

MINUTES

VILLAGE COUNCIL MEETING  
KEY BISCAIYNE, FLORIDA

TUESDAY, OCTOBER 28, 2003

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 Martha F. Broucek, Carol Diaz-Castro, Mortimer Fried, James L. Peters, Robert L. Vernon, Vice Mayor Jorge Mendia and Mayor Robert Oldakowski. Also present were Village Manager Jacqueline R. Menendez, Village Clerk Conchita H. Alvarez and Village Attorneys Stephen P. Helfman and David Wolpin.
2. **PLEDGE OF ALLEGIANCE:** Mrs. Olga Campano led the Pledge of Allegiance.
3. **SPECIAL PRESENTATIONS:** John C. Gilbert, Public Safety Department Director addressed the Mayor and Members of the Village Council introducing the following new Firefighter/Paramedics: Firefighter/Paramedic Antonio Rodriguez and Firefighter/Paramedic Robert Morrison.
4. **AGENDA:** The Clerk requested the addition of the appointment of the Community Center Advisory Board as Item 9A5 and the addition of the appointment of Mr. John Rawics as Special Master as Item 9A6; the Mayor requested the addition of a report regarding the proposed Virginia Key High Charter School as Item 9A7; Councilmember Broucek requested the addition of a status of Ocean Lane Drive as Item 9A8 and a discussion regarding the Sunshine Law as item 9A9; Councilmember Diaz-Castro requested the addition of a report regarding Grapetree Drive as Item 9A10 and a discussion regarding construction fencing on construction projects as Item 9A11; the Mayor requested the addition of a discussion regarding the Debt Cap as it relates to the Crandon Boulevard re-design project as Item 9B2 and the Manager requested the addition of a discussion to re-schedule the November 11, 2003 Council Meeting as Item 9C1. There was no objection to the agenda changes.
5. **APPROVAL OF MINUTES:** Councilmember Fried made a motion to approve the minutes of the October 14, 2003 Regular Council Meeting. The motion was seconded by Councilmember Broucek and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes.
6. **BUILDING, ZONING AND PLANNING:** All witnesses giving testimony in the public

hearing were sworn in by the Clerk.

Hearing Number RV 16. Andres Garcia, 14 Harbor Point, the applicant wishes to exceed the maximum projection of a mooring pile of 25 ft. from a property line by 29 ft. in order to have four (4) mooring piles 54 ft. from the property line. The mooring piles are associated with a boat lift that is located on an existing dock.

Jud Kurlancheek, Director of Building, Zoning and Planning addressed the Council stating his recommendation to deny the variance because it is not consistent with the review criteria listed in the Zoning and Land Development Regulations.

Richard Bunnell with Bunnell Foundation, Inc. on behalf of the applicant, addressed the Council.

The Mayor opened the public hearing. Jim Taintor, 355 harbor Drive addressed the Council. The Mayor closed the public hearing.

Councilmember Fried made a motion to deny the request. The motion was seconded by Councilmember Broucek and approved by a 5-2 roll call vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters and Mayor Oldakowski voting Yes. Councilmember Vernon and Vice Mayor Mendia voting No.

7. **ORDINANCES:** 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 CREATING CHAPTER 22 "PUBLIC PLACES", INCLUDING ARTICLE I "RESTRICTIONS ON ACTIVITIES", CONSISTING OF SECTION 22-1 "WEST MASHTA ROAD BRIDGE", REGULATING FISHING ACTIVITIES AT AND THE USE OF THE VILLAGE'S WEST MASHTA ROAD BRIDGE AND PROVIDING PERMIT PROGRAM FOR SUCH PURPOSES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR A PENALTY; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

The Manager and Attorney Wolpin addressed the Council regarding this ordinance.

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The Mayor opened the public hearing. Max Puyanic, 480 South Mashta Drive addressed the Council. The Mayor closed the public hearing.

Councilmember Vernon made an amending motion to increase the non-resident permit fee to \$50.00 per calendar year. The motion was seconded by Vice Mayor Mendia and approved by a 6-1 voice vote. The vote was as follows: Councilmember Broucek, Fried, Peters, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes. Councilmember Diaz-Castro voting No.

The ordinance as amended was adopted by a 7-0 roll call vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes.

