



VILLAGE OF BISCAYNE PARK
640 NE 114TH STREET
BISCAYNE PARK, FL 33161
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Mayor and Commission

Noah Jacobs
Mayor

Bryan Cooper
Vice Mayor

Robert "Bob" Anderson
Commissioner

Roxanna Ross
Commissioner

Commissioner Watts
Commissioner

Ana M. Garcia
Village Manager

John J. Hearn
Village Attorney

Maria C. Camara
Village Clerk

MINUTES
REGULAR COMMISSION MEETING
Ed Burke Recreation Center - 11400 NE 9th Court
Biscayne Park, FL 33161
Tuesday, January 8, 2013 at 7:00PM

1 Call to Order

Mayor Noah Jacobs called the meeting to order at 7:03pm.

2 Roll Call

Mayor Noah Jacobs - present
Vice Mayor Bryan Cooper - present
Commissioner Bob Anderson - 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 Eve Boutsis
Assistant to the Manager, Candido Sosa-Cruz
Chief Ray Atesiano

3 Pledge of Allegiance

Mayor Jacobs wished everyone a happy new year. Looks forward to working with everyone as we celebrate our 80th year.

4 Presentations

Eira Rojas from the Museum of Contemporary Art (MOCA) was introduced by Commissioner Watts. Information on programs for teens and adults was provided.

4.a They include Creative Careers and after school programs. Flyers were provided on all the programs and are available at the Recreation Center and at Village Hall and also on the Village's website.

4.b Proclamation - January 2013 is Human Trafficking Awareness Month

4.c Promotion of Ray Atesiano to Chief of Police by Manager Ana M. Garcia

5 Additions, Deletions or Withdrawals to Agenda

Commissioner Ross asks to defer the minutes of November 7, 2012, December 4, 2012, and December 20, 2012 to the February meeting.

Vice Mayor Cooper asks to defer the minutes of August 7, 2012 to the February meeting.

6 Public Comment

Linda Dillon: On Resolution 2013-03 - Is passionate about shooting sport in South Florida. Is sympathetic to those affected by the recent shootings in Connecticut and all tragic events or violent acts involving children. Totally opposed to the knee jerk reaction in the drafting of this resolution being brought forward by Mayor Jacobs. It is not a gun issue. It is an untreated mental health issue, an area that has not received attention. Of equal importance is that the State of Florida has statute 790.23 since 1987, and it was recently strengthened this past October. Attorney General Bondi has issued the opinion that municipalities can be sued for damages and legal fees if they ignore the preemptive law. Governor Scott has also passed legislation to make certain that municipalities comply with state law. To pass this resolution is irresponsible. In the 22 years before the government created gun free zones, there were only 2 school shootings. since then there have been 10. This puts our children in danger. Please follow state law and not pass this resolution that would put the Village in a position of civil action.

Harvey Bilt: Code Compliance Board member. State of the Village is looking tired. Board has brought up issues that are applicable. Commission needs to get on the stick and address these. Not addressed is boats and vehicles. Our Code Officer cannot go on a property to see if registered. Need to start a registry to show proof of ownership and that it is licensed. Also for vehicles that don't move for six months. Median at 121st and 5th. It is in fact more dangerous now. Put back the barricades until we have the permanent solution. Seeing bad, illegal U-turns. It is a problem. There will be an accident. On Village signs, make sure all stop, parking are clean, neat and upright. If we don't take care of our own, how do you expect others to.

Chuck Ross: Agree on sign issue. Need to clean up. Opposed to Resolution 2013-03 Assault Weapons issue. The document provided has issues. It is not comprehensive and not well worded. Domestic tranquility has numerous interpretations. Many items not addressed. Table for now and rethink it. Done by South Miami just four days after the CT shooting. Need to get behind what is being advocated in Washington such as the Gabby Gifford initiative. On account reimbursement policy that was brought up by Commissioner Cooper, want to clarify that it is not meant to avoid taxes. It is all based on IRS regulations. In regards that it would be a significant pain to the Commissioners, it is not about the individual. It is about how we want to best use the money to the Commissioners and how to reinvest the money in the Village. You are paying taxes on dollars you don't get. Also stated it would dissuade people from running - don't agree with this and can't imagine it would happen. Our board volunteers work for free. Ought to reduce the compensation and have the rest as a reimbursement policy for specific expenditures.

