



## VILLAGE OF BISCAYNE PARK

640 NE 114TH STREET

BISCAYNE PARK, FL 33161

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### MINUTES

#### SPECIAL COMMISSION MEETING

Ed Burke Recreation Center - 11400 NE 9th Court

Biscayne Park, FL 33161

Tuesday, July 23, 2013 at 6:30pm

#### Mayor and Commission

Noah Jacobs  
Mayor

Robert "Bob" Anderson  
Vice Mayor

Bryan Cooper  
Commissioner

Roxanna Ross  
Commissioner

Commissioner Watts  
Commissioner

Ana M. Garcia  
Village Manager

John J. Hearn  
Village Attorney

Maria C. Camara  
Village Clerk

**1 Call to Order**

Mayor Noah Jacobs called the meeting to order at 6:37pm.

**2 Roll Call**

Mayor Noah Jacobs - present  
Vice Mayor Bob Anderson - present  
Commissioner Bryan Cooper - present  
Commissioner Roxanna Ross - present  
Commissioner Barbara Watts - present

Present from staff were:

Village Manager Ana M. Garcia  
Village Clerk Maria C. Camara  
Village Attorney John Hearn  
Chief Ray Atesiano  
Assistant to the Manager Candido Sosa-Cruz

**3 Pledge of Allegiance**

**4 Presentations**

Manager Garcia acknowledged the awards received by the Village of Biscayne Park Police Department at the 2013 Florida Law Enforcement Awards held in Orlando:

- > First Place in the DUI Challenge
- > First Place for Click it or Ticket (5th consecutive year)
- > First Place in The Florida Law Enforcement Challenge

Chief Atesiano promoted Lt. Larry Churchman to the rank of Captain.

Mayor Jacobs: Thanks the Chief, the department and Captain Churchman. Shows wonderful leadership and a benefit to the community.

Vice Mayor Anderson: Has personally seen the wonderful things from the Captain and thanks him.

Vice Mayor Anderson asks to move up agenda item 6.b before 6.a.

## 5 Public Comments Related to Agenda Items

Dan Samaria: The Chief cares about the community. His officers respect him more than the last Chief. Open to residents, night or day. Allows residents to ride with officers to see what his officers are doing. Not asking for more money, and has done more than the last Chief. Mistake if we lose him. New Manager may bring in new Chief and am concerned with that. Asked the Chief he wants to be here and he said he wants to raise his family here and retire here. Has built a team and wants to do more. Has never seen this kind of commitment. Looks to this commission to support him.

Chuck Ross: As Chair of Crime Watch, gets many positive remarks from residents about the Chief. Getting Click it or Ticket award five years in a row and other awards 4 years in a row, and having highest clearance rate in Miami Dade County shows a lot. Congratulations to Larry on being Captain. Looks to Commission to approve the agreement and keep him here. On the TRIM, we need to set the highest possible millage which is 10 mils. Our revenues are not keeping up with expenditures.

Janey Anderson: Make the police chief contract happen. We need to keep him here. We owe him respect and security. Next Manager will be able to see his success. If they don't see that, then you hired the wrong Manager.

Fred Jonas: In regards to Ray, bend over backwards to preserve what we have in him and the police department. What they provide to us is a treasure. We are in a good place, largely because of Ray and the officers around him. Have heard that it is risky to give him what he is asking, especially for a future Manager. But we need to keep him. On the TRIM, we are not in a great place. Just trying to balance and never being able to get the things we want or need like renovations to the log cabin, sound wall, etc. Set it high and we can always work down. Pick too low and you are stuck.

Barbara Kuhl: Agree with all the speakers. Have never had a police force like this. Has never heard a negative comment. Need to do what we can. On the TRIM, set it high. You know we are losing money. You can always lower it. Don't want to be forced to go into annexation. Raise the millage and we have some leverage.

