

MINUTES  
**CHARTER REVISION COMMISSION**  
VILLAGE OF KEY BISCAYNE, FLORIDA

Thursday, March 7th, 2002

COUNCIL CHAMBER  
85 WEST MCINTYRE STREET, SECOND FLOOR

The meeting was called to order by the Chairman at 7:10 p.m. Present were Commission Members Stuart D. Ames, Michael Kelly, Luis Lauredo (arrived at 7:16 p.m.), Vice Chairman Michael Kahn and Chairman Martha F. Broucek. Also present were Village Clerk Conchita H. Alvarez and Village Attorney Richard Weiss.

Chairman Broucek led the Pledge of Allegiance.

Vice Chairman Kahn made a motion to approve the minutes of the February 21, 2002 meeting. The motion was seconded by Commissioner Ames and approved by a 4-0 voice vote. The vote was as follows: Commissioners Ames, Kelly, Vice Chairman Kahn and Chairman Broucek voting Yes.

The Attorney addressed the Commission regarding the procedure to approve or amend the revisions made to date.

Vice Chairman Kahn made a motion to approve the Charter as revised. The motion was seconded by Commissioner Kelly.

3. The Charter Revision Commission of 2001—02 was appointed by the Village Council on November 13, 2001 (as ratified on January 15, 2002) and met during the early months of 2002 to review the Village Charter. The members of the Charter Revision Commission were as follows:

Martha F. Broucek, Chair

Michael A. Kahn, Vice Chair

Stuart D. Ames, Member

Dr. Michael E. Kelly, Member

Luis Lauredo, Member

The Clerk was Conchita H. Alvarez, the Manager was C. Samuel Kissinger and the attorneys were Richard Jay Weiss and Tony Recio. As a result of those meetings, amendments were proposed to the electorate. Of the amendments proposed, were approved by the electorate on \_\_\_\_\_.

**ARTICLE II. VILLAGE COUNCIL; MAYOR**

Section 2.01 was redrafted as follows:

## **Section 2.01. Village Council.**

There shall be a Village Council (the "Council") with all legislative powers of the Village vested therein, consisting of six (6) members ("Council Members") and the Mayor. References in this Charter to Council Members shall include the Mayor unless the context otherwise requires.

John Festa, 695 Harbor Lane; Ed Meyer, 100 Sunrise Drive and Richard Gregorie, Key Biscayne addressed the Commission.

The Attorney addressed the Commission regarding the number of Council Members.

Commissioner Ames addressed the Commission on behalf of Mayor Joe I. Rasco, stating that the Mayor supports a five (5) member Council and designated seats.

Vice Chairman Kahn made a motion to reduce the number of Council Members to five (5). The motion was seconded by Commissioner Lauredo and failed by a 2-3 roll call vote. The vote was as follows: Commissioner Lauredo and Vice Chairman Kahn voting Yes. Commissioners Ames, Kelly and Chairman Broucek voting No.

Vice Chairman Kahn made a motion to change the method of running for Council to designated seats. The motion was seconded by Commissioner Kelly and approved by a 5-0 roll call vote. The vote was as follows: Commissioners Ames, Kelly, Lauredo, Vice Chairman Kahn and Chairman Broucek voting Yes.

Commissioner Lauredo made a motion to reduce the number of Council Members to five (5). The motion was seconded by Vice Chairman Kahn and approved by a 3-2 roll call vote. The vote was as follows: Commissioners Ames, Lauredo and Vice Chairman Kahn voting Yes. Commissioner Kelly and Chairman Broucek voting No.

Vice Mayor Robert Oldakowski addressed the Commission.

Section 2.02. was redrafted as follows:

## **Section 2.02. Mayor and Vice Mayor.**

(a) *Mayor.* The Mayor shall preside at meetings of the Council, and be a voting member of the Council, name committees of Council and appoint members of the Village boards and agencies with the approval of the Council. The Mayor shall be recognized as head of Village government for all ceremonial purposes and for purposes of military law, for service of process, execution of duly authorized contracts, deeds and other documents, and as the Village official designated to represent the Village in all dealings with other governmental entities. The Mayor shall annually present a state of the Village message and, after approval of the budget by the Council, an annual budget message. The Mayor shall appoint all members of Village boards, agencies, and committees ("Village Boards"), subject to and effective upon ratification by the Council pursuant to the following procedure.

