

MINUTES

ZONING MEETING
KEY BISCAVNE, FLORIDA

TUESDAY, JUNE 22, 2004

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 Martha F. Broucek, Carol Diaz-Castro, Mortimer Fried, James L. Peters, Robert L. Vernon and Mayor Robert Oldakowski. Vice Mayor Jorge Mendia was absent. Also present were Village Manager Jacqueline R. Menendez, Village Clerk Conchita H. Alvarez and Village Attorney Stephen P. Helfman.
2. **PLEDGE OF ALLEGIANCE:** Dr. Roger K. Khouri led the Pledge of Allegiance.
3. **AGENDA:** Councilmember Broucek requested the addition of a Special Presentation by Mr. James Brewster regarding the Village Seal before the approval of the minutes and the withdrawal of Item 8A1; the Manager requested the deferral of Items 6A2 and 7B possibly to the June 29, 2004 Special Council Meeting; Mayor Oldakowski requested to hear Items 7D and 7F at the same time and Councilmember Peters requested a report from the Attorney regarding the Marine Stadium as Item 8B1. There was no objection to the agenda changes.

Councilmember Broucek addressed the Council regarding the integrity of the Village Seal of the

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Village of Key Biscayne and introduced Mr. James Brewster.

Mr. Brewster addressed the Council regarding the recent alteration of the adopted Village Seal.

The Manager addressed the Council regarding the seal and assured the Mayor and Councilmembers that the seal will not be altered.

4. **APPROVAL OF MINUTES:** Councilmember Fried made a motion to approve the minutes of the May 25, 2004 Zoning Meeting. The motion was seconded by Councilmember Diaz-Castro and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon and Mayor Oldakowski voting Yes.

Councilmember Broucek made a motion to approve the minutes of the June 1, 2004 Regular Council Meeting. The motion was seconded by Councilmember Vernon and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon and Mayor Oldakowski voting Yes.

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

Hearing Number SP-11. Roger K. Khouri, 580 Crandon Boulevard, the applicant is requesting approval of a site plan for a 8,784 sq. ft. Medical office building.

Jud Kurlancheek, Director of Building, Zoning and Planning addressed the Council recommending approval of the site plan subject to the following conditions: 1.) The design of the building shall include additional architectural detailing which includes but is not limited to stucco banding/scoring, a reveal with windows above the stairwell and elevator doors, the removal of the column in the entrance plaza, and a retaining wall along the north property line. The primary paint color shall be a pastel consistent with the color of surrounding properties; 2.) The applicant shall contribute 50% of the funds to place the overhead power lines underground with the payment due prior to the issuance of a building permit. The Village will pay the remainder from funds that are set aside in the Civic Center Project; 3.) The applicant shall construct an 8-10 ft. Wide sidewalk on Crandon Boulevard and a sidewalk on W. Enid Drive, curbing on both streets, and on-street parking spaces on W. Enid Drive as recommended in the Crandon Boulevard Master Plan. The W. Enid Drive improvements shall match those constructed by the Village adjacent to the Village Hall Parking lot. These improvements shall be provided on the site plan that is submitted for a building permit and constructed prior to the issuance of any type of Certificate of Occupancy; 4.) The parking lot shall be open to the public after 5:00 p.m. during week days, and anytime on national holidays and weekends. A 4 sq. ft. Sign indicating this situation shall be placed on the property near the entrance drive and be shown on the site plan that is submitted for a building permit; 5.) The applicant shall enter into an agreement with the Village to permit access from Village Green Way. The agreement

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shall be prepared by the Village Attorney and include an easement and other considerations which will be submitted for approval by the Village Council. A building permit shall not be issued until this agreement is executed by the applicant and approved by the Village Council.

Councilmember Broucek made a motion to approve the site plan subject to the above staff recommendations. The motion was seconded by Councilmember Vernon.

The Mayor opened the public hearing. Maria A. Gralia, Shutts & Bowen LLP, attorney representing the applicant and George Azze, Architect for the project, addressed the Council. The Mayor closed the public hearing.

The Attorney addressed the Council regarding this hearing.

Councilmember Fried made an amending motion to add the following condition: approved subject to the project being developed in substantial conformity with the plans prepared by Azze Architects Inc. containing three sheets and dated June 10, 2004, as well as the undated "birds eye view" preliminary sketch submitted with said plans. The motion was seconded by Councilmember Diaz-Castro and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon and Mayor Oldakowski voting Yes.

Councilmember Fried made an amending motion to eliminate condition #4. The motion was seconded by Councilmember Diaz-Castro and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon and Mayor Oldakowski voting Yes.

Councilmember Peters made an amending motion to cap the applicant's contribution in condition #2, to 50% not to exceed \$50,000. The motion was seconded by Councilmember Vernon and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon and Mayor Oldakowski voting Yes.