Dan Samaria: Spoke to school board in CT. Looking forward to receiving the memory book for the Sandy Hook tragedy.

7 Village Manager

7.a Administrative, Transportation and Storage fees for vehicles seized involving a controlled substance.

Chief Atesiano: Many cities have adopted this type of ordinance. 99% of all narcotic related crimes in the Village are transient. The amount of time spent by our police department on investigations, we are looking to recover.

Vice Mayor Cooper: How much is anticipated?

Lt. Churchman: At a roadblock, anticipate 9-10 seizures and recommend \$500 fine for each. From experience, usually the fine is paid.

Vice Mayor Cooper: Would there be a distinction between transient and residents?

Attorney Boutsis: No, would have to be uniform.

Chief Atesiano: Looking to use this as a deterrent.

Commissioner Anderson: If a crime is committed and the car is impounded, the fee would be for cost recovery.

Commissioner Ross: Already approved contract with a towing company and \$25 is paid to the Village from that. Our charter requires fees are done by ordinance, so this should be corrected. Are we increasing from \$25 to \$500?

Chief Atesiano: No, this is a separate issue, specific to narcotic charges.

Commissioner Ross: Concerned about setting up a check point in the Village. Want to make sure the Village remains an open, welcoming place to visit.

Chief Atesiano: This is in accordance with state law and the way check points are to be run.

Vice Mayor Cooper: How does a check point dissuade law abiding people from coming to Biscayne Park?

Mayor Jacobs: There have been a few instances in the past where these type of checkpoints were not handled properly and have caused undue stress to residents.

Chief Atesiano: Clarified that there was one incident where officers, while well intended, set up a check point during the Click It or Ticket initiative in an area and during a time that caused an inconvenience.

Mayor Jacobs: Will there be training for the officers on this?

Chief Atesiano: There will be meetings and clear communications. Will not do anything against state law just to get \$500.

Commissioner Ross: Can you guesstimate the number of vehicles impounded?

Chief Atesiano: It averages 10-15 per month. In the last year, there were 175 narcotic related arrests. A substantial amount of time and effort is being spent by the officers.

Commissioner Watts: Describe a typical roadblock. How often and when does it happen?

Chief Atesiano: Best placed in a wide street and where you can control the flow of traffic. When it is done varies. Best time is on a Friday night.

Lt. Churchman: When we do a checkpoint, it is coordinated with other agencies. This will also happen during regular traffic stops.

Commissioner Anderson: Many years ago, former Chief Barry Noe used to do this and it was set up properly and worked well. Amount of people picked up who were wanted felons was amazing.

Commissioner Ross: Confirms that this process will be used also during regular police stops.

Vice Mayor Cooper: Checkpoints would not be all too frequent. Has been concerned that in the past these checkpoints or prior Click it or Ticket It stops could take away patrolling within the Village.

Chief Atesiano: We never leave our streets un-patrolled.

Mayor Jacobs: Confirms there is consensus to move forward with the drafting of an ordinance.

Manager Garcia: Will work with the attorney and bring back for first reading in March.

7.b Update on 121st Street and 5th Avenue median

Manager Garcia: The consensus reached with the City of North Miami will not create a full closure of the median. However it will not allow U-turns and it will only allow a left turn on east bound 121st Street for the hundreds of residents that live in the apartment buildings. Will also add speed bumps on both sides. Kimley Horn will come back with a proposal incorporating this. The next step is to take to the County for their approval.

Commissioner Anderson: Residents in many other areas in Biscayne Park want speed tables, but were told they could not. If this is do-able for 121st Street, look into doing this in other areas.

7.c Manager Garcia: North Miami will be breaking ground on the water improvement projects on January 16, 2013. Will seek information on the plans and communicate it to everyone.

7.d Manager Garcia: Will be visiting Barbara Goldman High School to inspect the available mobile modular units that are available through the School Board of Miami Dade County.

4.d Certificate of Appreciation to Dr. Chester Morris and the Rotary Club of Miami Shores

Dr. Morris: Thanks the Commission for the certificate. Also communicated that the Rotary Club has a program to install American flags four times during the year for a fee of \$50. Please get the word out to Village residents about this program.

8 Consent Agenda

Commissioner Anderson pulls the minutes of August 16, 2012.

Vice Mayor Cooper asks for a correction to the minutes of September 29th to list "September" instead of "December".

