

MINUTES

VILLAGE COUNCIL MEETING
KEY BISCAAYNE, FLORIDA

TUESDAY, SEPTEMBER 6, 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 Taintor, Vice Mayor Michael E. Kelly and Mayor Franklin H. Caplan. Also present were Village Manager Genaro "Chip" Iglesias and Village Attorney Chad Friedman.
2. **PLEDGE OF ALLEGIANCE:** Mayor Caplan led the Pledge of Allegiance.
3. **SPECIAL PRESENTATIONS:** There were no special presentations.
4. **PUBLIC COMMENTS:** There were no speakers present.
5. **AGENDA:** Mayor Caplan requested the addition of two (2) appointments to Committees as Item 9A2; Vice Mayor Kelly requested the addition of an update regarding Impact Fees and the how these could help the School as Item 9A3; Councilmember Taintor requested the addition of a discussion regarding the Dock Ordinance as Item 9A4 and also requested the addition of a discussion regarding Mashta Flat as Item 9A5 and Mayor Caplan also requested the addition of a presentation to the Village Manager as Item 9A6. There was no objection to the agenda changes.

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6. **APPROVAL OF MINUTES:** There were no minutes considered by Council.
7. **ORDINANCES:** There were no ordinances considered by Council.
8. **RESOLUTIONS:** The attorney read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING THE PURCHASE OF A LIGHTNING DETECTION AND ALERTING SYSTEM FOR SEVERAL PARKS WITHIN THE VILLAGE; PROVIDING FOR THE SELECTION OF EARTH NETWORKS (D/B/A WEATHERBUG) TO PROVIDE THIS SYSTEM; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AGREEMENT FOR THE PURCHASE OF THE SYSTEM; PROVIDING FOR A WAIVER OF COMPETITIVE BIDDING; 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 Parks and Recreation Director Todd Hofferberth addressed the Council recommending to award the contract for the lightning detection/warning system to WeatherBug which will be installed on the Village Green, St. Agnes and the Key Biscayne Community School.

Randy Smith from WeatherBug addressed the Council.

Chief of Fire Rescue John C. Gilbert addressed the Council regarding the lightning detection/warning system.

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.

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

Mayor and Councilmembers. Vice Mayor Kelly addressed the Council regarding the Key Biscayne Land Fund.

Melissa McCaughan with The Key Biscayne Community Foundation addressed the Council.

There was extensive discussion from Council regarding the proposed Land Fund.

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

At this time Item 9A2 was heard. Mayor Caplan, with consensus of Council, appointed Jeff Jenkins to the Youth Athletic Advisory Board and Amarylly Fridegotto to the Winter Concert Committee.

Vice Mayor Kelly addressed the Council regarding School Impact Fees. There was extensive discussion from Council on this issue.

The Manager, Building, Zoning and Planning Director Jud Kurlancheek and the Attorney addressed the Council regarding Impact Fees.

It was the consensus of Council to direct the Manager to look into the feasibility of implementing impact fees for new construction and also directed the Attorney to look into the feasibility of utilizing impact fees to improve the School.

Councilmember Taintor addressed the Council regarding the proposed Dock Ordinance. The Attorney reported that the Ordinance will be heard on first reading on October 11, 2011.

Councilmember Taintor also addressed the Council regarding the Mashta Flat. It was the consensus of Council to direct staff to draft legislation that will address the Village limits out into Biscayne Bay.

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Clerk did not submit a report.

Village Manager. The Manager addressed the Council recommending approval of the procedure outlined below for collection of unbilled/under billed stormwater fee accounts.

As presented to Council on July 5th, 2011, staff review found that some properties were either under-billed or unbilled. Staff has provided and instructed MDWASD to begin billing an additional 842.65 ERU's (\$134,992.72 per year at the current rate). The statute of limitations to collect on past debt is four (4) years. Council directed staff to commence collection of these accounts as per the statute of limitations. The Village would collect \$297,615.71 (at the previous rate of \$5 per ERU for multi-family and \$7.50 per ERU for single family).

Since the July 5th Council Meeting and after consulting with the Village Attorney it has been determined that the four year limitation begins with the date of the notification. This results in approximately \$44,000 less in fees, since the Village began billing these properties in April of

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2011. Staff is preparing new notifications to the affected owners advising them of the new amount.

Delinquent Stormwater Utility Fee Account Procedure

Section 5(c) of Ordinance 93-11 authorizes the Village Manager to establish procedures to notify owners or managers of Developed Property of delinquent Stormwater Utility Fee accounts. The following is the procedure the Village Manager shall establish to notify owners of delinquent Stormwater Utility Fee Accounts: 1.) Notify owner or manager of developed property of delinquent Stormwater Utility Fee in writing. Notification will specify payment should be paid in full within 60 days notice. An owner or property manager may request a payment plan for delinquent fees; 2.) Any property owner or property manager that requests an extension/payment plan within the 60 day period may for good cause have the late fees/penalties waived by the Village Manager. These properties will have one year from the date of notification to pay in full the delinquent fee; 3.) In the event that the property owner or property manager fails to fully pay the delinquent amount within one year of notification, the Village shall impose late fees and penalties as stated in Section 5(a) of Ordinance 93-11; 4.) Any owners that do not request an extension/payment plan within the specified time period will be subject to Section 5(a) in which a ten percent late charge will be incurred. Moreover, if not paid within sixty (60) days of the notification date, an additional interest charge of eight (8) percent per annum will begin to accrue on the unpaid balance. The Village may be required to seek collection of these fees in a court of competent jurisdiction and after the 60 day period the unpaid past due fees and charges, including interest, will result in a lien on the property. Interest will continue to accrue after the lien is filed until the account balance is paid in full.

Councilmember Gusman made a motion to adopt the above recommendations made by the Manager. The motion was seconded by Mayor Caplan and 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.

At this time Item 9A6 was heard. Mayor Caplan addressed the Council reporting that this is the last official Council Meeting that Village Manager Chip Iglesias will be in attendance as Village Manager. The Mayor, on behalf of the Council, presented a proclamation and a Key to the Village to Chip recognizing him for his valuable contributions to the Village. The Manager addressed the Council thanking the Village for the recognition and for the opportunity he was given by the Village to serve as Village Manager.

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

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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 9:00 p.m.

Respectfully submitted:

*Conchita H. Alvarez, MMC
Village Clerk*

Approved this 24th 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, 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.