

MINUTES

SPECIAL COUNCIL MEETING  
KEY BISCAYNE, FLORIDA

TUESDAY, JUNE 25, 2018

COUNCIL CHAMBER  
560 CRANDON BOULEVARD

1. **CALL TO ORDER/ROLL CALL OF MEMBERS:** The special meeting was called to order by the Mayor at 6:10 p.m. Present were Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Allison McCormick and Mayor Mayra P Lindsay. Also present were Village Manager John C. Gilbert, Village Clerk Jennifer Medina and Village Attorney Chad Friedman.
2. **BRIEF COMMENTS BY COUNCIL:** There were no comments provided by Council.
3. **AGENDA:** Councilmember Gross requested the addition of a presentation by Mr. Spencer Crowley regarding an update on beach restoration as Item 5B. There were no objections to the agenda changes.
4. **PUBLIC COMMENTS:** The following residents addressed the Council: Andy Garcia, 14 Harbor Point and Amy Huber from Shubin & Bass legally representing Mr. Andy Garcia.
5. **SPECIAL PRESENTATIONS:** Mr. Michael Futterman, CPA, Audit Partner with Marcum LLP presented to the Council the 2017 Comprehensive Annual Financial Report.

There was extensive discussion regarding the 2017 Comprehensive Annual Financial Report.

At this time, Item 5B was heard.

Spencer Crowley, Village Beach Lobbyist, addressed the Council providing an update regarding the Federal funding request towards the Village's beach restoration.

There was extensive discussion by Council regarding the Village's request to the State to reimburse the prior beach nourishment project.

Mr. Crowley addressed the Council regarding the request to the State for reimbursement towards the prior beach nourishment project.

6. **CONSENT AGENDA:** Vice Mayor Caplan made a motion to approve the following consent agenda. The motion was seconded by Councilmember Gross and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Franklin H. Caplan and Mayor Mayra P Lindsay voting Yes.

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA ("VILLAGE"), PROVIDING FOR RATIFICATION OF THE 2017-2020 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE VILLAGE AND THE INTERNATIONAL UNION OF POLICE ASSOCIATIONS, AFL-CIO, FOR THE BARGAINING UNIT CONSISTING OF THE VILLAGE'S GENERAL EMPLOYEES; AUTHORIZING THE VILLAGE MANAGER TO SIGN THE COLLECTIVE BARGAINING AGREEMENT ON BEHALF OF THE VILLAGE AND TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA ("VILLAGE"), PROVIDING FOR RATIFICATION OF THE 2017-2020 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE VILLAGE AND THE KEY BISCAYNE PROFESSIONAL FIREFIGHTER'S ASSOCIATION, LOCAL 3638, FOR THE BARGAINING UNIT CONSISTING OF THE VILLAGE'S FIREFIGHTERS/ PARAMEDICS, DRIVER ENGINEERS AND FIRE LIEUTENANTS, AND THE BARGAINING UNIT CONSISTING OF THE VILLAGE'S FIRE CAPTAINS; AUTHORIZING THE VILLAGE MANAGER TO SIGN THE COLLECTIVE BARGAINING AGREEMENT ON BEHALF OF THE VILLAGE AND TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA ("VILLAGE"), PROVIDING FOR RATIFICATION OF THE 2017-2020 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE VILLAGE AND THE KEY BISCAYNE POLICE OFFICER'S ASSOCIATION, LOCAL 6023, FOR THE BARGAINING UNIT CONSISTING OF THE VILLAGE'S POLICE OFFICERS AND SERGEANTS; AUTHORIZING THE VILLAGE MANAGER TO SIGN THE COLLECTIVE BARGAINING AGREEMENT ON BEHALF OF THE VILLAGE AND TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA (“VILLAGE”), PROVIDING FOR RATIFICATION OF THE 2017-2020 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE VILLAGE AND THE INTERNATIONAL UNION OF POLICE ASSOCIATIONS, AFL-CIO, FOR THE BARGAINING UNIT CONSISTING OF THE VILLAGE’S POLICE LIEUTENANTS; AUTHORIZING THE VILLAGE MANAGER TO SIGN THE COLLECTIVE BARGAINING AGREEMENT ON BEHALF OF THE VILLAGE AND TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAMS WITH THE FLORIDA GREEN FINANCE AUTHORITY, THE FLORIDA RESILIENCY AND ENERGY DISTRICT, AND THE FLORIDA PACE FUNDING AGENCY; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA (“VILLAGE”), AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 23 “RETIREMENT,” SECTION 23-31 “DEFINITIONS,” SECTION 23-35 “CONTRIBUTIONS,” AND SECTION 23-36 “BENEFIT AMOUNTS AND ELIGIBILITY”, TO INCREASE THE BENEFIT MULTIPLIER TO 3%, PROVIDE FOR THE PURCHASE OF PAST SERVICE CREDIT, PROVIDE AN ALTERNATIVE 80% BENEFIT CAP, INCREASE THE MAXIMUM VILLAGE CONTRIBUTION RATE TO 20% OF COVERED PAYROLL, AND PROVIDE A MINIMUM FUNDED RATIO OF 80%; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Lindsay made a motion to adopt the ordinance on second reading. The motion was seconded by Vice Mayor Caplan.