## 6 Resolutions

### 6.b Resolution 2013-25

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE MEMORANDUM OF UNDERSTANDING BETWEEN THE VILLAGE OF BISCAYNE PARK AND RAIMUNDO ATESIANO; PROVIDING FOR AN EFFECTIVE DATE

Commissioner Ross makes a motion to approve resolution 2013-25 and it is seconded by Vice Mayor Anderson.

Attorney Hearn read the title.

Vice Mayor Anderson: A fair agreement. If in his position, would ask for the same thing. This gives stability to the Chief.

Commissioner Ross: Our police officers are the lowest paid. The Chief put together a superior police force. Provides stability and morale. Very supportive of the Chief.

Commissioner Watts: Supports all comments. Have spoken with individuals from other municipalities and in municipal government. We are dissing the next Manager. If you are saying that the next Manager will see for themselves the Chief's success, why is this necessary. This could hamstring the new Village Manager. If we have this for the Chief we should do the same with all department managers. Have spoken to the Chief and am 99% convinced of his reasonings. If he goes back to a Sergeant, how do we properly budget for this? Would the last hire have to be let go? Still not sure why we had to have this.

Commissioner Cooper: Sensitive to some of Commissioner Watts' objections. This agreement would be a dis-service to the Chief and our financial situation. I don't want the Chief to leave. On the addendum to give him a choice of reverting to a sergeant or to get a payout, the Village should not add this during this fiscal climate. He has surely taken the department from a low point to the highest level of professionalism and am very grateful. Want to see a multi-year contract and extend to him more than what is shown here. Don't approve this, but agree on a three year contract instead. His work is good so instead of the addendum, increase his salary. A minimum 3 year contract with a clause to protect the Village. For Captain Churchman, is he getting a raise? (Manager confirms a 5% raise.) Problem with Chief going to sergeant and then being under the Captain. Rather the Chief should revert to Captain. Cannot vote for this as is. Encourages the rest to vote against and bring back something more suitable.

Mayor Jacobs: Does this preclude us from offering a three contract in the near future?

Attorney Hearn: Yes, you can offer as long as agreed to by the Chief. If the situation were to occur that a new Chief were to be hired, Chief Atesiano would want to go to sergeant so he would be under the collective bargaining agreement.

Commissioner Cooper: Build in to the 3 year contract the same protection.

Mayor Jacobs: Everyone appreciates the work of the Department and of the Chief, such as the Community Policing efforts. You are appreciated. The discussion is what is best for the Chief and the Village. This can pass and then we can craft something a lot more long lasting.

Vice Mayor Anderson: Ought to look at what the Chief has proposed. Move forward on what he is asking for. Would rather not rush another agreement through. Take our time and let's get this one done.

Commissioner Ross: Appreciates Commissioner Cooper's comments. A three year contract would be good down the road, but this is what the Chief has presented us. Great if we can offer more at a later time. At least now put this in place and let his officers know he is here for the long run. On Commissioner Watts' comments about other department managers, don't know of any other department that leads a force of 11. Usually do not see something like this for Public Works or Parks & Recreation.

Commissioner Cooper: Should not pass this as it is a fiscal burden on the Village. A bad precedent. This has a trigger clause of thousands of dollars. Would like to ask the Chief if he prefers a three year contract.

Chief Atesiano: Appreciates all the comments. Loves working here. Finally in a place where you can see the fruits of your labor. Not looking to add a fiscal burden on the Village. We have done a hell of a lot more with a hell of a lot less. I preach it to my department day in and day out. This agreement gives me stability in a time of instability. This right here is enough for me. We can sit down later and work on something else. If next person hired brings in a new Chief, my first choice would be to revert to a sergeant. Last option would be to take the payout. I don't want to leave the Village. Last thing I want to do is drain the Village. It is tough for a former Chief to get another job. Want to continue to work here. My work ethic has not and will not change. Our residents expect nothing less than the best.

Commissioner Cooper: I cannot vote for this with the severance clause and will urge to begin negotiations with the Attorney to draft a new agreement.

Mayor Jacobs: Appreciates the suggestions, but if this is what he wants and what the residents want, see no reason why we would not accept. We are about to embark on budget season.

