

MINUTES
VILLAGE COUNCIL MEETING
VILLAGE OF KEY BISCAYNE, FLORIDA

Tuesday, February 12th, 2002

COUNCIL CHAMBER
85 WEST MCINTYRE STREET, SECOND FLOOR

1. CALL TO ORDER/ROLL CALL OF MEMBERS: The meeting was called to order by the Mayor at 7:05 p.m. Present were Councilmembers Scott Bass, Martha F. Broucek, Alan H. Fein, Mortimer Fried, James L. Peters, Vice Mayor Robert Oldakowski and Mayor Joe I. Rasco. Also present were Village Manager C. Samuel Kissinger, Village Clerk Conchita H. Alvarez and Village Attorney Richard Jay Weiss.

2. INVOCATION: Reverend David Moran, Key Biscayne Presbyterian Church gave an invocation.

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

4. SPECIAL PRESENTATIONS: Chief of Police, Michael J. Flaherty introduced Mrs. Theodore Zorsky and daughters to the Council. The Mayor, on behalf of the Council, presented a proclamation to the family of deceased Officer Theodore Zorsky. Ms. Zorsky, on behalf of the family, addressed the Mayor and Council expressing their appreciation.

The Mayor, on behalf of the Council, also presented a proclamation to Mr. Richard Hunt, President, 200 Club of Greater Miami for his contribution, on behalf of the Club, to the Zorsky family. Mr. Hunt addressed the Mayor and Council expressing his appreciation for the honor.

The Mayor, on behalf of the Council presented a proclamation to the 2001 Winterfest Committee. Mr. Bob Bristol, on behalf of the Winterfest Committee, accepted the proclamation.

Mr. Michael Futterman, CPA, Director for Rachlin Cohen & Holtz LLP Certified Public Accountants made a presentation to the Council regarding the 2001 Comprehensive Annual Financial Report.

Ms. Carol Diaz-Castro, Chair, Ed Easton, Vice Chair and Henny Groschel-Becker, Building Review Committee addressed the Council submitting a Final Report. The following recommendations were made by the Committee: 1. The plan for the Fire Station should remain unchanged. 2. As to the Police/Administration building, the floor plan should be changed in accordance with the Spillis Candela plan presented at the February 11, 2002 Building Review Committee meeting with the following conditions: a.) The second floor of the building should remain unchanged in accordance with the floor plan; b.) The community room on the first floor should be returned for use by the Chamber of Commerce; c.) The total cost for these plans and retrofit construction shall not exceed \$200,000. In the event that the cost of plans and retrofit exceeds \$200,000, the Committee does not recommend that the Village go forward with these changes.

Nina Gladstone, Project Manager, with Spillis Candela addressed the Council presenting the proposed changes to the first floor.

Raul Lastra, O.B.M. Miami, addressed the Council regarding the west wing of the Fire Station.

Chief Flaherty and Jud Kurlancheek, Building, Zoning and Planning addressed the Council regarding the proposed changes.

Vice Mayor Oldakowski made a motion accepting the Final Report presented by the Building Review Committee. The motion was seconded by Councilmember Broucek and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

The Mayor, on behalf of the Council, expressed his appreciation to the Committee for a job well done.

5. PUBLIC COMMENTS: The following residents addressed the Council: Isabel Gambino, 676 Ridgewood Road; Susan Krupnick, Key Biscayne and James Taintor, 355 Harbor Drive.

6. AGENDA: Vice Mayor Oldakowski requested the addition of a motion to approve the recommendations of the Building Review Committee as presented in their report, immediately before Item 10A1 and a motion regarding the transition period of the Village Manager as Item 10A10; Councilmember Bass requested to withdraw Items 10A2 and 10A3; Councilmember Broucek requested to hear Items 9B and 10A5 at the same time and Councilmember Bass requested the addition of a discussion regarding holding a referendum on the Recreation Center as Item 10A9. There was no objection to the agenda changes.

