

MINUTES

ZONING MEETING  
KEY BISCAYNE, FLORIDA

TUESDAY, OCTOBER 25, 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 Interim Village Manager John C. Gilbert, Village Clerk Conchita H. Alvarez and Village Attorney Stephen J. Helfman.
2. **PLEDGE OF ALLEGIANCE:** Mayor Caplan led the Pledge of Allegiance.
3. **SPECIAL PRESENTATIONS:** Mr. Michael Bauman, Division Chief and Mr. Jeffrey L. Cohen, P.E., Assistant Chief with the Miami-Dade County Public Works Causeway Division made a presentation to Council regarding the Sunpass implementation at the Rickenbacker Toll Plaza.
4. **AGENDA:** Councilmember Davey requested the addition of a follow up on the Fernwood commercial issues with the Square Shopping Center as Item 8D1; Councilmember Garcia requested the addition of a discussion regarding the dedication of the Bedia Plazas as Item 8A5; Councilmember Taintor requested an update on the Mashta flat ordinance as Item 8A6 and a discussion on 530 Crandon Boulevard as Item 8A7 and Mayor Caplan requested to hear Item 8A4 before Item 8A1.
5. **APPROVAL OF MINUTES:** There were no minutes considered by Council.

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

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, AMENDING SECTION 30-100(F)(4) OF THE VILLAGE CODE OF ORDINANCES RELATING TO DOCKS AND MOORING PILES WITHIN THE SINGLE FAMILY DISTRICTS; PROHIBITING DOCKS ON CERTAIN PROPERTIES; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

The Mayor opened the public hearing. Bob de la Fuente with Tew Cardenas, Bibi Villazon with Trident Environmental and Santiago D. Echemendia with Tew Cardenas representing the property at 9 Harbor Point; Claudio Alvarez, 452 Harbor Drive; former Mayor Robert Vernon, Chairman of the Dock Committee addressed the Council. The Mayor closed the public hearing.

The Attorney also addressed the Council regarding this ordinance.

Vice Mayor Kelly made a motion to amend the ordinance to allow the following properties on Harbor point to have 100 ft. docks into the Bay, in order to meet DERM regulations and to eliminate the 60 degree triangle for these properties: 1, 3, 5, 7, 9, 11 and 15 Harbor Point. The motion was seconded by Councilmember Garcia and approved by a 4-3 roll call vote. The vote was as follows: Councilmembers Garcia, Lindsay, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmembers Davey, Gusman and Taintor voting No.

Vice Mayor Kelly made an amending motion to allow the current zoning regulations for the Nixon Beach Area as they exist today. The motion was seconded by Mayor Caplan and approved by a 4-3 roll call vote. The vote was as follows: Councilmembers Garcia, Lindsay, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmembers Davey, Gusman and Taintor voting No.

There was extensive discussion from Council regarding this ordinance.

Councilmember Taintor made an amending motion to amend the "Perpendicular Boat/Dock restrictions" as follows: No watercraft shall extend beyond the end of a dock perpendicular to a bulkhead by more than 10% of the length of the perpendicular dock. A perpendicular dock is defined as a dock whose length from a bulkhead is at least twice the length of that portion of the dock parallel to a bulkhead. The motion was seconded by Vice Mayor Kelly and approved 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.

October 25, 2011

Councilmember Taintor made an amending motion to add the words “Setbacks for” before Docks, davits, fender pilings, watercraft and mooring piles under (a) General Requirements. The motion was seconded by Vice Mayor Kelly and approved 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.

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

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

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 31-1 “PARKS AND RECREATIONAL OPEN SPACE LANDS TRUST FUND” OF THE VILLAGE CODE OF ORDINANCES; PROVIDING THAT FUNDS WITHIN THE TRUST MAY BE USED TO ACQUIRE OR LEASE LAND OUTSIDE OF THE VILLAGE’S MUNICIPAL BOUNDARIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Councilmember Davey made a motion to approve the ordinance on first 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 first 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.

The second reading of this ordinance will be on November 22, 2011.