*I) Appointment Procedure.* Prior to making appointments to Village Boards, the Mayor, during a Council meeting, shall solicit recommendations from each Council Member for appointees. The Mayor's appointments shall be announced at a subsequent Council meeting which precedes the meeting at which ratification will be considered.

*ii) Waiver.* The method of appointment described in paragraph (I) may be waived in part or in its entirety in connection with a particular Village Board by the Council. Where the Mayor fails to appoint members of a particular Village Board, the Council shall appoint the members.

(b) *Vice Mayor.* During the absence or incapacity of the Mayor, the Vice Mayor shall have all the powers, authority, duties and responsibilities of the Mayor. At the first Council meeting after each regular Village election, or in any calendar year in which there is no regular Village election, at the first Council meeting in the month of November of such year, the Council shall elect one (1) of its members as Vice Mayor.

Commissioner Laredo made an amending motion to amend Section 2.02 (a) as follows: (a) *Mayor.* The Mayor shall preside at meetings of the Council, and be a voting member of the Council, ~~name committees of Council and appoint members of the Village boards and agencies with the approval of the Council.~~ The Mayor shall be recognized as head of Village government for all ceremonial purposes and for purposes of military law, for service of process, execution of duly authorized contracts, deeds and other documents, and, after obtaining the advise and consent from Council, as the Village official designated to represent the Village in all dealings with other governmental entities. The Mayor shall annually present a state of the Village message and, after approval of the budget by the Council, an annual budget message. The Mayor shall appoint all members of Village boards, agencies, and committees ("Village Boards"), subject to and effective upon ratification by the Council. ~~pursuant to the following procedure.~~ The motion was seconded by Chairman Broucek and approved by a 5-0 roll call vote. The vote was as follows: Commissioners Ames, Kelly, Laredo, Vice Chairman Kahn and Chairman Broucek voting Yes.

Commissioner Laredo made an amending motion to amend Section 2.02 (I) and (ii) as follows: *I) Appointment Procedure.* Prior to making appointments to Village Boards, the Mayor, during a Council meeting, shall solicit recommendations from each Council Member for appointees. The Mayor's appointments shall be listed on the agenda for the next Regular ~~announced at a subsequent Council meeting at which time precedes the meeting at which~~ ratification will be considered. and *ii) Waiver.* The ~~method of~~ procedure for appointment described in paragraph (I) may be waived in part or in its entirety in connection with a particular Village Board by the Council. Where the Mayor fails to appoint members of a particular Village Board, the Council shall appoint the members. The motion was seconded by Commissioner Kelly and approved by a 5-0 roll call vote. The vote was as follows: Commissioners Ames, Kelly, Laredo, Vice Chairman Kahn and Chairman Broucek voting Yes.

Vice Mayor Oldakowski addressed the Commission regarding Section 2.02 (I) and (ii).

Section 2.03 was redrafted as follows:

**Section 2.03. Election and term of office.**

Each Council Member and the Mayor shall be elected at-large by the electors of the Village in the manner provided in Article V of this Charter. Each Council Member and the Mayor shall be elected for a two (2) year term. ~~Each Council Member shall be elected for a four (4) year term. No person shall serve on the Council, as Mayor, or as any combination of Mayor and Council Member for more than two (2) consecutive elected terms six (6) consecutive years, and no person may serve on the Council, or as any combination of Mayor and Council Member, for more than eight (8) consecutive years.~~

John Festa, 695 Harbor Lane addressed the Commission.

Commissioner Laredo made an amending motion to change the elected terms to eight (8) consecutive years. The motion was seconded by Vice Chairman Kahn and approved by a 5-0 roll call vote. The vote was as follows: Commissioners Ames, Kelly, Laredo, Vice Chairman Kahn and Chairman Broucek voting Yes.

Vice Mayor Oldakowski addressed the Council regarding the length of elected terms.

Vice Chairman Kahn made a motion to keep the elected term as it is currently in the Charter, a four (4) year term. The motion was seconded by Chairman Broucek and approved by a 3-2 roll call vote. The vote was as follows: Commissioner Ames, Vice Chairman Kahn and Chairman Broucek voting Yes. Commissioners Kelly and Laredo voting No.

