

MINUTES

VILLAGE COUNCIL MEETING
KEY BISCAVNE, FLORIDA

TUESDAY, FEBRUARY 8, 2005

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 Enrique Garcia, Steve Liedman, Jorge E. Mendia, Thomas Thornton, Patricia Weinman, Vice Mayor Robert L. Vernon and Mayor Robert Oldakowski. Also present were Village Manager Jacqueline R. Menendez, Village Clerk Conchita H. Alvarez and Village Attorney Stephen P. Helfman.
2. **INVOCATION:** Reverend Bud Schroeder, Key Biscayne Community Church gave an invocation.
3. **PLEDGE OF ALLEGIANCE:** Ms. Julie Alvarez led the Pledge of Allegiance.
4. **SPECIAL PRESENTATIONS:** There were no special presentations.
5. **PUBLIC COMMENTS:** The following resident addressed the Council: Michele Estevez, 800 Crandon Boulevard.
6. **AGENDA:** Vice Mayor Vernon requested the addition of a brief update regarding Beach Concessions as Item 11D3. There was no objection to the agenda change.
7. **APPROVAL OF MINUTES:** Vice Mayor Vernon made a motion to approve the minutes of

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the January 18, 2005 Sanitary Sewer Workshop. The motion was seconded by Councilmember Mendia and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Garcia, Liedman, Mendia, Thornton, Weinman, Vice Mayor Vernon and Mayor Oldakowski voting Yes.

Councilmember Liedman made a motion to approve the minutes of the January 18, 2005 Zoning Meeting. The motion was seconded by Councilmember Garcia and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Garcia, Liedman, Mendia, Thornton, Weinman, Vice Mayor Vernon and Mayor Oldakowski voting Yes.

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

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING AND APPROVING AGREEMENT FOR COLLECTION, TRANSPORTATION, AND DISPOSAL OF SOLID WASTE BETWEEN THE VILLAGE OF KEY BISCAYNE AND WASTE MANAGEMENT INC. OF FLORIDA; AUTHORIZING VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING IMPLEMENTATION OF THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

The Manager, Attorney and Public Works Director, Armando Nunez addressed the Council regarding this resolution.

Councilmember Liedman made a motion to approve the resolution. The motion was seconded by Councilmember Mendia.

Mr. Alex Gonzalez with Waste Management Inc., Director of Government Affairs addressed the Council regarding the agreement.

Ward Rathbone, 275 West Mashta Drive addressed the Council.

The resolution was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Garcia, Liedman, Mendia, Thornton, Weinman, Vice Mayor Vernon and Mayor Oldakowski voting Yes.

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, REVISING SERVICE FEES FOR THE COLLECTION OF SOLID WASTE AND THE PROVIDING OF RECYCLING SERVICES; AMENDING FEES PROVIDED BY RESOLUTION NO. 99-81; REPEALING RESOLUTION NO. 99-81; AND PROVIDING FOR EFFECTIVE DATE.

The Manager addressed the Council regarding this resolution.

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Councilmember Liedman made a motion to approve the resolution. The motion was seconded by Councilmember Thornton and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Garcia, Liedman, Mendia, Thornton, Weinman, Vice Mayor Vernon and Mayor Oldakowski voting Yes.

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAWAYNE, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO APPROVE A WORK AUTHORIZATION WITH POST BUCKLEY SCHUH AND JERNIGAN, INC. ("PBSJ"), PROVIDING FOR PBSJ TO RESURVEY SEWER PROJECT AREA, ADJUST PREVIOUS DESIGN OF PROPOSED SANITARY SEWER IMPROVEMENTS, PREPARE DESIGN FOR WATER LINE IMPROVEMENTS, AND PREPARE COST ESTIMATE FOR POTENTIAL WATER AND SEWER IMPROVEMENT PROJECT OF THE VILLAGE; PROVIDING FOR IMPLEMENTATION OF ENGINEERING WORK AUTHORIZED BY THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

The Manager and Director Nunez addressed the Council regarding this resolution.

Councilmember Mendia made a motion to approve the resolution. The motion was seconded by Councilmember Weinman.

Patricia Carney with PBS&J addressed the Council regarding this resolution.

The resolution was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Garcia, Liedman, Mendia, Thornton, Weinman, Vice Mayor Vernon and Mayor Oldakowski voting Yes.

