

MINUTES
VILLAGE COUNCIL MEETING

TUESDAY, FEBRUARY 7, 2012

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, Robert Gusman, Mayra P. Lindsay, James S. Taintor, Vice Mayor Michael E. Kelly and Mayor Franklin H. Caplan. Councilmember Enrique Garcia was absent. Also present were Village Manager John C. Gilbert, Village Clerk Conchita H. Alvarez and Village Attorney Stephen J. Helfman.
2. **INVOCATION:** Reverend Jose Luis Hernando, Saint Agnes Catholic Church gave an invocation.
3. **PLEDGE OF ALLEGIANCE:** Mayor Caplan led the Pledge of Allegiance.
4. **SPECIAL PRESENTATIONS:** There were no special presentations.
5. **PUBLIC COMMENTS:** There were no speakers present.
6. **AGENDA:** Mayor Caplan requested the addition of a discussion regarding a draft anti-gambling resolution as Item 10A2 and the Manager requested the addition of a Legislative Report as Item 10D5. There was no objection to the agenda changes.

February 7, 2012

7. **APPROVAL OF MINUTES:** Councilmember Davey made a motion to approve the minutes of the October 11, 2011 Regular Council Meeting. The motion was seconded by Vice Mayor Kelly and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

Vice Mayor Kelly made a motion to approve the minutes of the January 17, 2012 Workshop on Objections, Recommendations, and Comments (ORC) Pertaining to the Evaluation and Appraisal Report (EAR) Based Amendments. The motion was seconded by Mayor Caplan and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

Councilmember Gusman made a motion to approve the minutes of the January 24, 2012 Zoning Meeting. The motion was seconded by Vice Mayor Kelly and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Davey, 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 BISCAYNE, FLORIDA, AMENDING CHAPTER 8 "ENVIRONMENT" TO CREATE ARTICLE VIII "SOIL EROSION, FUGITIVE DUST AND SEDIMENT CONTROL" TO PROVIDE FOR SOIL EROSION AND SEDIMENT POLLUTANT MANAGEMENT AND CONTROL REGULATIONS; 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 Councilmember Gusman.

The Manager and Building, Zoning and Planning Director addressed the Council recommending the adoption of the Ordinance which establishes regulations dealing with soil erosion, fugitive dust, and sediment control.

The Attorney also 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, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

February 7, 2012

The Clerk announced the second reading of the ordinance on February 28, 2012.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 8 “ENVIRONMENT” TO CREATE ARTICLE VII “STORMWATER CONTROL” IN ORDER TO PROVIDE FOR STORMWATER MANAGEMENT REGULATIONS; 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 Kelly.

The Manager addressed the Council recommending adoption of the Ordinance on first reading which establishes regulations dealing with discharges into the Village’s Stormwater System.

The Attorney addressed the Council regarding this ordinance. There was extensive discussion from 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, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

The Clerk announced the second reading of the ordinance on February 28, 2012.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 4-32 “PROHIBITED WATER ACTIVITY” CREATING A VESSEL EXCLUSION ZONE WHICH LIMITS THE MASHTA FLAT AREA, AS FURTHER DESCRIBED ON EXHIBIT “A,” WITHIN THE VILLAGE’S MUNICIPAL BOUNDARIES TO NON-MOTORIZED VESSELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

February 7, 2012

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

Councilmember Davey made a motion to continue this hearing to the meeting of March 6, 2012. The motion was seconded by Councilmember Lindsay and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

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

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING THE PROPOSAL OF FIREWORKS BY GRUCCI, INC. FOR JULY 4TH FIREWORKS DISPLAY; AUTHORIZING THE VILLAGE MANAGER AND OTHERS TO NEGOTIATE FINAL TERMS AND PREPARE AN AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

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

The Manager and Parks and Recreation Director Todd Hofferberth addressed the Council recommending the approval of the resolution selecting “Fireworks by Grucci” to perform the services required to produce the Village’s Fourth of July fireworks display.

