

MINUTES

VILLAGE COUNCIL MEETING
KEY BISCAIYNE, FLORIDA

TUESDAY, NOVEMBER 18, 2008

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, Michael E. Kelly, Thomas Thornton, Vice Mayor Jorge Mendia and Mayor Robert L. Vernon. Also present were Village Manager Genaro "Chip" Iglesias, Village Clerk Conchita H. Alvarez and Village Attorney David M. Wolpin.
2. **INVOCATION:** Reverend Bud Schroeder, Key Biscayne Community Church, gave an invocation.
3. **PLEDGE OF ALLEGIANCE:** Councilmembers Kelly and Gusman led the Pledge of Allegiance.
4. **SPECIAL PRESENTATIONS:** There were no special presentations.
5. **PUBLIC COMMENTS:** There were no speakers present.
6. **AGENDA:** Councilmember Kelly requested the addition of a discussion regarding the vacant land at 530 Crandon Boulevard as Item 11A3. There was no objection to the agenda

change.

7. **APPROVAL OF MINUTES:** Councilmember Garcia made a motion to approve the minutes of the October 27, 2008 Zoning Meeting. The motion was seconded by Councilmember Davey and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Kelly, Thornton, Vice Mayor Mendia and Mayor Vernon voting Yes.

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

Hearing Number RV-29. The applicant, Carlos Moni, 601 North Mashta Drive is requesting the following variances associated with boat dockage: 1. Permit one (1) new mooring pile to exceed the 25 ft. projection from a bulkhead by 10 ft. for a maximum projection of 35 ft.; 2. Permit one (1) new mooring pile to be outside of the D -5 triangle by six (6) ft.; 3. Permit the relocation of two existing non-conforming mooring piles which are 35'6" from the bulkhead and one 37 feet from the bulkhead to project 35 ft. from bulkhead; 4. Permit the relocation of two (2) existing non-conforming mooring piles to be outside of the D -5 triangle by 16 ft.; 5. When a boat is docked parallel to a bulkhead, permit a 35 ft. long boat to project four (4) ft. outside the D-5 triangle; 6. Waive the requirement that a boat be docked parallel to the bulkhead and permit the boat to be docked perpendicular to the bulkhead; 7. When a boat is docked perpendicular to the bulkhead, permit a 35 ft. long boat to project 13 ft. outside the D -5 triangle and 8. Exceed the 10 ft. maximum projection of a dock from a bulkhead by seven (7) ft. in order to permit a dock that projects 17 ft. from the bulkhead.

Building, Zoning and Planning Director Jud Kurlancheek addressed the Council recommending the following: Deny Variances 1, 2, 3, 4 and 7. Approve Variance 5, if the existing 35 ft. long boat is replaced by the current owner or if a new owner wishes to have a boat, the location for the new boat shall comply with the regulations that are in effect at that time. Page 3 of the Site Plan drawings show that a boat with a 30 ft. length fits inside the D -5 triangle. Remove the two mooring piles that are outside of the D-5 triangle. Approve Variance 8, both of the adjacent properties have docks that project about the same as the applicant 's at 17 ft.

Bibi Villazon with Trident Environmental Consultants, Inc., representing the applicant, addressed the Council regarding this request.

Councilmember Davey made a motion to approve Variances 1, 2, 3 (amended to permit the relocation of one existing non-conforming mooring pile which is 35'6" from the bulkhead and the removal of one 37 feet from the bulkhead) and 8 and to deny Variances 4, 5, 6 and 7. The motion was seconded by Vice Mayor Mendia.

The Mayor opened the public hearing. Jim Taintor, 355 Harbor Drive; Concha Dominguez, 591 N. Mashta Drive; Cecilia Arboleda, 611 N. Mashta Drive and Juan Dominguez, 591 N. Mashta Drive addressed the Council. The Mayor closed the public hearing.

The motion to approve Variances 1, 2, 3 (as amended) and 8 and to deny Variances 4, 5, 6 and 7 was approved by a 7-0 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Kelly, Thornton, Vice Mayor Mendia and Mayor Vernon voting Yes.

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

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 2 "ADMINISTRATION" OF THE VILLAGE CODE BY CREATING A NEW ARTICLE XVI "CHARTER HIGH SCHOOL ADVISORY BOARD"; ESTABLISHING A NEW BOARD AND PROVIDING REQUIREMENTS FOR MEMBERSHIP AND JURISDICTION OF THE BOARD; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Davey made a motion to adopt the ordinance on second 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 Attorney addressed the Council regarding this ordinance.

