

MINUTES

VILLAGE COUNCIL MEETING  
KEY BISCAZYNE, FLORIDA

TUESDAY, AUGUST 31, 2010

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 (by phone), Robert Gusman, Michael E. Kelly, Jorge E. Mendia, Thomas Thornton, Vice Mayor Enrique Garcia and Mayor Robert L. Vernon. Also present were Village Manager Genaro “Chip” Iglesias, Village Clerk Conchita H. Alvarez and Village Attorneys Stephen J. Helfman and Chad Friedman.
2. **INVOCATION:** Reverend Burt Froehlich, St. Christopher’s by the Sea gave an invocation.
3. **PLEDGE OF ALLEGIANCE:** Mayor Vernon led the Pledge of Allegiance.
4. **SPECIAL PRESENTATIONS:** The Mayor, on behalf of the Village Council, presented a proclamation to the Village of Key Biscayne Fire Rescue Department recognizing their efforts on behalf of the Muscular Dystrophy Association.

Ms. Winnie Tang with the 2010 US Census Bureau made a presentation, to the Mayor and Council, of a Thank You Plaque to the Village of Key Biscayne for the Village’s support in the 2010 Census.

Mr. Fausto Gomez, State Lobbyist with Gomez Barker & Associates addressed the Council

giving a report of the activities of his firm on behalf of the Village of Key Biscayne during the 2010 legislative session.

5. **PUBLIC COMMENTS:** The following residents addressed the Council: Ginny Valls, 325 Fernwood Road; Ed Meyer, 798 Crandon Boulevard; Julio Padilla, 325 Atlantic Road; Kathy Susnjer, representing the Key Biscayne Chamber of Commerce and Reverend Bud Schroeder, 341 Glenridge Road.

6. **AGENDA:** Councilmember Kelly requested the addition of a discussion regarding Outdoor Dining as Item 10A6 and also requested to hear Item 10A3 before Item 10A1; Councilmember Mendia requested to delete Item 10A2; Mayor Vernon requested the addition of a report on playing fields as Item 10A7 and Vice Mayor Garcia requested to defer Item 8B1 to the October 12, 2010 Council Meeting and also requested the addition of a discussion regarding launching kite sailing from the beach as Item 10A8. There was no objection to the agenda changes.

Councilmember Davey made a motion to defer Item 8B1 to the October 12, 2010 Council Meeting. The motion was seconded by Councilmember Thornton and approved by a 6-1 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Kelly, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes. Councilmember Mendia voting No.

7. **APPROVAL OF MINUTES:** Vice Mayor Garcia made a motion to approve the minutes of the July 6, 2010 Regular Council Meeting. The motion was seconded by Councilmember Thornton and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Gusman, Kelly, Mendia, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes.

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

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; AMENDING THE 2009-2010 VILLAGE BUDGET AS PROVIDED FOR ON EXHIBIT "A"; PROVIDING FOR AN EFFECTIVE DATE.**

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

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: Councilmembers Gusman, Kelly, Mendia, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes.

The Clerk announced the second reading of this ordinance on September 7, 2010.

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

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAVNE, FLORIDA AMENDING ARTICLE IV “DANGEROUS INTERSECTION SAFETY” OF CHAPTER 26 “TRAFFIC AND VEHICLES” OF THE VILLAGE OF KEY BISCAVNE CODE OF ORDINANCES; PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT TRAFFIC CONTROL SIGNALS CONSISTENT WITH GENERAL LAW AS PROVIDED BY CHAPTER 2010-80, LAWS OF FLORIDA (2010); PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR RESERVATION OF RIGHTS; PROVIDING FOR AN EFFECTIVE DATE OF JULY 1, 2010.**

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

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 6-0 roll call vote. The vote was as follows: Councilmembers Gusman, Kelly, Mendia, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes.