The resolution was approved by a 5-1 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmember Taintor voting No.

The Clerk read the following resolution, by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING THE PROPOSAL BY COASTAL SYSTEMS INTERNATIONAL, INC. ATTACHED AS EXHIBIT “A” RELATING TO UPLAND BEACH SAND SOURCE TESTING FOR THE BEACH RENOURISHMENT PROJECT; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A WORK ORDER CONSISTENT WITH THE TERMS OF THE PROPOSAL; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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

February 7, 2012

The Manager addressed the Council recommending approval of the resolution and awarding the proposal for Sand Source Evaluation in the amount not to exceed \$20,810 to Coastal Systems International, Inc. (CSI).

Tim Blankenship with Coastal Systems International addressed the Council.

The resolution was approved by a 6-0 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

The Clerk read the following resolution, by title:

A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING A PROPOSAL, ATTACHED AS EXHIBIT "A," BY COASTAL SYSTEMS INTERNATIONAL, INC., RELATING TO THE PERMITTING, PURCHASE AND INSTALLATION OF BUOYS FOR THE NIXON BEACH VESSEL EXCLUSION ZONE APPROVED BY ORDINANCE 2011-13; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A WORK AUTHORIZATION CONSISTENT WITH THIS PROPOSAL; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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

The Manager and Chief of Police Charles Press addressed the Council recommending approval of the resolution and awarding the proposal for permitting,, purchase, and installation of buoys for the Nixon Beach Vessel Exclusion Zone in an amount not to exceed \$50,400 to Coastal Systems International, Inc. (CSI).

Tim Blankenship with Coastal Systems International addressed the Council.

The resolution was approved by a 4-2 voice vote. The vote was as follows: Councilmembers Davey, Lindsay, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmembers Gusman and Taintor voting No.

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

Mayor and Councilmembers. Councilmember Davey addressed the Council regarding funding options for the Key Biscayne Community School. There was extensive discussion from Council regarding this issue.

February 7, 2012

Mayor Caplan presented to the Council a draft anti-gambling resolution.

Vice Mayor Kelly made a motion to approve the anti-gambling resolution. The motion was seconded by Councilmember Lindsay and approved by a 5-1 voice vote. The vote was as follows: Councilmembers Davey, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmember Gusman voting No.

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Clerk did not submit a report.

Village Manager. The Manager addressed the Council regarding proposed amendments to the Noise Ordinance.

The Attorney and the Chief of Police Press addressed the Council regarding this issue. No action was taken.

The Manager also addressed the Council regarding the additional lighting element added to the scope of the Tot Lot Wall project and also requested that the Council provide direction as to the number and type of lighting poles to be included in the project before the Village authorizes C3TS to proceed with the permitting, bidding and construction management for the proposed tot lot barrier. It was the consensus of Council not to proceed with the lighting element of the wall at this time.

The Manager and Director Hofferberth addressed the Council regarding the Weather Bug System implementation. It was the consensus of Council to set the horn alert for a 6 miles radius.

The Manager addressed the Council regarding private business being conducted in public parks. The Manager requested deferral of this item to the March 6, 2012 Council Meeting.

Councilmember Lindsay addressed the Council regarding her recent participation in the Dade Days Event.

11. **OTHER BUSINESS/GENERAL DISCUSSION:** There was no further business discussed.

12. **PENDING BUSINESS/PENDING LITIGATION:** A list of pending business/pending litigation was presented to the Council.

13. **SCHEDULE OF FUTURE MEETINGS/EVENTS:** A schedule of future meetings and events was presented to the Council.

February 7, 2012

14. **ADJOURNMENT:** The meeting was adjourned at 11:00 p.m.

Respectfully submitted:

*Conchita H. Alvarez, MMC
Village Clerk*

Approved this 28th day of February, 2012:

*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.