At this time Mr. David Schruder, Executive Director of the Virginia Key Beach Park Trust and Mr. Gene Teenie, Vice Chairman of the Trust, made a special presentation to the Council regarding the Virginia Key Beach Park Master Site Plan.

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

**A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, CONCERNING THE VILLAGE OF KEY BISCAIYNE CIVIC CENTER PROJECT; RECONCILING CONTINGENCY ITEMS AND CONSTRUCTION BUDGET ITEMS OF THE PROJECT; AUTHORIZING CONSTRUCTION WORK ITEMS AND EQUIPMENT PURCHASE ITEMS DESCRIBED HEREIN; AUTHORIZING AMENDMENTS NO. 9, 10, 11 AND 12 TO AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER CONCERNING ITEMS DESCRIBED HEREIN; PROVIDING FOR SPECIFICATION OF FUNDS AND AUTHORIZING EXPENDITURES FOR ITEMS DESCRIBED HEREIN; PROVIDING FOR EFFECTIVE DATE.**

It was the consensus of Council to hear Item 9D3 together with this resolution.

Councilmember Diaz-Castro made a motion to approve the resolution. The motion was seconded by Vice Mayor Mendia.

The Manager and Paul Abbott, Construction Manager for the Project, addressed the Council regarding this resolution.

Michael Lanciault with James A. Cummings, Inc. addressed the Council.

There was extensive discussion from Council regarding this resolution.

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The resolution was approved by a 6-1 voice vote. The vote was as follows: Councilmembers Diaz-Castro, Fried, Peters, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes. Councilmember Broucek voting No.

At this time Item 9D3 was heard. Mr. Paul Abbott, Construction Manager for the Project addressed the Council.

Randy White, Finance Director through the Firm of Severn Trent addressed the Council regarding the debt service and revenues.

Robert Maphis with James A. Cummings Inc. addressed the Council.

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

Mayor and Councilmembers. Mayor Oldakowski gave an annual budget message according to Section 2.02 (a) of the Charter of the Village of Key Biscayne.

Mayor Oldakowski addressed the Council regarding Rules and Regulations for Committees. It was the consensus of Council to table this item.

Councilmember Broucek addressed the Council regarding the Crandon Boulevard development and re-development cumulative effects of commercial development.

The Attorney and Jud Kurlancheek, Director of Building, Zoning and Planning addressed the Council regarding this issue.

It was the consensus of Council to direct staff to do a comprehensive analysis of Crandon Boulevard commercial and office properties in order to evaluate the overall potential development that could occur and make recommendations to Council.

Mayor Oldakowski addressed the Council regarding the appointment of Mr. Oscar de Armas to the Art in Public Places Board as the result of the resignation of Ms. Theresa Hodges.

Councilmember Fried made a motion to appoint Mr. de Armas to the Art in Public Places Board. The motion was seconded by Councilmember Diaz-Castro and approved by a 6-0 voice vote. The vote was as follows: Councilmembers Diaz-Castro, Fried, Peters, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes. Councilmember Broucek was out of the Chamber at the time the vote was taken.

Mayor Oldakowski addressed the Council regarding the appointment of the Community Center Advisory Board. Ordinance No. 2003-7, adopted by the Village Council on August 26, 2003 created

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a Community Center Advisory Board to provide recommendations to the Council regarding the Village's new Community Center. The Board shall be composed of seven (7) members appointed by the Mayor, with the approval of the Council.

Mayor Oldakowski proposed the appointment of the following residents: 1. Mr. Jim Leavitt, Youth Athletics; 2. Ms. Susie Westfall, Cultural Programs; 3. Mr. Sixto Campano, Financial Management; 4. Ms. Bonnie Cooper, Senior Services; 5. Ms. Catherine Dowd, Marketing; 6. Mr. Carlos Batlle, Legal and 7. Ms. Pat Weinman, Youth/Teens.

The Mayor also thanked all the residents who have expressed an interest in serving on this Advisory Board and urged them to volunteer their time and talents to work with this Board in their area of interest to assure the greatest success for our Community Center.

Vice Mayor Mendia made a motion to accept the appointments for the Community Center Advisory Board as submitted by Mayor Oldakowski. The motion was seconded by Councilmember Fried and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes.