Commissioner Watts: What is vague in this agreement is the payout for sick hours accrued. Would we have to take money out of reserves to fund this.

Commissioner Ross: Asks Attorney Hearn what would happen with salary. Are we tied one way or another?

Attorney Hearn: Salary would be based on salary range for a sergeant.

Manager Garcia: We have a salary range for all positions. Chief and I have been discussing this since back in January. I wanted stability for this department and the Village.

Commissioner Ross: On the 20 weeks of severance, the contract for Village Manager had a similar clause. Seems appropriate to have it here.

Attorney Hearn: Will add to the contract, "and up to four hundred (400) hours of accumulated sick leave".

Commissioner Ross renews the motion to approve with the amendment for the sick hours. The Chief agrees to the amendment. Vice Mayor Anderson agrees to the amendment.

All in favor: Mayor Jacobs, Vice Mayor Anderson, Commissioner Ross and Commissioner Watts.

Opposed: Commissioner Cooper

Motion carries: 4/1

Commissioner Cooper makes a motion to charge the attorney to enter into discussions with the Chief to enter into a 3 year agreement, to address the Chief's concerns, and the collective concerns of this commission. It is seconded by Mayor Jacobs.

Vice Mayor Anderson: A dis-service if we rush into this before we do our budget and before we get a new manager.

Mayor Jacobs: Would benefit both Chief and the Village to start and would show next Village Manager how much we appreciate him.

Commissioner Ross: Before we incur attorney charges, have the Chief bring back what he would like.

Commissioner Cooper: Is it customary to return to a sergeant position?

Attorney Hearn: Only so many Chiefs have such agreements and confirmed with our Chief that all return to sergeant position. It is not unusual especially for a smaller city.

Commissioner Cooper: What is cost to negotiate?

Attorney Hearn: Depends on what is being negotiated. Could be a couple of hours.

Commissioner Cooper: Consider our Village Manager is leaving early and breaking her contract. Money in that contract to come back in our coffers to fund this negotiation. Isn't there a value to each day she is leaving early?

Attorney Hearn: There is the right to leave early. Village has option to do an injunctive relief. But you don't want someone here who does not want to be here. No realistic penalty for the breach. Would have to go to court to enforce.

Commissioner Cooper: Faith is lost at this point.

The motions is called to a vote.

All in favor: Commissioner Cooper

Opposed: Mayor Jacobs, Vice Mayor Anderson, Commissioner Ross and Commissioner Watts.

Motion fails: 1/4

6.a **Resolution 2013-28**

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA; **ESTABLISHING A TENTATIVE MILLAGE RATE OF 9.5000 FOR FISCAL YEAR 2013-14**, ESTABLISHING THE CURRENT YEAR ROLLED-BACK RATE TO BE 9.2027 AND ESTABLISHING THE FIRST AND THE SECOND PUBLIC BUDGET HEARINGS AS REQUIRED BY LAW; DIRECTING THE VILLAGE CLERK AND FINANCE DIRECTOR TO FILE SAID RESOLUTION WITH THE PROPERTY APPRAISER OF MIAMI-DADE COUNTY PURSUANT TO THE REQUIREMENTS OF FLORIDA STATUTES AND THE RULES AND REGULATIONS OF THE DEPARTMENT OF REVENUE OF THE STATE OF FLORIDA; ESTABLISHING THE TIME AND LOCATION OF THE FIRST AND SECOND PUBLIC HEARINGS; PROVIDING FOR AN EFFECTIVE DATE

Attorney Hearn read the title.

Manager Garcia: Per my memorandum, recommend setting the tentative millage rate higher than 9.50 to consider and address all issues. We cannot continue to get hand me down vehicles, or put band aids where we need a tourniquet. We have a lot of needs. As much as we save and are efficient, when you lose 30% in ad valorem, it is going to take a lot of time to go back to where we were and to build our reserves.

Vice Mayor Anderson: This commission passed an increase in senior exemptions. Will have a decrease of approximately 2/10 of a mil. Confirms with Finance Director Williams that this draft budget includes the impact of the senior exemption.