9. **ORDINANCES:** There were no ordinances considered by Council.

The Mayor requested a brief recess at 7:40 p.m. The meeting was reconvened at 7:46 p.m.

10. **BUILDING, ZONING AND PLANNING:** All witnesses giving testimony in the public hearing were sworn in by the Clerk.

Mayor Oldakowski, Vice Mayor Vernon and Councilmember Liedman will abstain from voting in this hearing due to a conflict of interest.

The Attorney addressed the Council regarding the procedure for this hearing.

It was the consensus of the remaining Council to appoint Councilmember Mendia as Chairman for

this hearing.

Hearing Number DRI-01. GB/JT Hotel Partners, L.P., 455 Grand Bay Drive, the applicant is notifying of a proposed change ("NOPC") to a previously approved Development of Regional Impact ("DRI") for the purpose of extending the build-out date under the DRI. The applicant intends to construct a ballroom, related facilities and a 184 space parking garage.

Director Kurlancheek addressed the Council stating his recommendation of approval of the extension be granted subject to the following conditions: (1) The Property shall be developed substantially in accordance with the proposed amended site plan entitled "Ballroom Addition Ritz-Carlton Hotel" as prepared by Nichols Brosch Sandoval and Associates, Inc. and Hall Bell Aquí, Inc., consisting of 14 sheets, on Sheets A-0, A-1, A-2, A-3, A-4, A-5, A-6, L-1, L-2, L-3, L-4 and Tract "A" Map on sheets 1 of 3, 2 of 3 and 3 of 3; (2) The Village Zoning and Land Development Regulations ("Zoning Regulations") must be amended to allow for the development of the Property substantially in accordance with the Proposed Site Plan. Approval of the extension shall only become effective upon the final amendment of the Zoning Regulations allowing for the development of the Property in accordance with the Proposed Site Plan; (3) The granting of the extension of time shall not be deemed in any manner as a modification of the Zoning Regulations which may be necessary for the development of the Property in accordance with the Proposed Site Plan, nor shall the approval act as an estoppel against the Village Council in taking any action in connection with any modification of the Zoning Regulations including the imposition of conditions upon the approval of the Proposed Site Plan; (4) The Amended and Restated Declaration of Restrictive Covenants in Lieu of Unity of Title and Monetary Contributions, recorded in Official Record Book 16262 at Pages 3444-3457 must be amended for the purpose of conforming to the Proposed Site Plan; (5) The DRI amended pursuant to Resolution No. Z-23-93 currently provides for an additional 173 units to be constructed on the site. These units shall be removed from the DRI, Site Plan and Proposed Site Plan and cannot be transferred to any other property; (6) The owners shall contribute \$334,547.00 (see attached estimate from 3CTS, Inc.) to the Village, which represents the Village's estimated costs for construction of the improvements as set forth in the Crandon Boulevard Master Plan from Grand Bay Drive to East Heather. These funds shall be received by the Village prior to the issuance of a building permit. Said funds are to off-set the cost of improvements necessitated by the traffic impacts of the additional development activity; (7) Events involving primarily non-hotel guests ("Social Events") shall be limited to a maximum of 500 guests at any one time. The two ballrooms shown on the Proposed Site Plan shall not be used simultaneously for Social Events and there shall be a two-hour time differential between consecutive Social Events. Weekday Social Events shall begin no later than 7:00 p.m; (8) Construction hours shall be limited to between 8:00 a.m. and 5:00 p.m. Monday through Friday and construction on Saturday is limited to activities that occur inside the building at such time when the air conditioning system is functioning; (9) Vehicles owned by construction workers shall only be parked on the hotel tract or outside the Village limits and (10) An annual report shall be submitted to the Building, Zoning, and Planning Director which sets for the name, type of function, date, the start and finish times, and

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number of attendees for each event that was held in each ballroom. The report shall also include if the event was a "social" function or whether it was held for guests who resided in the hotel. The report shall be signed by the Hotel Manager and the owners of the hotel certifying to its accuracy. The report shall be on April 1 of each year.

Ramon Castella with 3CTS, Traffic Engineering Consultant addressed the Council.

John Shubin, Shubin & Bass, Miami, Attorney for the applicant; Cathy Sweetapple, Traffic Engineering for the applicant; John Nichols, Architect for the applicant addressed the Council.