The application was approved by a 6-0 roll call vote subject to conditions #1, #2 (as amended), #3, #5 and the additional condition tying the project to the site plan. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon and Mayor Oldakowski voting Yes.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, PROVIDING FOR AMENDMENT OF THE VILLAGE CHARTER BY AMENDING SECTION 5.01 "ELECTIONS"; BY PROVIDING FOR ELIMINATION OF RUNOFF ELECTIONS FOR COUNCIL MEMBER POSITIONS, AND PROVIDING FOR CANDIDATES TO BE ELECTED TO COUNCIL MEMBER POSITIONS BY PLURALITY VOTE RATHER THAN

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BY A MAJORITY VOTE REQUIREMENT; RETAINING MAYORAL RUNOFF AND MAJORITY VOTE REQUIREMENT FOR ELECTION OF MAYOR AND REVISING TIMING OF RUNOFF ELECTION FOR OFFICE OF MAYOR; AND BY PROVIDING FOR SEPARATE CHARTER AMENDMENT OF SOLELY PARAGRAPH (f) "RUNOFF ELECTION" OF SECTION 5.01 TO EXTEND TIME FOR ANY RUNOFFS FROM TWO (2) WEEKS AFTER REGULAR ELECTION TO FOUR (4) WEEKS AFTER REGULAR ELECTION; CALLING AN ELECTION ON THE PROPOSED AMENDMENTS TO THE VILLAGE CHARTER TO BE HELD ON TUESDAY, NOVEMBER 2, 2004; PROVIDING FOR SUBMISSION TO THE ELECTORS FOR APPROVAL OR DISAPPROVAL THE CHARTER AMENDMENTS SET FORTH HEREIN; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR PROCEDURE FOR BALLOTING; PROVIDING FOR NOTICE OF ELECTION; PROVIDING FOR INCLUSION IN THE CHARTER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Fried made a motion to adopt the ordinance on first reading. The motion was seconded by Councilmember Vernon.

The Mayor opened the public hearing. Michael Kahn, 881 Ocean Drive addressed the Council. The Mayor closed the public hearing.

The Attorney and the Clerk addressed the Council regarding the requirements of the Miami-Dade County Elections Department in order to conduct an election.

There was discussion from Council regarding amending this ordinance to reflect a Charter amendment to provide for a primary election instead of a runoff election. The Attorney was directed to revise the ordinance to reflect this request from Council.

There was no action taken by Council.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 17 "NOISE," BY AMENDING SECTION 17-5 "EXEMPTIONS", AT PARAGRAPH (b) THEREOF, TO CREATE SUBPARAGRAPH (3) TO PROVIDE FOR AN EXEMPTION FOR PUBLIC SCHOOL CONSTRUCTION WORK; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

The Manager addressed the Council regarding this ordinance.

Councilmember Fried made a motion to adopt the ordinance on first reading. The motion was

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seconded by Mayor Oldakowski.

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

The ordinance was adopted on second reading by a 5-0 roll call vote. The vote was as follows: Councilmembers Diaz-Castro, Fried, Peters, Vernon and Mayor Oldakowski voting Yes. Councilmember Broucek was out of the room at the time the vote was taken.

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

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, IMPLEMENTING EXEMPTION FROM NOISE REGULATIONS FOR SCHOOL IMPROVEMENT PROJECT OF THE SCHOOL BOARD OF MIAMI-DADE COUNTY CONSISTING OF AN ADDITION TO THE KEY BISCAYNE MIDDLE SCHOOL PURSUANT TO SECTION 17-5(b)(3) OF CHAPTER 17 "NOISE" OF THE VILLAGE CODE; AND PROVIDING FOR EFFECTIVE DATE.

The Manager addressed the Council regarding this resolution.

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

The following individual addressed the Council: Joe Fernandez, Contractor for the project.

Councilmember Vernon made an amending motion to amend the time permitted to create noise on Saturdays between 9:00 a.m. and 5:30 p.m. and on Monday through Friday between the hours of 7:00 a.m. and 5:30 p.m. The motion was seconded by Councilmember Peters and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon and Mayor Oldakowski voting Yes.

Councilmember Fried made an amending motion to add a fourth condition stating that active construction with an active full crew shall occur until 5:30 p.m. (or dusk) on each weekday during the entire course of construction. The motion was seconded by Councilmember Peters and approved by a 5-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters and Mayor Oldakowski voting Yes. Councilmember Vernon was out of the room at the time the vote was taken.

The resolution as amended was approved by a 6-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon and Mayor Oldakowski voting Yes. The Clerk read the following resolution by title:

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A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO OBTAIN PROFESSIONAL SOFTWARE SERVICES AND RELATED PRODUCTS AND EQUIPMENT FROM CLASS SOFTWARE SOLUTIONS, LTD. FOR THE VILLAGE'S RECREATION DEPARTMENT PROGRAMS, INCLUDING THE VILLAGE'S COMMUNITY CENTER; RECOGNIZING EXEMPTION FROM COMPETITIVE BIDDING PURSUANT TO SECTION 2-86 AND SECTION 2-87(2) OF THE VILLAGE CODE; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR EFFECTIVE DATE.

The Manager addressed the Council regarding this resolution.

Councilmember Vernon made a motion to approve the resolution. The motion was seconded by Councilmember Diaz-Castro.

Todd Hofferberth, Director of Parks and Recreation Department addressed the Council regarding this resolution.