Commissioner Ross pulls the minutes of September 11, 2012; September 20, 2012; and October 2, 2012.

Commissioner Ross pulls item 8.c, Resolution 2013-03. It becomes item 10.c on the agenda.

Vice Mayor Cooper pulls item 8.b, Resolution 2013-02. It becomes item 10.b on the agenda.

No items are left on the consent agenda.

Commissioner Ross makes a motion to approve the minutes of August 16, 2012, September 11, 2012, September 29, 2012, and October 2, 2012, with the corrections offered from Commissioner Anderson and Commissioner Ross. It is seconded by Commissioner Anderson.

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

Opposed: Commissioner Watts

Motion carries: 4/1

9 Ordinances - FIRST READING

< None >

Ordinances - SECOND READING

< None >

10 Resolutions

10.a Resolution 2012-44

RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK ADOPTING AN ACCOUNTABLE EXPENSE REIMBURSEMENT PLAN IN LIEU OF COMMISSION SALARIES; PROVIDING FOR AN EFFECTIVE DATE

Mayor Jacobs read the title.

Commissioner Ross: This is a measure to save the Village money. A new issues has come up in that we will have a new Finance Director. Looks to put this aside for a few months and revisit at budget season and get input from the new Director.

Commissioner Ross makes a motion to defer this item to the June commission meeting. It is seconded by Commissioner Anderson.

Vice Mayor Cooper: This has already taken up a considerable amount of time. Should deal with it tonight. Not sure why we are deferring. How will new Finance Director shed new light? Would personally like to get it off the docket.

Commissioner Watts: Don't see changing her mind. This would task staff with more paperwork. Commission should be allowed to spend money how they see fit. This could be a deterrent to people running for office.

Commissioner Anderson: Would like to give the new Finance Director time to get his feedback.

Mayor Jacobs: This has been on the agenda for several months. Don't see anything that will convince me to move forward with it. Not certain wants staff to spend any more time on it. Prefer not to defer, and instead vote on it now.

Commissioner Ross: Understands some Commissioners have already come in with an opinion when first brought up. Have spoken to other cities and they do find it as an advantage. Want to use tax payer money in the best way. Wants to give the new Finance Director this option to review. Asks for deferral and an open mind.

The motion is called to a vote:

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

Opposed: Mayor Jacobs and Vice Mayor Cooper

Motion carries: 3/2

10.b **Resolution 2013-01**

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA RELATING TO CONTRACTS; **AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NON-PROFIT ASSISTANCE CENTER, INC. AND THE VILLAGE OF BISCAYNE PARK; PROVIDING FOR AN EFFECTIVE DATE.**

Attorney Boutsis read the title.

Manager Garcia provided the background.

Irwin Williams: Thanked the Village for the opportunity. For past seven years has worked with the Village of El Portal and provided additional background.

Mayor Jacobs: Verified Mr. Williams' work schedule would be one day per week and one day per week for his assistant.

Commissioner Ross: Asks to confirm the net annual cost.

Mr. Williams: The cost is \$6,000 per month.

Vice Mayor Cooper: Confirms that this is in line with what has been budgeted.

Commissioner Ross makes a motion to approve Resolution 2013-01 and for the Mayor to executed the contract. It is seconded by Commissioner Anderson.

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

Opposed: None

Motion carries: 5/0

Manager Garcia: Thanks Mr. Sosa-Cruz for his time and efforts in over-seeing the Finance Department for the past month and a half, allowing us to save \$6,000. He continues to help in Finance and in many other departments.

Commissioner Watts: Asks that the Manager task Mr. Williams to look at the IT assessment and proposals that were submitted.

10.c **Resolution 2013-03**

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA **ADVOCATING THE PROHIBITION OF SALES AND POSSESSION OF AUTOMATIC AND SEMI AUTOMATIC WEAPONS**; PROVIDING FOR AN EFFECTIVE DATE.

Mayor Jacobs read the title.

Mayor Jacobs: Concern has been brought up that this is not in compliance with state law. This is a resolution and it is not advocating law.

Attorney Boutsis: Nothing wrong with a resolution asking to change the law.

Mayor Jacobs: Based on the tragedy in Connecticut, it is amazingly unfortunate in every way. This prohibition would be a step in the right direction in my perspective. Appreciates the arguments on limiting the second amendment, but would see that as a step in the wrong direction. Don't see how we should not regulate along with regulating armor piercing or vest piercing bullets and others. This would make Florida and the Village as a whole safer.