The Mayor also addressed the Council regarding the appointment of Mr. John Rawicz as Special Master. Councilmember Vernon made a motion to appoint Mr. Rawicz as Special Master. The motion was seconded by Vice Mayor Mendia and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes.

The Mayor and the Manager addressed the Council regarding the progress of a proposed Charter High School on Virginia Key.

Councilmember Diaz-Castro made a motion to extend the meeting to 11:30 p.m. The motion was seconded by Vice Mayor Mendia and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes.

Councilmember Broucek addressed the Council regarding the status of Ocean Lane Drive.

Armando Nunez, Public Works Director addressed the Council regarding this issue.

Councilmember Broucek and the Attorney addressed the Council regarding the importance of the Sunshine Law.

Councilmember Diaz-Castro addressed the Council regarding the progress on Grapetree Drive and the construction fencing on construction projects.

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Director Nunez addressed the Council regarding these issues.

Village Attorney. The Attorney addressed the Council regarding a proposed ordinance dealing with Charter Amendments. The two proposed Charter Amendments consist of the following: 1.) Amending the term of office of Council Members from two year terms to four year terms of office, while retaining the two year term for the Office of Mayor and 2.) Eliminating the run-off election for Mayor and Council Member positions and the related majority vote of elector requirement, so as to enable the Mayor and Council Members to be elected at a single regular election at which those candidates receiving the greatest number of votes are elected.

Mayor Oldakowski addressed the Council regarding the debt cap as it relates to the Crandon Re-design and Improvement Project.

The Attorney addressed the Council regarding this issue.

Councilmember Broucek made a motion to instruct the Attorney to draft an ordinance regarding exception to the debt cap for a specific project, Crandon Boulevard re-design and improvements to be placed on the ballot for the voters to decide. The motion was seconded by Councilmember Fried and approved by a 5-2 voice vote. The vote was as follows: Councilmembers Broucek, Fried, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes. Councilmembers Diaz-Castro and Peters voting No.

Village Clerk. The Clerk addressed the Council regarding a conflict with the Council Meeting scheduled for November 11, 2003.

Councilmember Peters made a motion to re-schedule the November 11, 2003 Council Meeting to November 10, 2003. The motion was seconded by Vice Mayor Mendia and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes.

Village Manager. The Manager addressed the Council reporting that the Village will advertise an Invitation to Bidders to provide a salary and benefits survey for Village employees.

Councilmember Fried made a motion to cancel the November 25, 2003 Zoning Meeting. The motion was seconded by Councilmember Vernon and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes.

Carter McDowell, attorney for the Ritz Carlton, addressed the Council regarding the cancellation of the November 25, 2003 Zoning Meeting.

The Manager presented to the Council a letter from Sugarman & Susskind, firm representing the

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Key Biscayne Professional Firefighters Local 3638, requesting that the Village voluntarily recognize Local 3638 as the exclusive collective bargaining representative of a bargaining unit comprised of the Village's fire department captains, lieutenants and firefighter paramedics, and excluding the deputy chief, emergency services director, and all other employees of the Village.

Christopher F. Kurtz, Attorney with Weiss Serota Helfman Pastoriza Guedes Cole & Boniske, P.A. addressed the Council regarding the request from the Fire Rescue Department.

The Manager stated her recommendation to deny voluntary recognition of Local 3638.

Councilmember Diaz-Castro made a motion to extend the meeting to 11:35 p.m. The motion was seconded by Councilmember Broucek and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Broucek, Diaz-Castro, Fried, Peters, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes.

Vice Mayor Mendia made a motion to deny the request for voluntary recognition of the Key Biscayne Professional Firefighters Local 3638. The motion was seconded by Councilmember Fried and approved by a 5-2 voice vote. The vote was as follows: Councilmembers Broucek, Fried, Vernon, Vice Mayor Mendia and Mayor Oldakowski voting Yes. Councilmembers Diaz-Castro and Peters voting No.

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

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 11:40 p.m.

*Respectfully submitted:*

*Conchita H. Alvarez, CMC  
Village Clerk*

*Approved this 10th day of November, 2003:*

*Robert Oldakowski*

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*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.***