7. CONSENT AGENDA: Mayor Rasco requested the removal of Item 7C from the Consent Agenda and Councilmember Broucek requested the removal of Item 7E from the Consent Agenda.

The following consent agenda was approved by unanimous consent:

The minutes of the January 29, 2002 Zoning Meeting.

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; RELATING TO ETHICS; URGING LOCAL BUSINESSES AND THE KEY BISCAYNE CHAMBER OF COMMERCE THAT ALL OF ITS MEMBERS ADOPT THE MODEL CODE OF BUSINESS ETHICS AND REQUIRING ALL PERSONS TO ADOPT THE CODE OF ETHICS PRIOR TO OR AT THE TIME OF ENTERING INTO CONTRACTS WITH THE VILLAGE OF KEY BISCAYNE; PROVIDING FOR AN EFFECTIVE DATE.

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; AUTHORIZING A DONATION TO THE UNITED STATES DRUG ENFORCEMENT ADMINISTRATION SURVIVING FAMILIES; PROVIDING FOR AN EFFECTIVE DATE.

ITEMS REMOVED FROM THE CONSENT AGENDA:

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; AUTHORIZING THE VILLAGE MANAGER TO APPROVE THE ATTACHED AGREEMENT ON BEHALF OF THE VILLAGE WITH RACHLIN, COHEN & HOLTZ, LLP FOR AUDITING SERVICES; PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Oldakowski made a motion to approve the resolution. The motion was seconded by Councilmember Broucek and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; AUTHORIZING THE VILLAGE MANAGER TO PURCHASE TWO NEW VEHICLES FOR THE POLICE DEPARTMENT; PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Fein made a motion to approve the resolution. The motion was seconded by Vice Mayor Oldakowski.

Chief Flaherty addressed the Council regarding this resolution.

The resolution was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

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

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

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; AUTHORIZING THE VILLAGE MANAGER TO GENERATE ROUGH DESIGN/SOLUTION DRAWINGS TO ALLEVIATE TRAFFIC CONGESTION ON HARBOR DRIVE.

Councilmember Peters made a motion to approve the resolution. The motion was seconded by Councilmember Fein.

Henny Groschel-Becker, 290 West Mashta Drive; Carol Diaz-Castro, 240 Hampton Lane and James Taintor, 355 Harbor Drive addressed the Council.

Councilmember Peters withdrew the resolution.

Councilmember Fein made an amending motion to direct the Manager to look into previous reports conducted on traffic congestion at Harbor Drive and report back to

Council. The motion was seconded by Councilmember Bass and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; TO FORM A COMMITTEE TO BE KNOWN AS THE SEPTIC TANK UTILITY COMMITTEE.

Councilmember Peters made a motion to approve the resolution. The motion was seconded by Councilmember Bass.

Linda Davitian, 720 Myrtlewood Lane addressed the Council.

The Attorney addressed the Council regarding this resolution.

Councilmember Peters withdrew the resolution.

Councilmember Fein made a motion requesting that Ms. Linda Davitian look into the possibility of forming a Septic Tank Utility Committee and report to Council on her findings within 60 days. The motion was seconded by Councilmember Peters and approved by a 6-1 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fein, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes. Councilmember Fried voting No.

At this time Item 10A5 was heard. The Manager addressed the Council recommending that if the Sewer Project is not going forward at this time, the Village should notify the State and withdraw the application for the loan.

It was the consensus of Council to direct the Manager to draft a letter to the State withdrawing the loan application for the Sanitary Sewer Project and present it to the Council for approval, at the next Council meeting.

It was the consensus of Council to direct the Manager to draft a letter to the residents with septic tanks explaining the delay of the Sanitary Sewer Project with a time line.

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; AUTHORIZING THE VILLAGE MANAGER TO COMPLETE AND INITIATE NEW DESIGNS AS REQUIRED FOR WATER, WASTE, AND UNDERGROUND UTILITIES.