At this time, the Chairman requested a 5 minute recess. There was no objection to the request. The meeting was reconvened at 9:25 p.m.

John Festa, 695 Harbor Lane addressed the Commission regarding the number of years for elected terms.

Commissioner Kelly made a motion to change the elected term to a two (2) year term. The motion was seconded by Chairman Broucek and approved by a 4-1 roll call vote. The vote was as follows: Commissioners Kelly, Laredo, Vice Chairman Kahn and Chairman Broucek voting Yes. Commissioner Ames voting No.

Section 2.04 has been redrafted as follows:

**Section 2.04. Qualifications.**

Candidates for Council Member or Mayor shall qualify for election by the filing of a written notice of candidacy with the Clerk of the Village at such time and in such manner as may be prescribed by ordinance and payment to the Village Clerk of the sum of one hundred dollars (\$100.00) as a qualifying fee. A candidate for Mayor may

not be a candidate for Council Member in the same election. Only electors of the Village who have resided continuously in the Village for at least one (1) year preceding the date of such filing shall be eligible to hold the office of Council Member or Mayor.

The Attorney addressed the Commission regarding the qualifying fee stating that it is a State law requirement.

Commissioner Laredo made an amending motion to amend Section 2.04 as follows: Candidates for Council Member or Mayor shall qualify for election by the filing of a written notice of candidacy with the Clerk of the Village at such time and in such manner as may be prescribed by ordinance and payment to the Village Clerk of the sum of one hundred dollars (\$100.00) as a qualifying fee. A candidate for Mayor may not be a candidate for Council Member in the same election. Only electors of the Village who have resided continuously in the Village and have been a registered voter of the Village of Key Biscayne for at least one (1) year preceding the date of such filing shall be eligible to hold the office of Council Member or Mayor. The motion was seconded by Vice Chairman Kahn and approved by a 5-0 roll call vote. The vote was as follows: Commissioners Ames, Kelly, Laredo, Vice Chairman Kahn and Chairman Broucek voting Yes.

**Section 2.05. Vacancies; forfeiture of office; filling of vacancies.** No discussion.

**Section 2.06. Recall.** No discussion.

Section 2.07 was redrafted as follows:

**Section 2.07. No compensation; reimbursement for expenses.**

Council Members (including the Mayor) shall serve without compensation but shall receive reimbursement for authorized travel and per diem expenses incurred in the performance of their official duties in accordance with applicable law, or as may be otherwise provided by ordinance, ~~for authorized travel and per diem expenses incurred in the performance of their official duties.~~

Commissioner Ames, on behalf of Mayor Rasco, addressed the Commission expressing the Mayor's support for compensation of the Mayor and members of the Village Council.

John Festa, 695 Harbor Lane addressed the Commission regarding compensation.

### **ARTICLE III. ADMINISTRATIVE**

**Section 3.01. Village Manager.** No discussion.

**Section 3.02. Appointment; removal; compensation.** No discussion.

**Section 3.03. Powers and duties of the Village Manager.** No discussion.

**Section 3.04. Village Clerk.** No discussion.

**Section 3.05. Village Attorney.** No discussion.

**Section 3.06. Village code of administrative regulations.** No discussion.

Section 3.07 was redrafted as follows:

**Section 3.07. Expenditure of Village funds.**

No funds of the Village shall be expended except pursuant to duly approved appropriations. Where a resolution or ordinance has been adopted pursuant to Sections 5.02 or 6.02 setting an election, and the Council approves an expenditure of funds to inform the public of its position ("Majority Position") with respect to a particular ballot question ("Communication Expenditure") via mailings, advertising, web pages, or the like (collectively "Communications"), that Communication shall also inform the public of any minority position of the Council ("Minority Position"). A committee shall be formed for each Minority Position, comprised solely of Council Members who hold that Minority Position ("Minority Position Committee"). The content of the Communication relating to each Minority Position shall be determined by the Minority Position Committee representing that Minority Position. The resolution authorizing the Communication Expenditure shall specify the type of Communication and the date the Minority Position statement shall be completed and submitted to the Manager for inclusion in the Communication. All Communications shall present the Majority Position and Minority Position(s) in substantially the same fashion in terms of size, color, type, length, and other physical characteristics. The Minority Position Committee(s) created by operation of this Section shall sunset upon the date the Communication is effected.

