

MINUTES
ZONING MEETING
VILLAGE OF KEY BISCAYNE, FLORIDA

TUESDAY, AUGUST 27th, 2002

COUNCIL CHAMBER
85 WEST MCINTYRE STREET, SECOND FLOOR

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 Scott Bass, Alan H. Fein, Mortimer Fried, James L. Peters, Vice Mayor Robert Oldakowski and Mayor Joe I. Rasco. Councilmember Martha F. Broucek was absent. Also present were Village Manager Jacqueline R. Menendez, Village Clerk Conchita H. Alvarez and Village Attorney Stephen J. Helfman.

2. PLEDGE OF ALLEGIANCE: Mayor Rasco led the Pledge of Allegiance.

3. AGENDA: Councilmember Bass requested to hear Item 8D3b before the resolutions and Councilmember Peters requested to defer Item 8A4 to the Council Meeting of September 3, 2002. There was no objection to the agenda changes.

4. CONSENT AGENDA: The following consent agenda was approved by unanimous consent.

The minutes of the July 23, 2002 Special Council Meeting.

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; SUPPORTING THE PROPOSED SALES TAX INCREASE, OF WHICH MUNICIPALITIES WILL RECEIVE A 20% SHARE EXCLUSIVELY DEDICATED TO THE TRANSPORTATION NEEDS OF MIAMI-DADE COUNTY AND THE MUNICIPALITIES OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; PETITIONING THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY TO DELEGATE TO THE VILLAGE OF KEY BISCAYNE CERTAIN SPECIFIC RESPONSIBILITIES FOR THE CONTROL OF TRAFFIC ON MUNICIPAL STREETS; PROVIDING FOR AN EFFECTIVE DATE.

5. BUILDING, ZONING AND PLANNING: All witnesses giving testimony in the public hearing were sworn in by the Clerk.

Hearing Number RV-11. Key Biscayne CVS, Inc., 726 Crandon Boulevard, the applicant is requesting a variance to waive 500 ft. of the required 500 ft. distance separation from a single family district to a place of business that offers beer and wine to be sold for consumption off the premises from a single family district.

Jud Kurlancheek, Director of Building, Zoning and Planning addressed the Council stating his recommendation that the request be denied.

The Mayor opened the public hearing. Orlando J. Cabrera, Holland & Knight LLP, Miami, representing the applicant, Wayne Manla, 121 Island Drive; Jim Taintor, 355 Harbor Drive addressed the Council. The Mayor closed the public hearing.

The Attorney addressed the Council regarding this variance.

There was extensive discussion from Council regarding this issue.

Mr. Cabrera, representing the applicant, verbally offered the following conditions as part of the covenant:

1. Beer shall only be sold by the six (6) pak with no container comprising less than 12 oz.
2. Pony bottles of wine shall not be sold (any container that contains less than one (1) liter).
3. Advertising relating to the sale of beer and wine shall not be placed on windows and/or doors.

Councilmember Bass made a motion to approve the variance as amended by the applicant. The motion was seconded by Councilmember Fried and approved by a 4-2 roll call vote. The vote was as follows: Councilmembers Bass, Fried, Peters and Mayor Rasco voting Yes. Councilmember Fein and Vice Mayor Oldakowski voting No.

6. ORDINANCES: There were no ordinances on first reading considered by Council.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 28 "RETIREMENT," BY AMENDING SECTION 23-38 "DISABILITY," TO PROVIDE ENHANCED DISABILITY RETIREMENT BENEFITS FOR PLAN MEMBERS INJURED IN THE LINE OF DUTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Peters made a motion to adopt the ordinance on second reading. The motion was seconded by Councilmember Fried.

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

Mayor Rasco clarified that the ordinance should reflect that the Plan will be commencing on October 1, 2002.

The ordinance was adopted on second reading by a 6-0 roll call vote. The vote was as follows: Councilmembers Bass, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

At this time Item 8D3b was heard. Armando Nunez, Director of Public Works addressed the Council regarding the proposals for engineering services for curbing and draining improvements, specifically in front of the Key Biscayne Yacht Club.

Hugh Dates, Commodore of the Key Biscayne Yacht Club, 180 Harbor Drive addressed the Council regarding the curbing at the Yacht Club.

It was the consensus on Council to direct staff to look into other solutions to solve the problem of drainage and parking on the swale in front of the Club.

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

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, PROVIDING FUNDING ASSISTANCE FOR VILLAGE OF KEY BISCAYNE POLICE OFFICERS AND FIREFIGHTERS RETIREMENT PLAN FOR DISABILITY BENEFIT AS REPLACEMENT FOR PROVIDING FUNDING FOR DISABILITY INSURANCE; PROVIDING FOR EFFECTIVE DATE.

Vice Mayor Oldakowski made a motion to approve the resolution. The motion was seconded by Councilmember Fried and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Bass, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING THE AGREEMENT FOR BILL OF SALE FOR SALE OF VILLAGE FIRE TRUCK AND RELATED PERSONAL PROPERTY BETWEEN THE VILLAGE OF KEY BISCAYNE AND THE CITY OF CLAY CENTER, KANSAS; PROVIDING AN EFFECTIVE DATE.