Councilmember Peters made a motion to approve the resolution. The motion was seconded by Councilmember Bass.

Linda Davitian, 720 Myrtlewood Lane addressed the Council.

Councilmember Peters withdrew the resolution.

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; RECOGNIZING THE HEART DISEASE AND HYPERTENSION PRESUMPTION FOR SWORN LAW ENFORCEMENT OFFICERS; PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Oldakowski made a motion to approve the resolution. The motion was seconded by Councilmember Fried.

Chief Flaherty and Randy White, Finance Director addressed the Council regarding this resolution.

James Taintor, 355 Harbor Drive addressed the Council.

The resolution was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; APPROVING THE GUARANTEED MAXIMUM PRICE (GMP) AND AUTHORIZING THE CONSTRUCTION OF PHASE 2 SITE AND SITE INFRASTRUCTURE WORK FOR THE CIVIC CENTER; PROVIDING THAT THE SPENDING AUTHORITY AS SET FORTH IN THE VILLAGE'S AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES IS AMENDED TO CORRESPOND WITH THE GUARANTEED MAXIMUM PRICE OF THE SITE AND SITE INFRASTRUCTURE WORK; PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Fein made a motion to approve the resolution. The motion was seconded by Vice Mayor Oldakowski.

Director Kurlancheek, Raul Lastra, OBM Miami addressed the Council regarding this resolution.

Carol Diaz-Castro, 240 Hampton Lane addressed the Council.

Director Kurlancheek addressed the Council stating that Council needs to approve the expenditure of additional money in order for Spillis Candela to commence design drawings to make the changes proposed by the Building Review Committee.

The resolution was approved by a 6-1 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fein, Fried, Vice Mayor Oldakowski and Mayor Rasco voting Yes. Councilmember Peters voting No.

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

Mayor and Councilmembers. Vice Mayor Oldakowski made a motion to direct staff to take the necessary steps in order to implement the recommendation of the Building

Review Committee as presented tonight, to immediately instruct the contractors not to undertake any work that can be avoided where changes might be made and to report back to Council, as soon as possible, with the appropriate documents to implement these changes. The motion was seconded by Councilmember Fein.

The Attorney addressed the Council regarding this motion.

The motion was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

Councilmember Bass and Mayor Rasco addressed the Council regarding the creation of a permanent Capital Improvement Advisory Board.

It was the consensus of Council to direct the Attorney to start drafting an ordinance to implement this Board.

Vice Mayor Oldakowski addressed the Council regarding the need to hire a Public Information Officer.

Vice Mayor Oldakowski made a motion to direct the Manager to bring a proposal to Council to hire a Public Information Officer. The motion was seconded by Councilmember Broucek.

Pat Weinman, 940 Mariner Drive and Susan Krupnick, Key Biscayne addressed the Council.

There was extensive discussion from Council regarding this issue.

The motion was approved by a 5-1 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes. Councilmember Fried voting No. Councilmember Fein was out of the Chamber at the time the vote was taken.

Vice Mayor Oldakowski made a motion to extend the meeting to 11:15 p.m. The motion was seconded by Councilmember Bass and approved by 6-0 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes. Councilmember Fein was out of the Chamber at the time the vote was taken.

Vice Mayor Oldakowski addressed the Council regarding a request by the Community Center Committee to get bids for a survey and focus groups regarding programs for the Community Center.

Councilmember Broucek made a motion to approve the request by the Community Center Committee to get bids for a survey and focus groups regarding programs for the Community Center. The motion was seconded by Vice Mayor Oldakowski.

Jim Leavitt, Chairman, Recreation Center Committee, 240 island Drive; Ed Meyer, 100 Sunrise Drive addressed the Council.

Councilmember Broucek made a motion to extend the meeting to 11:30 p.m. The motion was seconded by Vice Mayor Oldakowski and approved by a 5-2 voice vote. The vote was as follows: Councilmembers Broucek, Fein, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes. Councilmembers Bass and Fried voting No.