John Festa, 695 Harbor Lane addressed the Commission regarding compensation.

Vice Chairman Kahn made a motion to amend Section 3.07 as follows: No funds of the Village shall be expended except pursuant to duly approved appropriations. Where a resolution or ordinance has been adopted pursuant to Sections 5.02 or 6.02 setting an election, and the Council approves an expenditure of funds to inform the public of its position ("Majority Position") with respect to a particular ballot question ("Communication Expenditure") via mailings, advertising, web pages, or the like (collectively "Communications"), that Communication shall also inform the public of any minority position of the Council ("Minority Position"). A committee shall be formed for each Minority Position, comprised solely of Council Members who hold that Minority Position ("Minority Position Committee"). The content of the Communication relating to each Minority Position shall be determined by the Minority Position Committee if any representing that Minority Position. The resolution authorizing the Communication Expenditure shall specify the type of Communication and the date the Minority Position statement shall be completed and submitted to the Manager for inclusion in the Communication. All Communications shall present the Majority Position and Minority Position(s) in substantially the same fashion in terms of size, color, type, length, and other physical characteristics. The Minority Position Committee(s) created by operation of this Section shall sunset upon the date the Communication is effected. The motion was seconded by Chairman Kahn and

approved by a 5-0 roll call vote. The vote was as follows: Commissioners Ames, Kelly, Laredo, Vice Chairman Kahn and Chairman Broucek voting Yes.

**Section 3.08. Competitive bid requirement.** No discussion.

**Section 3.09. Removal of Council Appointees.** No discussion.

#### **ARTICLE IV. LEGISLATIVE**

**Section 4.01. Council meeting procedure.** No discussion.

**Section 4.02. Prohibitions.** No discussion.

Section 4.03 was redrafted as follows:

**Section 4.03. Action requiring an ordinance.**

In addition to other acts required by law or by specific provision of this Charter to be effected or authorized by ordinance, those acts of the Village Council shall be by ordinance which:

- (1) Adopt or amend an administrative regulation or establish, alter or abolish any Village office, department, board or agency;
- (2) Establish a rule or regulation the violation of which carries a penalty;
- (3) Levy taxes or appropriate funds;
- (4) Grant, renew or extend a franchise;
- (5) Set service or user charges for municipal services or grant administrative authority to set such charges;
- (6) Authorize the borrowing of money;
- (7) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the Village; or
- (8) Amend or repeal any ordinance previously adopted, except as otherwise provided in this Charter.
- (9) Approve expenditures in excess of \$500,000 for: (1) the acquisition, construction, renovation, or improvement of public buildings or facilities; or (2) the purchase of equipment ("Capital Project").

Vice Chairman Kahn made a motion to amend Section 4.03 as follows: (9) Approve expenditures in excess of \$500,000 for: (1) the acquisition, construction, renovation, or improvement of public buildings or facilities; (2) purchase of land or (3) the

purchase of equipment ("Capital Project"). The motion was seconded by Commissioner Lauredo and approved by a 5-0 roll call vote. The vote was as follows: Commissioners Ames, Kelly, Lauredo, Vice Chairman Kahn and Chairman Broucek voting Yes.

John Festa, 695 Harbor Lane addressed the Commission.

The Attorney addressed the Commission regarding this section.

The Clerk brought to the attention of the Commission that the Community Center Committee had a scheduled meeting on Monday, March 18, 2002 at 7:30 p.m. in the Council Chamber.

It was the consensus of the Commission to schedule the next meeting of the Charter Revision Commission on Monday, March 18, 2002 at 7:00 p.m. in the Council Chamber. The discussion will begin with Section 4.03.

The meeting was adjourned at 11:10 p.m.

***Respectfully submitted:***

***Conchita H. Alvarez, CMC  
Village Clerk***

***Approved by the Commission  
this day of March, 2002:***

***Martha F. Broucek  
Chairman***

***IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE CHARTER REVIEW COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING, 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.***