The ordinance was adopted on second reading by a 7-0 roll call vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Kelly, Thornton, Vice Mayor Mendia and Mayor Vernon voting Yes.

10. **RESOLUTIONS:** There were no resolutions considered by Council.

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

Mayor and Councilmembers. Pursuant to Ordinance 2007-5, the Council established a Board of Special Magistrates. The Board of Special Magistrates is responsible for the adjudication of code enforcement and building violations.

The Mayor, with consensus of Council, re-appointed Dennis O'Hara, Rosemary Sala, Jennifer Leal, Mortimer Fried and Timothy Stickney to serve as Special Magistrates for a one year term.

Councilmember Davey addressed the Council proposing to amend the permitted uses in the Hotel Resort Zoning District by removing apartment buildings as a permitted use in that district.

There was extensive discussion from Council regarding the HR Zoning District.

Arturo Aballi, ZORC Committee Member addressed the Council regarding this District.

The Attorney also addressed the Council regarding the proposed amendment to the HR District.

Councilmember Davey made a motion to direct staff to draft language to amend the HR District by removing apartment buildings as a permitted use in the Zoning Code and to also amend the ZORC ordinance in order to allow this Board to discuss the HR District. The motion was seconded by Councilmember Kelly and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Kelly, Thornton, Vice Mayor Mendia and Mayor Vernon voting Yes.

Councilmember Kelly addressed the Council regarding the uses of the vacant land at 530 Crandon Boulevard.

The Attorney and the Manager addressed the Council regarding 530 Crandon Boulevard.

Councilmember Kelly made a motion to direct the Manager to look into the uses of 530 Crandon Boulevard and report back to Council on December 9, 2008 with recommendations. The motion was seconded by Mayor Vernon and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Kelly, Thornton, Vice Mayor Mendia and Mayor Vernon voting Yes.

Village Attorney. The Attorney did not submit a report.

Village Clerk. Pursuant to Section 2.02(b) of the Village Charter, an election was held for the Vice Mayor's seat.

The Mayor opened the floor for nominations. Councilmember Garcia nominated Councilmember Davey. The nomination was seconded by Vice Mayor Mendia. The Mayor closed the floor for nominations.

A vote was taken on the nomination of Councilmember Davey. The vote was as follows: Councilmembers Davey, Garcia, Gusman, Kelly, Mendia, Thornton and Mayor Vernon voting Yes.

The Clerk presented to the Council the Certification of the November 4, 2008 Special Election results.

Vice Mayor Davey made a motion to accept the Clerk's Certification of the November 4, 2008 Special Election results. The motion was seconded by Councilmember Garcia and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Garcia, Gusman, Kelly, Mendia, Thornton, Vice Mayor Davey and Mayor Vernon voting Yes.

The Clerk presented to the Council the proposed 2009 Council Meeting Schedule. Vice Mayor Davey made a motion to adopt the proposed 2009 Council Meeting Schedule, as presented. The motion was seconded by Councilmember Thornton and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Garcia, Gusman, Kelly, Mendia, Thornton, Vice Mayor Davey and Mayor Vernon voting Yes.

The Clerk addressed the Council reporting that there are no zoning issues to be considered by Council at the November 25, 2008 Zoning Meeting. It was the consensus of Council to cancel this meeting.

Village Manager. The Manager and Finance Director Randolph G. White addressed the Council regarding the renewal of the audit service contract with Rachlin LLP.

Councilmember Garcia made a motion to authorize the Village Manager to renew the audit service contract with Rachlin LLP pursuant to engagement letter dated October 6, 2008. The motion was seconded by Councilmember Thornton and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Garcia, Gusman, Kelly, Mendia, Thornton, Vice Mayor Davey and Mayor Vernon voting Yes.

The Manager also addressed the Council regarding the need for participants in focus group process for Recreation and Open Space Charrette. Director Kurlancheek also addressed the Council regarding this process. It was the consensus of Council to submit names for the focus group.

The Manager and Armando Nunez, Public Works Director addressed the Council regarding the street lighting project for Sunrise and Galen Drives. It was the consensus of Council to direct staff to bring some options for this project at the December 9, 2008 Council Meeting.

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

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

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

Respectfully submitted:

Conchita H. Alvarez, CMC

Village Clerk

Approved this 9th day of December, 2008:

Robert L. Vernon

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.