It was the consensus of Council to direct staff and the Committee to report back to Council, as soon as possible, with a potential proposal to conduct the survey.

Mayor Rasco addressed the Council regarding the status of the purchase of the Citgo property.

The Manager addressed the Council stating that the owner of the Citgo Property has given the approval to conduct Phase I and Phase II of the environmental study. This study should be completed in 30 days.

Councilmember Bass withdrew Item 10A9.

Vice Mayor Oldakowski addressed the Council regarding the transition period for the Village Manager.

Vice Mayor Oldakowski proposed to engage Moyer and Associates as Village Manager, effective March 15, 2002 and offer the Manager a consulting arrangement where the Manager would be available for information and support for the interim Village Manager.

There was extensive discussion from Council regarding this issue.

Councilmember Fein made a motion to extend the meeting to 11:45 p.m. The motion was seconded by Councilmember Broucek and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

The Manager stated that he would cooperate with Council as much as he could, in order to accomplish a smooth transition for the new manager. The Manager also stated that he would accept to stay as consultant for \$10,000 a month for a period of two months.

Vice Mayor Oldakowski made a motion to engage Moyer and Associates as Village Manager for a sum of \$2,500 per month, effective March 15, 2002 and to hire the Manager as consultant for \$10,000 per month for a period of two months. The motion was seconded by Councilmember Fried and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

Vice Mayor Oldakowski made a motion to pay the Village Manager for vacation and sick time accrued in excess of what the contract allows. The motion was seconded by Councilmember Broucek and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Clerk addressed the Council regarding the need of a full-time assistant for the Clerk's Office.

Councilmember Broucek made a motion authorizing the Village Clerk to hire a full-time assistant at a salary of \$24,000 a year plus benefits. The motion was seconded by Councilmember Fein and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Bass, Broucek, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

The Clerk submitted to the Council, for their information, the Charter Revision Commission Minutes for the meetings of December 18, 2001, January 17, 2002 and January 30, 2002.

The Clerk submitted to the Council, for their information, the Building Review Committee Minutes for the meetings of January 22, 2002 and January 31, 2002 and the Community Center Review Committee Minutes for the meetings of January 24, 2002 and January 28, 2002.

The Clerk submitted to the Council a copy of the following proclamation issued by the Office of the Mayor during the months of January and February 2002: St. Agnes Parish on the dedication and blessing of the Parish Center, Auditorium and Academy expansion; congratulating the Key Biscayne Community Church on their 50th Anniversary; Don Harrison, Vista Memorial Gardens, for their contribution to the family of Officer Zorsky; Lissette Salinas, Vista Memorial Gardens, for their contribution to the family of Officer Zorsky; Mark Revitz, Vista Memorial Gardens, for their contribution to the family of Officer Zorsky; the Hialeah Police Department, for their contribution to the family of Officer Zorsky; the Hollywood Police Department, for their contribution to the family of Officer Zorsky; the Pinecrest Police Department, for their contribution to the family of Officer Zorsky; the South Miami Police Department, for their contribution to the family of Officer Zorsky.

Village Manager. The Manager addressed the Council regarding a request from Dr. Steve A. Simon, President, Key Biscayne Athletic Club, regarding the benefits of lighting the empty lot known as the Scharenberg Project. It was the consensus of Council to approve this request.

John C. Gilbert, Chief of Fire Rescue addressed the Council regarding the status of the actions being taken as a possible relocation of the firefighters to the old SunTrust Bank Building.

The Manager presented to the Council the Civic Center - Debt Cap calculations.

The Manager addressed the Council regarding the relocation of all signage from Crandon Boulevard.

The Manager informed the Council that the Village had received a check in the amount of \$65,000 as a result of the lawsuit with Amoco.

The Manager presented the Council with a report on bus shelters.

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 11:45 p.m.

Respectfully submitted:

Conchita H. Alvarez, CMC
Village Clerk

Approved this 25th day of February, 2002:

Joe I. Rasco
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.