Vice Mayor Oldakowski made a motion to approve the resolution. The motion was seconded by Councilmember Peters and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Bass, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

The Clerk read the following resolution by title:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA; AMENDING THE AGREEMENT WITH ROBERT G. CURRIE, PARTNERSHIP INC. FOR ADDITIONAL DESIGN SERVICES FOR THE COMMUNITY CENTER; PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Fein made a motion to approve the resolution. The motion was seconded by Councilmember Fried.

Director Kurlancheek and Jose Aguila, Robert Currie Partnership, Inc., Architect for the project addressed the Council regarding this resolution.

Ed Meyer, 100 Sunrise Drive addressed the Council.

Councilmember Bass requested that under III. BUDGET the word "may" be substituted by the word "will" under Notes (3). It was the consensus of Council to direct staff to make this change.

The resolution was approved by a 6-0 voice vote. The vote was as follows: Councilmembers Bass, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

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

Mayor and Councilmembers. Mayor Rasco requested that staff be directed to revise the 40,000 square foot rule for property abutting Crandon Boulevard.

Director Kurlancheek and the Attorney addressed the Council regarding this issue.

It was the consensus of Council to direct staff to look into this issue.

Vice Mayor Oldakowski made a motion to direct staff to begin the process of re-zoning both sides of the 700 block of Fernwood Road to single family use. The motion was seconded by Councilmember Peters.

The Attorney addressed the Council regarding the process for the re-zoning.

Kathy King, 745 Fernwood Road and Jay Swindell, 774 Fernwood Road addressed the Council.

The Oldakowski motion was approved by a 5-1 voice vote. The vote was as follows: Councilmembers Bass, Fein, Fried, Peters and Vice Mayor Oldakowski voting Yes. Mayor Rasco voting No.

Vice Mayor Oldakowski made a motion requesting that the Mayor appoint a Citizen Advisory Committee to review the noise ordinance for the Village. The motion was seconded by Councilmember Peters and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Bass, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

Director Nunez addressed the Council regarding the noise coming from the Ocean Club.

Mike Steffens, 615 Ocean Drive and Serge Barder, 211 Cape Florida Drive addressed the Council.

Any residents interested in participating in this Committee should call Vice Mayor Oldakowski.

The Attorney addressed the Council recommending that before the Committee is formed, the item should come before Council to set the scope of the work, the terms and specific time to report back to Council.

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Clerk submitted to the Council a copy of the following proclamations issued by the Office of the Mayor during the month of July and August 2002: proclaiming July 12, 2002 as Gustavo A. Barreiro Day and proclaiming the week of October 20-26, 2002 as World Population Awareness Week.

Village Manager. The Manager addressed the Council requesting authorization to purchase one Medtronic Physio-Control Lifepak 12 for the Fire Rescue Department.

Councilmember Fein made a motion to approve the purchase of one Medtronic Physio-Control Lifepak 12. The motion was seconded by Vice Mayor Oldakowski and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Bass, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

The Manager addressed the Council requesting authorization to purchase sixteen (16) self contained breathing apparatus (SCBA).

Councilmember Fried made a motion to to approve the purchase of sixteen (16) self contained breathing apparatus (SCBA). The motion was seconded by Councilmember Fein.

Chief Gilbert addressed the Council regarding this issue.

The motion was approved by a 6-0 voice vote. The vote was as follows: Councilmembers Bass, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

The Manager presented to the Council two Public Works proposals for Engineering Services for drainage well modifications for Ocean Lane Drive and traffic calming, curbing and drainage improvements.

Director Nunez addressed the Council regarding the drainage well modifications for Ocean Lane Drive and traffic calming on Grapetree Drive.

Councilmember Fein made a motion to move forward with the drainage well modifications for Ocean Lane Drive pending review by Counsel. The motion was seconded by Councilmember Bass and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Bass, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

Vice Mayor Oldakowski made a motion to move forward with the traffic calming for Grapetree Drive. The motion was seconded by Mayor Rasco and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Bass, Fein, Fried, Peters, Vice Mayor Oldakowski and Mayor Rasco voting Yes.

9. OTHER BUSINESS/GENERAL DISCUSSION: Councilmember Fein requested a status report on the progress of the Fire Station and the Police Administration Building.

The Manager, Chief Gilbert and Director Kurlancheek addressed the Council regarding this issue.

Councilmember Fein requested consensus from Council to direct staff to have the contractors clean the site of the two new buildings. There was no objection to the request.

10. SCHEDULE OF FUTURE MEETINGS/EVENTS: A schedule of future meetings and events was presented to the Council.

11. ADJOURNMENT: The meeting was adjourned at 9:40 p.m.

Respectfully submitted:

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

Approved this 3rd day of September , 2002:

***Joe I. Rasco
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.