second reading of this ordinance on June 25, 2013.

There were no ordinances on second reading considered by Council.

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 TEMPORARY PUBLIC WORKS YARD TO BE LOCATED ON A PORTION OF THE 530 CRANDON BOULEVARD PROPERTY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

The Manager and Building, Zoning and Planning Director Jud Kurlancheek addressed the Council recommending the approval of the resolution which provides for a temporary Public Words Yard occupying approximately 2,894 sq. ft. at 530 Crandon Boulevard.

Councilmember London withdrew his motion.

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

Mayor and Councilmembers. The Mayor addressed the Council regarding the appointment of Special Magistrates.

The Mayor, with consensus of Council, re-appointed Magistrates Rosemary Sala and Timothy Stickney and appointed Michele Estevez and Nancy Stoner. The appointment will be from November 2012 to November 2013. The Mayor thanked Mary Foden, Mark Fried and Timothy McCarthy and the current Magistrates for providing an outstanding service to the Village.

Councilmember Kelly addressed the Council proposing a zoning change to preclude artificial grass in yards facing streets. It was the consensus of Council to direct staff to look into what other communities are doing regarding artificial grass and bring this issue back at a future meeting.

Councilmember Kelly also addressed the Council regarding a possible offer to purchase the entry block property. Due to the owners of this property filing an appeal no further discussion will take place by Council until after the hearing takes place.

Councilmember Taintor addressed the Council proposing to create additional parking spaces at the Community Center, proposing that additional car parking spaces be created on Fernwood Road along the West side of the Community Center and additional golf park parking spaces be created on the North side of the Community Center and its pool.

Director Kurlancheek addressed the Council regarding the additional parking spaces. The Director will bring back at a future meeting layouts and costs for these additional parking spaces.

Councilmember Davey addressed the Council regarding the Comcast contract. The Attorney also addressed the Council regarding this contract. There was extensive discussion from Council regarding Comcast.

Councilmember Taintor addressed the Council regarding proposed Building Code changes. These proposed changes are as follows, and are not intended to change the current FAR or 35' building height requirements of the Village Building Code. 1.) 7 ½ ' setback on each side of a property, with nothing allowed to encroach into the setback---in other words, no A/C units, pool pumps, garage/trash enclosures, carports, driveways, etc.; 2.) Concrete retaining walls on the sides and rear

of the property in order to prevent any water run off onto adjacent properties, regardless of the elevations of the properties; 3.) 25' setback in the rear of each property and at least a 15' setback from the property line in the front of the property; 4.) 1 designated parking space within the property lines of a new residence for each bedroom within the residence and 5.) Open air parking spaces allowed underneath a residence and at grade level, thus below the BFE, but no enclosed garages allowed.

There was extensive discussion from Council regarding proposed changes to the Building Code. It was the consensus of Council to direct the Attorney to prepare a draft ordinance with changes to the Building Code and bring it back to Council for discussion.

Village Attorney. The Attorney requested an Executive Session regarding a lawsuit from H&R Paving vs. Village of Key Biscayne. The Attorney and the Clerk will work on a date and time that is convenient for the Council.

Village Clerk. The Clerk did not submit a report.

Village Manager. The Manager and Director Kurlancheek addressed the Council recommending that a public hearing date be set to consider a change of zoning for the L'Esplannade Shopping Center from Office (O-1) to Commercial (C-1) in order to be consistent with the Master Plan.

The Attorney addressed the Council regarding the above matter.

It was the consensus of Council to schedule the hearing for the change of zoning for L'Esplannade Shopping Center on August 27, 2013.

The Manager also addressed the Council regarding the first amendment to the Interlocal agreement between the Village of Key Biscayne and the School Board of Miami Dade County, Florida to establish funding and cost sharing collaboration to build a Grade 6-12 educational facility and recreational fields at the Mast Academy Campus, and to undertake physical improvements at the Key Biscayne K-8 Center.

Lourdes Abadin, Financial Consultant for the Village, addressed the Council.

There was extensive discussion regarding the addition of a gymnasium to the MAST Academy.

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 10:45 p.m.

Respectfully submitted:

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Conchita H. Alvarez, MMC
Village Clerk

Approved this __ day of _____ 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.