The Attorney addressed the Council regarding this ordinance.

There was extensive discussion by Council regarding this ordinance.

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 7-0 roll call vote. The vote was as follows: Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Franklin H. Caplan and Mayor Mayra P Lindsay voting Yes.

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

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING THE EVALUATION AND APPRAISAL REPORT; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.**

Vice Mayor Caplan made a motion to approve the resolution. The motion was seconded by Mayor Lindsay.

There was extensive discussion by Council regarding the Evaluation and Appraisal Report.

Vice Mayor Caplan addressed the Council regarding the list of comments circulated by the Clerk to Council on June 25, 2018 at 10:42 a.m.

It was the consensus of Council to approve this resolution inclusive of the changes recommended by Vice Mayor Caplan.

Councilmember Moss made a motion to approve this resolution inclusive of Vice Mayor Caplan's revisions. The motion was seconded by Mayor Lindsay and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Franklin H. Caplan and Mayor Mayra P Lindsay voting Yes.

The resolution, as amended, was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Franklin H. Caplan and Mayor Mayra P Lindsay voting Yes.

The Clerk read the following resolution, by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR ENGINEERING AND DESIGN SERVICES FOR THE SAFE ROUTES TO SCHOOLS PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.**

Vice Mayor Caplan made a motion to approve the resolution. The motion was seconded by Mayor Lindsay.

The Manager addressed the Council recommending approval of this resolution.

There was extensive discussion by Council regarding this resolution.

The resolution was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Franklin H. Caplan and Mayor Mayra P Lindsay voting Yes.

The Clerk read the following resolution, by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO CONTRACT WITH RAFTELIS TO PERFORM A UTILITY UNDERGROUNDING SPECIAL ASSESSMENT METHODOLOGY STUDY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Vice Mayor Caplan made a motion to approve the resolution. The motion was seconded by Mayor Lindsay.

The Manager addressed the Council regarding this resolution.

Councilmember Moss addressed the Council regarding this resolution

There was extensive discussion by Council regarding this resolution.

The resolution was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Franklin H. Caplan and Mayor Mayra P Lindsay voting Yes.

The Clerk read the following resolution, by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING ANDREA AGHA AS THE VILLAGE MANAGER; AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT RELATED TO THE SAME; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Lindsay made a motion to adopt the ordinance on second reading. The motion was seconded by Vice Mayor Caplan.

Councilmember Moss addressed the Council regarding Section 2. Term of the employment agreement.

Councilmember Petros addressed the Council providing an update on contract negotiations with Andrea Agha.

Councilmember McCormick addressed the Council requesting an addition to the employment agreement stating: “Without the Village Council’s approval, Manager shall not directly or indirectly invest in real estate within the Village, except for her primary residence”. There were no objections to the change.

There was extensive discussion by Council regarding Section 2. Term of the employment agreement.

It was the consensus of Council to add the following language within Section 2.2 of the employment agreement: “In the event this Agreement expires due to the Village Council’s failure to act and Manager is ready, willing and able to continue with her employment as Manager, the Village Council agrees to continue providing the Manager with her regular bi-weekly salary and benefits as provided herein, until otherwise notified by the Village Council”.

The resolution, as amended, was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Franklin H. Caplan and Mayor Mayra P Lindsay voting Yes.

At this time, Item 8F was heard.

The Clerk read the following resolution, by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING AND ACCEPTING A DRAINAGE EASEMENT FROM CASA MACABI, LLC ON PROPERTY LOCATED AT 14 HARBOR POINT DRIVE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Vice Mayor Caplan made a motion to approve the resolution. The motion was seconded by Mayor Lindsay.

The Attorney addressed the Council regarding this resolution.

At this time, Amy Huber, legal representative from Shubin and Bass on behalf of Mr. and Mrs. Garcia at 14 Harbor Point, addressed the Council regarding this resolution.

At this time, the Village’s Stormwater Utility and Sewer Specialist Jose Lopez, addressed the Council regarding the drainage easement.

There was extensive discussion by Council regarding the acceptance of the drainage easement.

The resolution was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Franklin H. Caplan and Mayor Mayra P Lindsay voting Yes.