The resolution was approved by a 6-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, 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, APPROVING THE AGREEMENT BETWEEN THE MOST REVEREND JOHN C. FAVALORA, ARCHBISHOP OF THE ARCHDIOCESE OF MIAMI, HIS SUCCESSORS IN OFFICE, A CORPORATION SOLE, AND THE VILLAGE OF KEY BISCAYNE; PROVIDING FOR LICENSES TO BE GRANTED IN FAVOR OF THE VILLAGE FOR THE USE OF THE ATHLETIC FIELD LOCATED AT THE ST. AGNES CATHOLIC CHURCH; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE VILLAGE; AUTHORIZING THE VILLAGE MANAGER TO TAKE ALL ACTION NECESSARY TO IMPLEMENT THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

The Manager, the Attorney and Director Hofferberth addressed the Council regarding this resolution.

Councilmember Fried made a motion to approve the resolution. The motion was seconded by Councilmember Broucek.

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Luis de la Cruz, 640 Allendale Road addressed the Council regarding this resolution.

Armando Nunez, Public Works Director also addressed the Council regarding this resolution.

The resolution was approved by a 6-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon and Mayor Oldakowski 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, CONCERNING LIGHTING IMPROVEMENTS AT PLAYING FIELD WHICH IS UTILIZED BY THE VILLAGE AT THE ST. AGNES CATHOLIC CHURCH; AUTHORIZING PURCHASE AND INSTALLATION OF LIGHTING IMPROVEMENTS; AUTHORIZING CONTRACT BETWEEN THE VILLAGE AND MUSCO LIGHTING FOR SUPPLYING AND INSTALLING LIGHTING EQUIPMENT; RECOGNIZING SERVICES AND PRODUCTS AS EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 2-86 OF THE VILLAGE CODE; PROVIDING FOR EFFECTIVE DATE.

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

Councilmember Vernon made a motion to approve the resolution. The motion was seconded by Councilmember Fried.

Lewis Gilbert, Musco Lighting representative addressed the Council.

The resolution was approved by a 6-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, 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, APPROVING AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN WALLACE ROBERTS & TODD, LLC., (THE "CONSULTANT") AND THE VILLAGE OF KEY BISCAYNE CONCERNING PLANNING SERVICES FOR THE EVALUATION AND APPRAISAL REPORT (THE "EAR") FOR THE VILLAGE'S COMPREHENSIVE PLAN, PREPARATION OF VISION PLAN, PREPARATION OF DESIGN AND DEVELOPMENT REGULATORY CRITERIA FOR THE CRANDON BOULEVARD CORRIDOR, AND FOR THE CRANDON BOULEVARD ENTRY BLOCK; AUTHORIZING VILLAGE MANAGER TO EXECUTE THE AGREEMENT BETWEEN THE VILLAGE AND CONSULTANT; PROVIDING FOR AN EFFECTIVE DATE.

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Councilmember Broucek requested deferral of this resolution to the June 29, 2004 Special Council Meeting. There was no objection to the request.

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

Mayor and Councilmembers. Mayor Oldakowski addressed the Council regarding the enforcement of Ordinance 94-4 prohibiting motorized water craft within the 300 feet limit without exception.

The Manager addressed the Council stating her position to enforce Ordinance 94-4, prohibiting the operation of vessels within 300 feet from the beach.

There was extensive discussion from Council regarding this issue.

Councilmember Diaz-Castro made a motion to hear public comments on this issue. The motion died for lack of a second.

Mayor Oldakowski made a motion to support the Manager on her position to enforce Ordinance 94-4. The motion was seconded by Councilmember Fried and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon and Mayor Oldakowski voting Yes.

Village Attorney. The Attorney addressed the Council regarding some recent activity with regards to restrictions on the use of the Marine Stadium.

There was extensive discussion from Council regarding this issue.

The Manager also addressed the Council regarding the Marine Stadium.

Village Clerk. The Clerk submitted to the Council a letter from Constance A. Kaplan, Supervisor of Elections, Miami-Dade County Elections Department regarding minimum time requirement between elections.

Village Manager. The Manager presented to the Council the 2004 Assessment Roll estimate.

The Manager also presented to the Council the June 2004 Quarterly Reports for the following Boards: The Art in Public Places Board, the Crandon Boulevard Master Plan Implementation Committee, the Noise Ordinance Review Committee and the Community Center Advisory Board.

9. **OTHER BUSINESS/GENERAL DISCUSSION:** At this time the Clerk addressed the Council explaining the need for a Special Council Meeting to consider the first reading of the ordinance proposing a Charter Amendment and to meet the requirement from the Miami-Dade

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County Property Appraiser's Office to pass a resolution adopting the proposed millage rate and setting the Budget Hearing dates. It was the consensus of Council to hold a Special Council Meeting on Tuesday, August 3, 2004 at 8:30 a.m.

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

11. **ADJOURNMENT:** The meeting was adjourned at 10:40 p.m.

Respectfully submitted:

*Conchita H. Alvarez, CMC
Village Clerk*

Approved this 29th day of June, 2004:

*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.