

MINUTES

VILLAGE COUNCIL MEETING
KEY BISCAWAYNE, FLORIDA

TUESDAY, AUGUST 28, 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 and Mayor Franklin H. Caplan. Also present were Village Manager John C. Gilbert, Acting Village Clerk Jennifer Duque and Village Attorney Stephen J. Helfman.
2. **INVOCATION:** Reverend Susan Brutell from St. Christopher's by the Sea gave an invocation.
3. **PLEDGE OF ALLEGIANCE:** Mayor Caplan led the Pledge of Allegiance.
4. **BRIEF COMMENTS BY COUNCIL:** Councilmember Taintor requested a report from the Village Manager for damages caused by Tropical Storm Isaac. The Village Manager addressed the Council providing an overall report to the Council.

Mayor Caplan reported that he will appoint a new Pension Board member at a future meeting.

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4. **SPECIAL PRESENTATIONS:** The Green Dragon Group, Mr. Kenneth A. Smuts, on behalf of the owners for 301 Ocean Drive and Mr. Carlos Cuevas, made a presentation to Council regarding the status of negotiations for the property located at 301 Ocean Drive.

Mayor Caplan addressed the Council regarding the Silver Sands negotiations, Item 11A8.

Vice Mayor Kelly addressed the Council regarding setting a date for the second reading of the Density and Hotel Resort ordinances, Item 11A9.

Melissa McCaughan White and Patricia Weinman from the Key Biscayne Community Foundation made a presentation to Council regarding the Key Biscayne Citizen Scientist Project.

5. **PUBLIC COMMENTS:** The following residents addressed the Council: Jennifer Coote, 798 Crandon Boulevard; Michele Estevez, 798 Crandon Boulevard and Carlos de la Cruz, 5 Harbor Point.

6. **AGENDA:** Councilmember Lindsay requested the addition of a discussion regarding the status of the MAST Academy transition and MAST PTSA meeting update as Item 11A11; Councilmember Gusman requested the addition of a discussion in a future meeting regarding the feasibility study for security cameras; the Manager requested the addition of a discussion regarding setting a date for an Executive Session regarding Fire Labor Union negotiations: the Council tentatively agreed on September 19, 2012. There was no objection to the agenda changes.

7. **APPROVAL OF MINUTES:** There were no minutes considered by Council.

8. **ORDINANCES:** The Acting Clerk read the following ordinance on second reading, by title:

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING THE CHAPTER ENTITLED "PROPERTY MAINTENANCE" ADOPTED BY THE VILLAGE UPON INCORPORATION FROM THE MIAMI-DADE COUNTY CODE; AMENDING CHAPTER 6 "BUILDINGS AND BUILDING REGULATIONS" OF THE VILLAGE CODE OF ORDINANCES, BY CREATING ARTICLE II "PROPERTY MAINTENANCE"; PROVIDING FOR DEFINITIONS; PROVIDING FOR MAINTENANCE REGULATIONS RELATING TO STRUCTURES AND LOTS WITHIN THE VILLAGE; AMENDING THE CODE TO INCLUDE PENALTIES FOR VIOLATION OF THIS ARTICLE; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

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The Council decided to continue the hearing on this ordinance to the November 20th Council Meeting by a 6-1 voice vote. The vote was as follows: Councilmembers Garcia, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmember Davey voting No.

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

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, URGING MIAMI-DADE COUNTY TO ESTABLISH A TOLL ON BICYCLISTS FOR THE PURPOSE OF FUNDING, IN PART, THE COSTS OF INSTALLING AND MAINTAINING A PERMANENT PHYSICAL SAFETY BARRIER BETWEEN BICYCLISTS AND MOTOR VEHICLES ON THE ENTIRE LENGTH OF THE RICKENBACKER CAUSEWAY AND CRANDON BOULEVARD WITHIN CRANDON PARK; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

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

There was extensive discussion from Council discussed regarding bicycle safety on the Rickenbacker Causeway.

Chief of Police Charles Press, addressed the Council regarding the Village of Key Biscayne Police presence/ enforcement on the Rickenbacker Causeway.

It was the consensus of Council to have the Village Attorney revise the resolution, with proposed language by Council.

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

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

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, CONFIRMING THE VILLAGE'S ABILITY TO FUND AND SUPPORT THE PERMITTING, DESIGN, CONSTRUCTION, AND MONITORING OF THE VILLAGE'S BEACH RENOURISHMENT PROJECT; 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 approving the Village's ability to fund and support future beach renourishment projects.