At this time, Item 8E was heard.

The Clerk read the following resolution, by title:

**A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING MUSCO SPORTS LIGHTING, LLC FOR THE PURCHASE AND INSTALLATION OF A LIGHTING**

**SYSTEM AT KEY BISCAYNE K-8 CENTER; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

At this time, Vice Mayor Caplan made a motion to table the resolution to be heard later on in the agenda. The motion was seconded by Councilmember McCormick and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Franklin H. Caplan and Mayor Mayra P Lindsay voting Yes.

At this time, Item 8G was heard.

The Clerk read the following resolution, by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO ISSUE A WORK ORDER TO EAC CONSULTING, INC. FOR DESIGN, ENVIRONMENTAL PERMITTING, PROCUREMENT SUPPORT, AND CONSTRUCTION SUPPORT SERVICES RELATING TO THE KITEBOARD CHANNEL'S MARKER BUOYS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Councilmember de la Cruz made a motion to approve the resolution. The motion was seconded by Mayor Lindsay.

The Manager addressed the Council recommending approval of this resolution.

The Attorney addressed the Council regarding this resolution.

There was extensive discussion by Council regarding the cost to install channel marker buoys.

Vice Mayor Caplan made a motion to defer this resolution to the June 26, 2018 Special Council Meeting prior to the scheduled Executive Session. The motion was seconded by Mayor Lindsay and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Franklin H. Caplan and Mayor Mayra P Lindsay voting Yes.

At this time, Item 8E was heard.

At this time, Vice Mayor Caplan made a motion to remove from the table Item 8E. The motion was seconded by Councilmember McCormick and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Franklin H. Caplan and Mayor Mayra P Lindsay 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, APPROVING MUSCO SPORTS LIGHTING, LLC FOR THE PURCHASE AND INSTALLATION OF A LIGHTING SYSTEM AT KEY BISCAYNE K-8 CENTER; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Vice Mayor Caplan made a motion to approve the resolution. The motion was seconded by Councilmember de la Cruz.

At this time Glen Waldman, member of the Youth Athletics Board, addressed the Council regarding this resolution.

The Parks and Recreation Director Todd Hofferberth addressed the Council regarding the purchase and installation of a lighting system at the Key Biscayne K-8 Center.

The resolution was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Luis de la Cruz, Gary R. Gross, Allison McCormick, Brett G. Moss, Kathleen Petros and Vice Mayor Franklin H. Caplan and Mayor Mayra P Lindsay voting Yes.

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

Mayor and Councilmembers. The Mayor, with the consensus of Council, Augusto Granados to the Board of Special Magistrates.

At this time, Item 9A2 was heard.

At the time, the Mayor addressed the Council regarding the Crandon Tennis Park proposal.

There was extensive discussion by Council regarding the Crandon Tennis Park proposal.

Councilmember de la Cruz addressed the Council regarding the ongoing negotiations specific to the Crandon Tennis Park.

At this time, the Parks and Recreation Director addressed the Council regarding the Crandon Tennis Park proposal.

It was the consensus of Council to move forward with the next steps to pursue the Crandon Tennis Park proposal.

At this time, Item 9A3 was heard.

The Mayor addressed the Council regarding the burned structure on Oasis site.



At this time the Building, Zoning and Planning Director Sergio Ascunce addressed the Council providing an update on the status of the burned structure at the Oasis site.

There was extensive discussion by Council regarding the burned structure at the Oasis site.

At this time, Item 9A4 was heard.

Councilmember Moss addressed the Council providing a status update of the Undergrounding Utility Task Force.

There was extensive discussion by Council regarding the proposed undergrounding utility project.

At this time Item, 9A5 was heard.

Councilmember Gross addressed the Council providing a status update of the Key Biscayne beach restoration.

Village Attorney. The Attorney addressed the Council regarding the lapse of the zoning in progress for medical marijuana.

At this time, Kathy Mehaffey, Attorney for Weiss Serota Helfman Cole & Bierman, addressed the Council requesting direction by Council regarding the zoning in progress for medical marijuana.

There was extensive discussion by Council regarding medical marijuana dispensaries.

It was the consensus of Council to direct the Attorney and the Manager to identify possible locations within the Village that may establish medical marijuana dispensaries and report back to the Council at the soonest possible regularly scheduled Council meeting.

Village Clerk. The Clerk did not submit a report.

Village Manager. The Manager did not submit a report.

10. **ADJOURNMENT:** The meeting was adjourned at 9:06 p.m.

***Respectfully submitted:***

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***Jennifer Medina***  
***Village Clerk***

Approved this \_\_\_\_ day of \_\_\_\_\_ 2019:

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*Michael W. Davey*  
*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.***