

MINUTES

VILLAGE COUNCIL MEETING
KEY BISCAZYNE, FLORIDA

TUESDAY, AUGUST 30, 2011

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 Genaro “Chip” Iglesias and Village Attorney Stephen J. Helfman.

2. **PLEDGE OF ALLEGIANCE:** Members of the under-12 Key Biscayne Field Hockey Team led the pledge of allegiance

3. **SPECIAL PRESENTATIONS:** The Mayor, on behalf of the Council, recognized the under-12 Key Biscayne Field Hockey Team that played in Orlando, placing third in their division. First time a Key Biscayne Team participated in a USA Field Hockey Association Event and first team from Florida to medal in a tournament of this kind.

Colin Baenziger with Baenziger & Associates, addressed the Council giving an update on the status of the search for Village Manager.

Tim Blankenship with Coastal Systems addressed the Council regarding the Beach Projects. Brian Flynn with DERM addressed the Council regarding the Federal Shore Protection Projects.

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Valarie Philip with O'Brien's Response Management addressed the Council regarding FEMA Deobligation 2004 and 2005 Storms Status Report.

4. **PUBLIC COMMENTS:** The following resident addressed the Council: Ed Meyer, 798 Crandon Boulevard.

5. **AGENDA:** Councilmember Davey requested the addition of a discussion on school traffic as Item 10A6. There was no objection to the agenda change.

At this time, Mayor Caplan acknowledged and congratulated the Key Biscayne Yacht Club on a Clean Marina.

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

7. **ORDINANCES:** The Attorney read the following ordinance on second reading, by title:

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$3,125,000 OF TRANSPORTATION TAX REVENUE REFUNDING BONDS OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; PROVIDING FOR A SUPPLEMENTAL RESOLUTION SETTING FORTH THE DETAILS OF SAID BONDS; AUTHORIZING THE VILLAGE MANAGER TO NEGOTIATE WITH BANKS FOR PURCHASE OF THE BONDS AND TO ENTER INTO A RATE LOCK AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

Vice Mayor Kelly made a motion to approve the ordinance on second reading. The motion was seconded by Councilmember Lindsay.

The Manager and the Attorney addressed the Council recommending approval of this ordinance which will authorize the issuance of not exceeding \$3,125,000 of Transportation Tax revenue refunding bonds of the Village of Key Biscayne for the purposes of refunding prior bonds.

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

The ordinance was approved on second reading by a 7-0 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, CREATING THE WINTER CONCERT ADVISORY COMMITTEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Kelly made a motion to approve 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.

The ordinance was approved on second reading by a 7-0 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Vice Mayor Kelly, Lindsay, Taintor and Mayor Caplan voting Yes.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; AMENDING THE 2010-2011 VILLAGE BUDGET AS PROVIDED FOR ON EXHIBIT "A"; PROVIDING FOR AN EFFECTIVE DATE.

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

The Manager addressed the Council recommending approval of this ordinance. Due to the ongoing labor negotiations the Village was required to provide the 5% raises retroactively as negotiations continue for the General Employees and provide the 1% COLA as per the newly ratified Collective Bargaining Agreements for Police Officers and Sergeants and Police Lieutenants.

There was an extensive discussion from Council on this ordinance.

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

The ordinance was approved on second reading by a 7-0 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Vice Mayor Kelly, Lindsay, Taintor and Mayor Caplan voting Yes.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 4-32 “PROHIBITED WATER ACTIVITY” CREATING A VESSEL EXCLUSION ZONE/SWIM AREA GENERALLY LOCATED WEST OF 398 HARBOR DRIVE TO 485 W. MATHESON DRIVE AS FURTHER DESCRIBED ON EXHIBIT “A”; PROVIDING FOR GENERAL EXCEPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

The Mayor opened the public hearing. Mario Garcia-Serra, Attorney representing the owners at 452 Harbor Drive; Claudio Alvarez, 452 Harbor Drive addressed the Council. The Mayor closed the public hearing.

There was an extensive discussion from Council regarding this ordinance.

Vice Mayor Kelly made a motion to amend Section 4-32 of the Code as follows: set the boundaries at 300 feet instead of 200 feet. The motion was seconded by Mayor Caplan and failed by a 3-4 roll call vote. The vote was as follows: Councilmember Garcia, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmembers Davey, Gusman, Lindsay and Taintor voting No.

The Manager and the Attorney also addressed the Council regarding this ordinance.

Councilmember Davey made a motion to amend Section 4-32 of the Code as follows: set the boundaries at 175 feet instead of 200 feet. The motion was seconded by Councilmember Garcia. Councilmember Garcia withdrew his second to the motion.

Councilmember Davey made a motion to amend Section 4-32 of the Code as follows: set the boundaries at 200 feet. The motion was seconded by Councilmember Lindsay and approved by a 5-2 roll call vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor and Vice Mayor Kelly voting Yes. Councilmember Garcia and Mayor Caplan voting No.