There were no ordinances on second reading considered by Council.

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

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING AN AGREEMENT WITH EXOTICSCAPE INC.–LANDSCAPE ARCHITECTURE FOR LANDSCAPE DESIGN SERVICES; PROVIDING FOR A WAIVER OF COMPETITIVE BIDDING; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

October 25, 2011

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

Ms. Mercedes Porcari and Cecile Sanchez, 260 Cypress Drive addressed the Council.

The Manager addressed the Council recommending the approval of the resolution which will allow the Manager to enter into a Professional Services Agreement with Mercedes Porcari to provide landscape design services of the Village.

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 Clerk read the following resolution by title:

**A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING THE PURCHASE OF THREE (3) SERVICE VEHICLES FOR THE VILLAGE FIRE DEPARTMENT IN AN AMOUNT NOT EXCEEDING \$82,000; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO A PURCHASE AGREEMENT RELATED TO THE SAME; AND 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 the approval of the resolution authorizing the purchase of three (3) new staff support vehicles, 2012 Ford Explorers, for the Fire Rescue Department at a cost not to exceed \$82,000.

Interim Chief of Fire Rescue Eric Lang addressed the Council regarding this resolution.

Vice Mayor Kelly made a motion to table this resolution to the November 8, 2011 Council Meeting. The motion was seconded by Councilmember Lindsay and approved by a 4-3 voice vote. The vote was as follows: Councilmembers Lindsay, Taintor, Vice Mayor Kelly and Mayor Caplan voting Yes. Councilmembers Davey, Garcia, Gusman voting No.

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

Mayor and Councilmembers. Mayor Caplan also addressed the Council regarding the selection of Village Manager finalists.

*October 25, 2011*

Mr. Dave Collier with Colin Baenziger and Associates addressed the Council reporting that it would cost an additional \$1,000 per background check for new proposed candidates and the firm would need about three weeks to complete these background checks. It was the consensus of Council to approve this additional expense.

There was extensive discussion from Council regarding the Village Manager Search. The Attorney also addressed the Council regarding this issue.

It was the consensus of Council to hold a Special Council Meeting on Thursday, November 17th, 2011 at 7:00 p.m. on the Village Manager selection.

Mayor Caplan addressed the Council regarding the entry block to the Village and the possible interest of the Village on it.

Director Kurlancheek addressed the Council regarding this issue.

It was the consensus of Council to direct the Village Manager to find out who the owner is and if this property is suitable for the Village and report back to Council.

Barry Goldmeir, 1000 Mariner Drive addressed the Council.

Mayor Caplan also addressed the Council giving an update on the Library. The Library will be opened regular hours except on Sunday. The Village will soon negotiate an interlocal agreement that will allow the Village to staff the library on Sundays.

Mayor Caplan addressed the Council giving an update on the Beach Renourishment Project. The Manager addressed the Council reporting that the seagrass restoration project is complete. The Manager also reported that there is a significant amount of sand at the Consultatio Project that will be available to the Village. The Project will be constructed after the marine turtle season.

Councilmember Garcia proposed to dedicate the Bedia Plazas during the Art Basel Event which will take place the first week of December.

Councilmember Taintor addressed the Council regarding an ordinance regulating activities on Mashta Flat within the Village limits . The Attorney is working on this ordinance.

Councilmember Taintor also addressed the Council regarding the use of 530 Crandon Boulevard.

Councilmember Davey addressed the Council regarding the Fernwood Road issues with commercial properties. The Manager also addressed this issue.

October 25, 2011

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Clerk did not submit a report.

Village Manager. The Manager did not submit a report.

9. **OTHER BUSINESS/GENERAL DISCUSSION:** There was no further discussion.
10. **SCHEDULE OF FUTURE MEETINGS/EVENTS:** A schedule of meetings and future events was presented to the Council.
11. **ADJOURNMENT:** The meeting was adjourned at 11:00 p.m.

*Respectfully submitted:*

---

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

*Approved this 25th day of October, 2011:*

---

*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.**