The second reading of the following ordinance was deferred to the October 12, 2010 Council Meeting:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAVNE, FLORIDA, COMPREHENSIVELY UPDATING AND REVISING CHAPTER 30, “ZONING AND LAND DEVELOPMENT REGULATIONS” BASED UPON THE ZONING ORDINANCE REVIEW COMMITTEE’S (ZORC) RECOMMENDATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAVNE, FLORIDA, APPROVING AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE VILLAGE OF KEY BISCAVNE AND AMERICAN TRAFFIC SOLUTIONS FOR THE ADMINISTRATION OF THE TRAFFIC SAFETY CAMERA PROGRAM; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

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The Manager addressed the Council recommending that the Council approved Amendment No. 1 to the agreement between the Village and ATS for the administration of the Traffic Safety Camera Program.

Vice Mayor Garcia made a motion to approve the resolution. The motion was seconded by Councilmember Kelly.

It was the consensus of Council to add a termination without cause clause to the agreement.

The resolution, as amended, was approved by a 6-0 voice vote. The vote was as follows: Councilmembers Gusman, Kelly, Mendia, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes.

The Clerk read the following resolution by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, ESTABLISHING A POLICY OPPOSING THE EXPANDED OR INTENSIFIED USE OF LANDS ALONG THE RICKENBACKER CAUSEWAY AND VIRGINIA KEY; PROVIDING FOR AFFIRMATIVE STEPS TO PROTECT AND PRESERVE THE NATURAL AND BUILT ENVIRONMENT OF KEY BISCAYNE, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.**

Councilmember Mendia urged the Council to approve this resolution which establishes a policy opposing the expanded or intensified use of lands along the Rickenbacker Causeway and Virginia Key.

The Attorney addressed the Council regarding this resolution. There was extensive discussion from Council regarding this item.

Councilmember Kelly offered a friendly amendment to add the word “may” to the third whereas clause after “Virginia Key”. There was no objection to the amendment.

Vice Mayor Garcia made a motion to approve the resolution. The motion was seconded by Councilmember Thornton and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Gusman, Kelly, Mendia, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes.

The Clerk read the following resolution by title:

**A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL**

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**OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; PROVIDING FOR THE ACQUISITION OF HAND HELD PORTABLE DIGITAL RADIOS FOR THE FIRE RESCUE DEPARTMENT FROM MOTOROLA, INC.; AUTHORIZING THE VILLAGE MANAGER TO IMPLEMENT THE TRANSACTION; PROVIDING FOR AN EFFECTIVE DATE.**

The Manager and Chief of Fire Rescue John C. Gilbert addressed the Council recommending the approval of this resolution for the purchase of fifteen (15) new hand held portable digital radios with accessories for the Fire Rescue Department from Motorola, Inc.

Vice Mayor Garcia made a motion to approve the resolution. The motion was seconded by Councilmember Gusman and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Gusman, Kelly, Mendia, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes.

The Clerk read the following resolution by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING VILLAGE OF KEY BISCAYNE EMPLOYMENT AGREEMENT WITH VILLAGE MANAGER, GENARO "CHIP" IGLESIAS; PROVIDING FOR AN EFFECTIVE DATE.**

Councilmember Mendia addressed the Council regarding the approval of the employment agreement with the Village Manager.

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

Ed Meyer, 798 Crandon Boulevard and Charles Viscito, 141 Crandon Boulevard addressed the Council.

Councilmember Gusman made an amending motion to delete Section 5.3 of the contract. The motion was seconded by Vice Mayor Garcia and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Gusman, Kelly, Mendia, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes.

The resolution, as amended, was approved by a 7-0 roll call vote. The vote was as follows: Councilmembers Davey, Gusman, Kelly, Mendia, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes.

The Clerk read the following resolution by title:

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**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING AND AWARDED AN AGREEMENT FOR PROFESSIONAL LANDSCAPE ARCHITECTURAL SERVICES WITH SAVINO & MILLER DESIGN STUDIO, P.A. FOR THE CIVIC CENTER PARK; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING THE EXPENDITURE OF FUNDS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

The Manager and Building, Zoning and Planning Director Jud Kurlancheek addressed the Council recommending the approval of the agreement with Savino & Miller Studio to prepare architectural plans for a passive park at 530 Crandon Boulevard.