Commissioner Ross makes a motion to approve Resolution 2013-28 and to set the tentative millage rate at 10.0 mils, and to get resident input. It is seconded by Vice Mayor Anderson.

Commissioner Cooper: Does the Finance Director recommend 10.0?

Finance Director Williams: Since only tentative, yes. If you go too low, you cannot raise.

Commissioner Cooper: We are going to have to bite the bullet. Have been against the fiscal decisions made in the past. Will not vote to increase. A lot of residents still not back in the work force. Do not support annexation. If Miami-Dade County is smart, they would not let us cherry pick.

Commissioner Watts: Do not want to raise to 10.0. If we do 10.0 now, tendency to go higher than 10.0. Would rather see 9.90.

Mayor Jacobs: We went from 8.90 to 9.50 last year. Argument then was legitimate with the possible FRS implications. Awful lot of residents that contact us and their opinion is that we are taxing ourselves out of existence. Many not happy with 9.50. Agree with Commissioner Watts that if we set high, we will stay high.

Commissioner Ross: On the draft budget presented, confirms that the \$20,000 match for the historic preservation grant is included; confirms that the approved capital improvement plan for the purchase of police vehicle and sanitation truck is included; confirms amount is included for continued tree trimming; confirms amount included for IT infrastructure needs.

Commissioner Ross amends her motion to set the tentative millage at 9.90 and it is accepted by Vice Mayor Anderson.

Mayor Jacobs: Don't think anyone is doing anything here for the purposes of getting re-elected. But political grandstanding is part of the effort of some people on the dais. Do believe that we are doing what is best for the Village. Don't know how we got from 8.9 two years ago, to a possible 10.0. 9.90 is the top end it could be. That is an entire point, or \$100 a household. That is a significant increase for number of residents. We need to be careful during this process to try to keep as low as possible.

Commissioner Watts: Why we are so behind on some projects is because prior commission did not look towards the future as they should have. We need to continue to look forward. The increase is do-able from some, but not for others. Last year some said to "take my money". For those that said that, then yes, please give your money and put it in as a tax write off.

Commissioner Cooper: Year after year when taxes are raised we would do more. But in reality, those things were never addressed. Such as back alleys, paving roads. Tie the budget to the strategic plan which is what I have been asking for every year. This creates deliverables and will make a difference. I have no faith in the process. I will not vote for an increase.

Mayor Jacobs: Appreciates all of the suggestions and what we can do to make the improvements in the Village. I hope to take these into consideration when we go through the budget and do our best to make them happen.

Vice Mayor Anderson: Reminds the Commission that we have extra homestead exemption. That is a 2/10 of a mil loss. To make us whole, we need to put this back in. We raised taxes last year and we have done major tree trimming. People can finally see where their tax money went. Keep momentum going.

Commissioner Ross: On audited financials, it shows our net position in 2011-12 was down over \$84,000. Raising millage now will not even meet that shortfall. We will work out the details during the budget process.

Mayor Jacobs: The 2/10 mil for the homestead was for the elderly. As Anderson, who is the elder statesman, should understand that role of government is to help those that are in need.

Vice Mayor Anderson: And the rest will have to subsidize for that. Not upset with those that get the exemption, but that the Commission understands the effect.

Commissioner Watts: We have to brainstorm on all ideas to increase revenues besides annexation. We have to do something radical.

The motion is called to a vote:

All in favor: Vice Mayor Anderson, Commissioner Ross and Commissioner Watts

Opposed: Mayor Jacobs and Commissioner Cooper

Motion carries: 3/2

## 7 Old Business

### 7.a Discussion of appointing an Acting or Interim Village Manager

Commissioner Cooper: Motion to ask the Clerk to evaluate costs to advertise in two general online job sites. It is seconded by Mayor Jacobs.

Clerk Camara: The cost to advertise in careerbuilder.com is \$419. The Miami Herald is offering a special with a two day print ad, plus CareerBuilder for a cost of \$338.

