

MINUTES  
VILLAGE COUNCIL MEETING

TUESDAY, APRIL 24, 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, Enrique Garcia, Robert Gusman, Mayra P. Lindsay, James S. Taintor, Vice Mayor Michael E. Kelly (arrived at 9:10 p.m.) 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. **PLEDGE OF ALLEGIANCE:** Mayor Caplan led the Pledge of Allegiance.
3. **SPECIAL PRESENTATIONS:** Village Lobbyist Fausto B. Gomez, with Gomez Barker Associates, Inc. addressed the Council giving a Legislative Update.

The following residents addressed the Council: Ed Stone, 145 Hampton Lane; Sam Brickle, 177 Ocean Lane Drive; Belle Von der Goltz, 177 Ocean Lane Drive and Ed Meyer, 798 Crandon Boulevard.

4. **AGENDA:** Councilmember Davey requested the addition of a discussion regarding reduced waste fees for seniors as Item 8A3, also requested the addition of a discussion regarding Beach Garbage/Beach Renourishment as Item 8A4 and also requested a discussion regarding Kite Boarders as Item 8A5; Councilmembers Garcia and Gusman requested a discussion

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regarding hat-racking and whiteflies as Item 8A6; Councilmember Lindsay requesting the addition of a discussion regarding the Driver License Program at the Community Center as Item 8A7 and Mayor Caplan requested the addition of a proclamation regarding Civility Month as Item 8A8. There was no objection to the agenda changes.

5. **APPROVAL OF MINUTES:** Councilmember Garcia made a motion to approve the minutes of April 10, 2012 Regular Council Meeting. The motion was seconded by Councilmember Davey.

Councilmember Taintor made the following amendments to the minutes: page 1 of 7 the word "PUSH" in PUSH CPR should be capitalized; page 2 of 7 add the word "Florida" before the word "Turnpike"; page 3 of 8 add to the fifth paragraph "Discussion followed by Council." and also at the bottom of that page add "Discussion followed by Council, with Councilmember Taintor reading his objection into the record"; on page 4 of 7 after the Manager and the Parks and Recreation Director addressed the Council add the following: "Discussion followed by Council." and at the bottom of that same page add the following after Mr. Blankenship addressed the Council, "advising his estimate of the Project cost, including Permitting was \$70,000 to \$80,000."; page 5 of 7 add the following after the Manager and Chief Lang addressed the Council: "Discussion followed by Council, with a \$50,000 maximum cost to be inserted into the contract" (I reviewed the tape very carefully and this is what the Manager said verbatim: "The Manager stated that we would put the cap as outlined in the budgeted number for this fiscal year 2012 and during the budget process for Fiscal Year 2014 he will present numbers based on the status of the project.", therefore, this is what is reflected in the minutes of April 10, 2012.)

The minutes, as amended, were approved by a 6-0 voice vote. The vote was as follows: Council members Davey, Garcia, Gusman, Lindsay, Taintor and Mayor Caplan voting Yes.

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

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAWAYNE, FLORIDA, AMENDING CHAPTER 10 "FLOODS" IN ORDER TO UPDATE THE FLOODPLAIN MANAGEMENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

The Manager and Jud Kurlancheek, Director of Building, Zoning and Planning addressed the Council recommending approval of the Ordinance which establishes regulations dealing with Flood Damage mitigation, eliminating conflicts with the 2010 Florida Building Code and complying with modifications requested by representatives of the Federal Emergency

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Management Agency (FEMA).

The approval of this ordinance will maintain the Village's Community Rating System status and continue to provide savings to the Village residents on their flood insurance premiums.

Alicia M. Verea-Ferea with Tetra-Tech 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: Council members Davey, Garcia, Gusman, Lindsay, Taintor and Mayor Caplan voting Yes.

The Clerk announced the second reading on May 8, 2012.

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

**A CAPITAL PROJECT AUTHORIZING ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING EASTMAN AGGREGATE ENTERPRISES, LLC FOR THE VILLAGE'S BEACH RENOURISHMENT PROJECT; PROVIDING FOR A WAIVER OF COMPETITIVE BIDDING; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

The Clerk announced that pursuant to Section 4.03(9) of the Village Charter, notice was provided to all electors of the Village that this ordinance would be heard on second hearing on April 24, 2012. The Manager also announced that his office had not received any complaints or phone calls regarding this ordinance.

The Manager addressed the Council recommending adoption of the ordinance for the Village's Beach Renourishment Project along the Atlantic Ocean within the Village by supplying and placing approximately 46,500 tons of beach compatible sand utilizing truck-haul methods. The total cost of the project is estimated at \$1,569,875.66. Funding for this project has been allocated from the 2012 Capital Improvement Plan.

Tim Blankenship, with Coastal Systems International, Inc. addressed the Council.

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

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The ordinance was adopted on second reading by a 6-0 roll call vote. The vote was as follows: Council members Davey, Garcia, Gusman, Lindsay, Taintor and Mayor Caplan voting Yes.

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

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING E & M EQUIPMENT CORP. FOR THE RESURFACING IMPROVEMENTS NORTH OF WEST HEATHER DRIVE; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AGREEMENT RELATED TO THE SAME; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

The Manager and Sean Compel with C3TS addressed the Council recommending approval of the resolution awarding the construction contract for the Resurfacing Improvements North of West Heather Drive to E&M Equipment Corporation.