Vice Mayor Garcia made a motion to approve the resolution. The motion was seconded by Councilmember Kelly.

Mr. Barry Miller with Savino & Miller Design Studio, P.A. and Charles Viscito, 141 Crandon Boulevard addressed the Council.

The resolution was approved by a 6-0 voice vote. The vote was as follows: Councilmembers Gusman, Kelly, Mendia, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes.

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

Mayor and Councilmembers. At this time Item 10A3 was heard.

Councilmember Kelly addressed the Council regarding protocol and conflicts of interest.

Mayor Vernon made a motion to appoint Councilmember Gusman as Mayor pro tem. The motion was seconded by Councilmember Thornton and approved by a 5-0 voice vote. The vote was as follows: Councilmembers Gusman, Kelly, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes. Councilmember Mendia was out of the room at the time the vote was taken.

Councilmember Kelly addressed the Council regarding the proposed zoning changes recommended by ZORC for the HR District specifically setbacks, height and FAR, including a nonconformity section that in the event that there is a casualty loss, these regulations will not preclude the reestablishment of these units.

Director Kurlancheek, ZORC Member Wilfredo Borroto and Mayor Elect Frank Caplan addressed the Council regarding the ZORC recommendations.

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The Attorney also addressed the Council regarding the ZORC recommendations for the HR District.

The following residents addressed the Council on this issue: Marcos Corti, 600 Grapetree Drive and James Taintor, 355 Harbor Drive.

Vice Mayor Garcia addressed the Council regarding the proposed Land Acquisition Ballot question and the cancellation of the two special council meetings scheduled for August.

Councilmember Kelly made a motion to extend the meeting to 11:20 p.m. The motion was seconded by Councilmember Thornton and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Gusman, Kelly, Mendia, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes.

Vice Mayor Garcia also addressed the Council regarding power outages on the Key requesting that FPL representatives come before the Council to address this issue. There was no objection to the request.

Councilmember Kelly addressed the Council regarding outdoor dining. It was the consensus of Council to direct staff to meet with the Chamber and restaurant owners regarding possible changes to current regulations for outdoor dining cafes.

Mayor Vernon addressed the Council regarding playing fields and the meetings held with Reverend David Moran with the Key Biscayne Presbyterian Church.

Mayor Vernon made a motion to bring a resolution before Council, at the September 14, 2010 Council Meeting, to approve an agreement with the Key Biscayne Presbyterian Church for playing fields. The motion was seconded by Councilmember Thornton and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Gusman, Kelly, Mendia, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes.

Vice Mayor Garcia addressed the Council regarding persons launching kite sailing from the beach. The Manager stated that this problem is already being enforced by the Police Department.

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Clerk reported that the following residents had qualified for the 2010 KB Municipal Election as candidates for the Office of Councilmember: the Honorable Michael W. Davey, the Honorable Michele Estevez, Mr. Julio Padilla, Mr. Glen Waldman, Mr. James S. Taintor III, Mr. Leonard Levy, the Honorable Patricia Woodson, Mr. Charles Viscito and Ms. Mayra Pena Lindsay.

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The Clerk also addressed the Council requesting a motion to allow the broadcasting of the Council Candidates' Forum sponsored by the Islander News and the Key Biscayne Chamber of Commerce on Channel 77.

Councilmember Kelly made a motion to allow the broadcasting of the Council Candidates' Forum sponsored by the Islander News and the Key Biscayne Chamber of Commerce on Channel 77. The motion was seconded by Vice Mayor Garcia and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Gusman, Kelly, Mendia, Thornton, Vice Mayor Garcia and Mayor Vernon voting Yes.

Village Manager. The Manager did not submit a report.

11. **OTHER BUSINESS/GENERAL DISCUSSION:** There was no further business discussed.
12. **SCHEDULE OF FUTURE MEETINGS/EVENTS:** A schedule of future meetings and events was presented to the Council.
13. **ADJOURNMENT:** The meeting was adjourned at 11:20 p.m.

*Respectfully submitted:*

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

*Approved this 7th day of September, 2010:*

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*Robert L. Vernon*  
*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**

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***BE BASED.***