Commissioner Ross: Does not make sense to spend money to advertise to an audience that is not our target audience.

Commissioner Cooper amends his motion to advertise in only one online job site and it is accepted by Mayor Jacobs.

All in favor: Mayor Jacobs and Commissioner Cooper

Opposed: Vice Mayor Anderson, Commissioner Ross and Commissioner Watts

Motion fails: 2/3

Janey Anderson: Recommends utilizing the DBR to post an employment ad directing readers to view the job posting on our website.

Commissioner Watts: Asks Attorney Hearn what source he would recommend.

Attorney Hearn: The DBR employment posting is a good source.

Vice Mayor Anderson makes a motion to keep limit at \$250 and look at posting on governmentjobs.com and the Daily Business Review (DBR).

All in favor: Mayor Jacobs, Vice Mayor Anderson, Commissioner Cooper, Commissioner Ross and Commissioner Watts.

Opposed: None

Motion carries: 5/0

Commissioner Cooper makes a motion to appoint Ray Atesiano as the Interim Village Manager. *(There is no second.)*

Attorney Hearn: There is a dual office holding provision and appointing the Chief would violate it.

Commissioner Cooper: How long has this been in place?

Attorney Hearn: Years.

Commissioner Ross: Asks Manager Garcia what is her recommendation.

Manager Garcia: Best choice is the Village Clerk, Maria Camara. This city is not the same as when I stepped in. I can leave here proudly with the Village in the hands of Maria, the Chief and Candido. When I have gone on vacation, as long as 3 weeks, Maria has served as the Acting Manager.

Vice Mayor Anderson: The Clerk would be a good choice. Has done it before and it is not new to her.

Commissioner Ross makes a motion to appoint Clerk Camara as the Interim Village Manager until a new Village Manager is hired. It is seconded by Vice Mayor Anderson.

Commissioner Ross: Would a bonus at the end of her service be appropriate?

Manager Garcia: Would not recommend it. Should be a salary adjustment for that position.

Commissioner Watts: Has done some research on Interim Manager compensation and has put questions out.

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*Commissioner Cooper left at 8:29pm*

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Mayor Jacobs: Asks Clerk Camara if she would be interested in the position of Village Manager.

Clerk Camara: No.

Mayor Jacobs: Asks Clerk Camara if she feels she is capable to fill the position of Interim Village Manager.

Clerk Camara: Yes

The motion is called to a vote:

All in favor: Mayor Jacobs, Vice Mayor Anderson, Commissioner Ross and Commissioner Watts.

Opposed: None

Motion carries: 4/0

Clerk Camara: Will bring a proposed salary adjustment for the position of Interim Village Manager for the next meeting.

**8 Old Business**

< None >

**9 Final Public Comment**

Barbara Kuhl: No one has come to the meeting to say that we should lower the millage or to argue the increase. In reference that older, retired people are the ones with the most need, they actually are more likely to be in a better situation than most. On Commissioner Cooper, what about an Interim Commissioner for all the times that he has been absent or left early.

Chuck Ross: Agree with Barbara. How many times has Commissioner Cooper missed meetings, missed events or came in late or left early. Congratulates Maria on selection as Interim Village Manager. You should now consider getting rid of expanded minutes.

**10 Announcements**

Clerk Camara read the announcements:

Thursday, August 1st - Recreation Advisory Board at 7:00pm

Monday, August 5th - Planning & Zoning Board at 6:30pm

Monday, August 5th - Biscayne Park Foundation at 6:30pm

Clerk Camara: Wishes Mayor Jacobs a happy birthday on behalf of the entire staff.

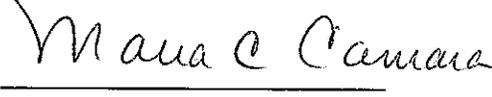
**11 Adjournment**

The meeting was adjourned at 8:35pm

Commission approved on August 6, 2013.

Attest:

  
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Noah Jacobs, Mayor

  
\_\_\_\_\_  
Maria Camara, Village Clerk