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

The Clerk read the following resolution by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING HPF ASSOCIATES, INC. FOR THE VILLAGE ADMINISTRATION BUILDING REMODELING PROJECT; AUTHORIZING THE VILLAGE MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT CONSISTENT WITH THE TERMS SET FORTH IN THE PROPOSAL ATTACHED AS EXHIBIT "A"; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

The Manager addressed the Council recommending approval of the resolution selecting HPF Associates, Inc. for the Village Hall Administration building remodeling project.

Paul Abbott with HPF Associates, Inc., addressed the Council.

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

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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 CONSTRUCTION PROCUREMENT, A BEACH CONSTRUCTION PLAN UPDATE, CONSTRUCTION ADMINISTRATION, RESIDENT PROJECT REPRESENTATIVE SERVICES, BIOLOGICAL, PHYSICAL, AND OTHER REQUIRED MONITORING, PERMIT COMPLIANCE, AND A DEPARTMENT OF ENVIRONMENTAL PROTECTION FUNDING REQUEST 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 Councilmember Garcia.

The Manager addressed the Council recommending approval of the proposal submitted by Coastal Systems International, Inc. (CSI) relating to the beach renourishment project, authorizing the Manager to execute a work order consistent with the terms of the proposal.

Mr. Blankenship addressed the Council regarding this proposal.

Councilmember Davey made an amending motion to amend Table 1 of the project to include a one year monitoring for post renourishment services. The motion was seconded by Councilmember Lindsay and failed by a 2-4 roll call vote. The vote was as follows: Council members Lindsay and Taintor voting Yes. Council members Davey, Garcia, Gusman and Mayor Caplan voting No.

The resolution was approved by a 5-1 voice vote. The vote was as follows: Council members Davey, Garcia, Gusman, Lindsay 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 AN AGREEMENT WITH CONSULTATIO KEY BISCAYNE LLC FOR A TEMPORARY ACCESS LICENSE, INDEMNIFICATION AND HOLD HARMLESS AGREEMENT RELATING TO THE BEACH RENOURISHMENT**

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**PROJECT; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

The Manager addressed the Council recommending approval of the resolution approving the proposal submitted by Coastal Systems International, Inc. ("CSI") relating to the beach renourishment project, authorizing the Village Manager to execute a work order consistent with the terms of the proposal.

The resolution was approved by a 7-0 voice vote. The vote was as follows: Council members Davey, Garcia, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

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

Mayor and Council members. Councilmember Taintor addressed the Council regarding the Rickenbacker Causeway as it relates to bicyclists, proposing that the bike lanes be separated from the traffic lanes with a concrete barrier, and also proposed that the bicyclists pay a toll to go through the Rickenbacker Causeway. There was extensive discussion from Council on this issue. It was the consensus of Council to direct staff to draft legislation regarding this issue.

Councilmember Garcia addressed the Council regarding public parking on Village streets. It was the consensus of Council to direct the Manager to come back with solutions.

Councilmember Davey addressed the Council regarding reduced Solid Waste fees for seniors. It was the consensus of Council to direct the Manager to come back with solutions to give some relief on Solid Waste fees for seniors.

Councilmember Davey addressed the Council regarding the garbage on the beach and the beach renourishment project. The Manager also addressed the Council regarding these issues.

Councilmember Davey addressed the Council reporting that despite the law, a growing number of kite-boarders are launching from the beach, specially in front of the Commodore Club.

Chief of Police Charles Press addressed the Council regarding this situation. Chief Press explained that the Village does not have the man power to take care of this problem.

Councilmember Garcia addressed the Council regarding hat-racking and whiteflies. Councilmember Garcia reported that a number of homeowners received fines for hat-racking trees in an attempt to eradicate pesky whiteflies.

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Director of Building, Zoning and Planning Jud Kurlancheek and the Attorney addressed the Council regarding hat-racking.

Councilmember Lindsay addressed the Council regarding the Driver License Renewal Program in the Community Center, commending the Director and staff for providing this service.

Mayor Caplan addressed the Council regarding a request from the Florida Bar recommending that every Municipality recognize the importance of civility and issue a proclamation recognizing the month of May as Civility Month.

Village Attorney. The Attorney addressed the Council regarding a draft of an ordinance addressing the referendum Item. The Attorney will be sending to the Council a draft of the ordinance addressing this issue.

Village Clerk. The Village Clerk did not submit a report.

Village Manager. The Manager addressed the Council regarding the selection of the Finance Director reporting that Ms. Vivian Parks has been hired as the Village's new Finance Director. Ms. Parks will be starting on May 21, 2012 with a starting salary of \$104,000.

The Manager also addressed the Council giving an update on the proposed strategic planning workshop. Dr. Frank with FIU will be calling each Councilmember in order to conduct a survey of the Council.

The Manager also addressed the Council regarding swale code enforcement. Director Kurlancheek addressed the Council reporting that there has been excellent compliance with a policy aiming at keeping landscaping and other items 3 feet from the road.

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

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

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

12. **ADJOURNMENT:** The meeting was adjourned at 10:30 p.m.

*Respectfully submitted:*

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

Approved this 22nd day of May, 2012:

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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.***