Councilmember Lindsay addressed the Council regarding pursuing State and Federal funding for future beach renourishment projects.

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The Manager addressed the Council regarding plans for an upcoming Beach Renourishment Workshop involving subject matter experts including our State Lobbyist Mr. Fausto Gomez.

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

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

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING AN AMENDED FIRE RESCUE TRANSPORT FEE SCHEDULE IN ACCORDANCE WITH SECTION 2-75 OF THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR TRANSMITTAL; 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 the Chief of Fire Rescue Eric Lang, addressed the Council recommending approval of the resolution for an amended Fire Rescue Transport Fee Schedule.

There was extensive discussion from Council regarding the resolution.

The resolution was approved by a 6-1 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmember Lindsay voting No.

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

A RESOLUTION OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING THE PROPOSAL OF ATKINS NORTH AMERICA, INC. FOR EMERGENCY INSPECTIONS AND BUILDING PERMIT PLAN REVIEW; AUTHORIZING THE VILLAGE MANAGER AND OTHERS TO NEGOTIATE FINAL TERMS FOR SUCH SERVICES AND ENTER INTO AN AGREEMENT; 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 and the Building, Zoning and Planning Director, Jud Kurlancheek, addressed the Council recommending approval of the resolution selecting the proposal of Atkins North America, Inc. for emergency inspections and building permit review for post recovery assistance.

The resolution was approved by a 4-2 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman and Mayor Caplan voting Yes. Councilmember Lindsay and Taintor voting No. Vice Mayor Kelly was out of the room at the time the vote was taken.

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

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Mayor and Councilmembers. Councilmember Lindsay addressed the Council regarding bicycle safety during Item 10A.

Councilmember Taintor addressed the Council regarding the fishing restrictions for the Chief Harmon Fishing Tournament on the Mashta Bridge.

It was the consensus of the Council to remove the fishing restrictions during the Chief Harmon Fishing Tournament.

Councilmember Taintor addressed the Council regarding the status of Nixon Beach swim buoys/vessel exclusion zone.

The Village Attorney addressed the Council regarding the status of the Nixon Beach swim buoys/vessel exclusion zone and stated that 4 out of the 7 total number of consent forms from the neighbors have not yet been received.

Councilmember Taintor addressed the Council regarding the status of Mashta Flat permitting/installation cost estimates. Councilmember Taintor contacted the contractors working behind the Miami Seaquarium. The contractor provided a cost estimate of \$20,000 - \$25,000 to install and permit the Mashta Flat swim buoys in comparison to Coastal Systems International which provided a \$70,000 - \$80,000 cost estimate.

The Manager addressed the Council regarding the permitting and installation cost of the swim buoys and possibly piggybacking off of the Nixon Beach exclusion zone project.

Councilmember Taintor addressed the Council regarding the Building & Zoning- setbacks/bonus points/water retention.

Council had an extensive discussion regarding issues with setbacks, bonus points and water retention.

Mayor Caplan suggested having a workshop regarding setbacks, bonus points and water retention and the Council agreed.

Councilmember Taintor addressed the Council regarding the school bond issue.

The Manager and the Village Attorney addressed the Council regarding the Key Biscayne and Miami-Dade County School Board bond repayment obligations.

Councilmember Taintor addressed the Council regarding the impact fees-residential properties.

The Village Attorney addressed the Council regarding impact fees for residential properties due to an increased number of residents and/or increased square footage to the residence.

Councilmember Lindsay addressed the Council regarding the Virginia Key sewage treatment plant.

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The Village Attorney recommended to Council to have the Miami-Dade County Water and Sewer department Director, Mr. John Renfrow, to report back to the Village Council regarding a rehabilitation plan.

Councilmember Lindsay addressed the Council regarding the MAST PTSA meeting that took place at the MAST Academy.

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Clerk did not submit a report.

Village Manager. The Manager and the Parks and Recreation Director, Todd Hofferberth, addressed the Council regarding authorization to issue the Village of Key Biscayne Fourth of July Fireworks Request for Proposals.

It was the consensus of Council to authorize the Village Manager to proceed with the Fourth of July Fireworks Request for Proposals.

11. **OTHER BUSINESS/GENERAL DISCUSSION:** There was no further business discussed.
12. **OTHER BUSINESS/PENDING LITIGATION:** A list of pending business/pending litigation was presented to the Council.
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 11:00 p.m.

Respectfully submitted:

*Jennifer Duque,
Executive Assistant to the Village Manager/Acting Village Clerk*

Approved this 20th day of November, 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.