It was the consensus of Council to amend Section 4-32 of the Code as follows: No owner, operator or person in command of any Vessel shall permit or operate a Vessel within the area of

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Biscayne Bay, generally located West of 400 Harbor Drive to and including 500 Bay Lane as shown on the Nixon Beach Swim Zone Map, except as authorized by the Village Council.

The ordinance, as amended, was approved on second reading by a 5-2 roll call vote. The vote was as follows: Councilmembers Davey, Gusman, Lindsay, Taintor and Vice Mayor Kelly voting Yes. Councilmember Garcia and Mayor Caplan voting No.

8. **RESOLUTIONS:** The Attorney read the following resolution by title:

A RESOLUTION OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING THE ISSUANCE OF TRANSPORTATION TAX REVENUE REFUNDING BONDS, SERIES 2011, OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$2,808,952 FOR THE PURPOSE OF REFUNDING THE VILLAGE'S \$3,500,000 TRANSPORTATION TAX REVENUE BONDS, SERIES 2005; AWARDED THE SALE OF THE BONDS TO PINNACLE PUBLIC FINANCE, INC.; PROVIDING FOR SECURITY FOR THE BONDS; PROVIDING OTHER PROVISIONS RELATING TO THE BONDS; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

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

The Manager and Lourdes Abadin, Financial Consultant for the Village with Estrada Hinojosa, addressed the Council recommending approval of the resolution authorizing the Manager to enter into negotiations with Pinnacle Public Finance to purchase the \$2,808,952 for the purpose of refunding the Village's \$3,500,000 Transportation Tax Revenue Bonds, Series 2005. This proposed refinancing will produce approximately \$268,677 in net present value savings, a 9.57% savings of refunded bonds.

The resolution was approved by a 6-0 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Lindsay, Taintor and Mayor Caplan voting Yes. Vice Mayor Kelly was out of the Chamber at the time the vote was taken.

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

Mayor and Councilmembers: Mayor Caplan, with consensus of Council, appointed the following residents to the following boards and committees. To the Land Acquisition Committee: Bradley Newsome; to the Pension Board: Martha F. Broucek and thanked Sherryl Reed for her

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service on this Board; to the Winter Concert Committee: Eduardo Manturet, Dorothy Flannery, Gloria Kahn, and Susi Wesfall; to the Community Center Advisory Board: Ed Stone, Lois Greenberg, Karen Beber; to the Art in Public Places Advisory Board: Gina Coleman; to the Youth Athletic Advisory Board: Glen Waldman, Jackie Kellogg, John Lombardi, Jennifer Stearn and Florencia Manero.

Mayor Caplan also addressed the Council regarding the second reading of the HR Ordinance. It was the consensus of Council to hold the second reading of this ordinance on October 11, 2011.

Councilmember Taintor addressed the Council requesting an update on the KB Fireworks. The Manager and Todd Hofferberth, Director of Parks and Recreation addressed the Council regarding the Key Biscayne Fireworks, Grucci's contract and the process to select a vendor.

It was the consensus of Council to re-appoint the existing members of each of the respective Boards that are due for re-appointment.

Mayor Caplan addressed the Council regarding the scope of Flood Insurance that the Village should have. Chief of Fire Rescue John C. Gilbert and Director Hofferberth addressed the council regarding Flood Insurance.

Mayor Caplan made a motion to waive purchase of flood insurance on the Fire Station and the Community Center Building. The motion was seconded by Councilmember Davey and approved by 7-0 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

Mayor Caplan addressed the Council regarding the Youth Sports Program.

Councilmember Davey addressed the Council regarding school traffic requesting that the Chief of Police take care of this issue due to people speeding in this area.

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Clerk did not submit a report.

Village Manager. Todd Hofferberth, Director of Parks and Recreation addressed the Council regarding the Grant Application process for \$50,000 through the Florida Recreation Development Assistant Program for Village Green Improvements.

Councilmember Garcia made a motion to extend the meeting to 11:15 p.m. The motion was seconded by Councilmember Davey and approved by a 7-0 voice vote. The vote was as follows:

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Councilmembers Davey, Garcia, Gusman, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes.

It was the consensus of Council to authorize the Manager to apply for the grant for Village Green improvements.

The Manager addressed the Council requesting a motion to renew the audit service contract with Marcum LLP aka Rachlin LLP.

Councilmember Davey made a motion to renew the audit service contract for one year and then go to bid. The motion was seconded by Councilmember Lindsay and approved by 6-1 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmember Gusman voting No.

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

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

12. **ADJOURNMENT:** The meeting was adjourned at 10:57 p.m.

Respectfully submitted:

*Conchita H. Alvarez, MMC
Village Clerk*

Approved this 10th day of January, 2012:

*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,

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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.