The Chairman opened the public hearing. Juan Gutierrez, 550 Ocean Drive; Manfred S. Kaminsky, representing the Blue Pelican Condo Association, 300 Galen Drive; Lawrence Garfield, 550 Ocean Drive; Oscar E. Guerra, 550 Ocean Drive; Kathy Susnjer, representing the Key Biscayne Chamber of Commerce; Gene Stearns, 180 Cape Florida Drive; Julie S. Alvarez, 150 Sunrise Drive; Eric S. Czerniejewski, Plantation; Charlie Papy III, Miami, representing Grand Bay Homeowners Association Towers One I and Two; Sheldon Lowe, 445 Grand Bay Drive; Michael Kahn, 881 Ocean Drive; Mike Steffens, 615 Ocean Drive; Rosa de la Camara, 550 Ocean Drive; Meg Holderman, 225 Cranwood Drive; Martha Broucek, 170 Ocean Lane Drive; Liana Rivas, 430 Grand Bay Drive; Victoria London, 641 S. Mashta Drive; Michele Estevez, 800 Crandon Boulevard; Florence Ferre, 609 Ocean Drive; David Maichack, 590 Ocean Drive; Donald Lefton, Ritz Carlton owner and Sherwood Weiser, Ritz Carlton owner addressed the Council. Also, about 70 residents, who did not wish to speak, registered with the Clerk opposing this request. The Chairman closed the public hearing.

The Attorney addressed the Council regarding this hearing.

Councilmember Mendia made a motion finding that this extension does not create a substantial deviation for further development of regional impact review. The motion was seconded by Councilmember Thornton and failed by a 2-2 roll call vote. Councilmembers Mendia and Thornton voting Yes. Councilmembers Garcia and Weinman voting No.

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

Mayor and Councilmembers. The Mayor addressed the Council regarding the appointment of a new voting member to the Community Center Advisory Board. The Mayor, with the consensus of Council, would like to appoint Ms. Donna Rice to this Board.

Vice Mayor Vernon made a motion to appoint Ms. Donna Rice to the Community Center Advisory

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Board. The motion was seconded by Councilmember Garcia and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Garcia, Liedman, Mendia, Thornton, Weinman, Vice Mayor Vernon and Mayor Oldakowski voting Yes.

The Mayor also addressed the Council regarding the appointment of a new voting member to the Art in Public Places Board. The Mayor, with the consensus of Council, would like to appoint Ms. Dianne Moss to this Board.

Councilmember Liedman made a motion to appoint Ms. Dianne Moss to the Art in Public Places Board. The motion was seconded by Councilmember Mendia and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Garcia, Liedman, Mendia, Thornton, Weinman, Vice Mayor Vernon and Mayor Oldakowski voting Yes.

Councilmember Liedman addressed the Council regarding the current election system: term and term limits for Mayor and Councilmembers.

It was the consensus of Council to direct staff to draft language for a Charter amendment regarding staggered terms and length of terms for Councilmembers.

Vice Mayor Vernon made a motion to extend the meeting to 11:15 p.m. The motion was seconded by Councilmember Mendia and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Garcia, Liedman, Mendia, Thornton, Weinman, Vice Mayor Vernon and Mayor Oldakowski voting Yes.

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Clerk addressed the Council regarding the State of the Village/Volunteer Appreciation Ceremony, proposing Thursday, April 21, 2005. There was no objection to the proposed date.

Village Manager. The Manager presented to the Council a report by Ballard and King on the operation of the Community Center.

The Manager addressed the Council requesting authorization from Council for Boards to apply for grants from the Community Center Foundation.

It was the consensus of Council to authorize Boards to apply for grants from the Community Center Foundation.

The Manager addressed the Council reporting that the Beach Concessions item will be brought

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before the Council in March.

Director Kurlancheek addressed the Council inviting the Council and the public to attend a public meeting to identify and discuss issues to be addressed in the Key Biscayne Master Plan Evaluation and Appraisal Report (EAR) on Thursday, February 24, 2005 at 7:00 p.m.

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

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

14. **ADJOURNMENT:** The meeting was adjourned at 11:10 p.m.

Respectfully submitted:

*Conchita H. Alvarez, CMC
Village Clerk*

Approved this 22nd day of February, 2005:

*Robert Oldakowski
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.