Commissioner Anderson: I support the concept and intent, but concerned with the wording. Would like to have this brought back and redefined. Let's do it right. Let's see what federal government is proposing.

Commissioner Ross: Situation in Sandy Hook is unfortunate. Although semi-automatic weapons have a role, there are other factors. Rather than throw another log on the fire, provide a more holistic and comprehensive plan. This is just a patch. There is no mention of mental health issues. Better for us to reflect on what has happened and provide a more comprehensive plan.

Vice Mayor Cooper: Is there any way that we can amend it now?

Commissioner Ross: Need to do our homework and bring back to make it stronger and a more comprehensive statement.

Vice Mayor Cooper: Agrees that we can fine tune this to be more specific to automatic assault weapons. Would like to send a message.

Mayor Jacobs: There has been a history of these type of tragedies. Working with organizations as an individual and as Mayor to advocate this type of legislation. Working with kids, the failure of the mental health issue at youth and adult level is significant and needs to be addressed. Someone with mental health concerns is less likely to do damage to 30 individuals with a hand held weapon, as is someone that is angered over whatever issue. My goal is to bring this back with more refined language. Will continue to work to send a message through this community to defend those that need to be defended, and to make sure that Tallahassee gets that message.

Commissioner Ross makes a motion to defer to the February meeting and to have everyone provide suggestions. It is seconded by Commissioner Anderson.

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

Opposed: None

Motion carries: 5/0

Commissioner Watts: Should the mental health issue be a separate resolution?

Commissioner Ross: Thinks it should be included to make it comprehensive.

Commissioner Cooper: Agrees that it would make it more powerful.

10.d **Resolution 2013-02**

RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA; **DESIGNATING THE VOTING DESIGNEE FOR THE MIAMI DADE COUNTY LEAGUE OF CITIES** TO REPRESENT THE VILLAGE OF BISCAYNE IN 2013; PROVIDING FOR AN EFFECTIVE DATE

Attorney Boutsis read the title.

Vice Mayor Cooper: Does the Mayor not want to be the representative?

Mayor Jacobs: Appreciates the opportunity, but does not have the time to dedicate.

Vice Mayor Cooper: Can we add that when any item is voted on, must first come to this commission for direction.

Commissioner Ross: For every League meeting, an agenda is not provided in advance. Matters brought up for vote are of benefit to all cities. To pre-review what is on their agenda is not possible.

Commissioner Anderson: Can share the minutes from the League meetings with the rest of the commission. Usually an issue first goes through a Committee and then the Board brings it up for a vote.

Vice Mayor Cooper: There have been issues brought up by the League before where this commission has not agreed on. There has to be an early warning system as to what will come up for a vote. On our charter, it addresses that a commissioner has the obligation to make a distinction between his or her personal view and their representation as a commissioner. What is the gray area here?

Attorney Boutsis: The individual has to represent the position of the majority of the Village in the event that the item had come before the commission and acted on. The League is not an actual political entity. They are only providing policy positions and the Village representative would be expressing that opinion.

Commissioner Anderson: The voting member will usually vote on an issue, that then the League will craft into a resolution that will go before each municipality to vote on.

Vice Mayor Cooper: Looks to receive the packet/minutes from the League meetings and for it to be in the public record.

Manager Garcia: Suggests that to save copy/print costs, to post an electronic copy on our website.

Commissioner Ross makes a motion to approve Resolution 2013-02 and it is seconded by Commissioner Anderson.

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

Opposed: None

Motion carries: 5/0

11 Old Business

< None >

12 New Business

< None >

13 Final Public Comment

Linda Dillon: Since it sounds like the Commission is in favor of putting Resolution 2013-03 through, suggests the commission get input from the police, do research on difference between a semi-automatic and a fully automatic one and what the regulations are. There are no sales in Biscayne Park, and be careful on possession of semi-automatics as they are used in all kinds of competitions. Think about texting or using cell phones while driving - there are far more fatalities with cars instead of firearms. Do the research and see the exact percentages.

Mayor Jacobs: Welcomes Linda Dillon's input and from anyone else. I'm sure the commission will be contacting the police. My purpose is to attempt to make a statement to move legislation in a better direction. I know there are no sales in Biscayne Park. A car or phone's intent is not to kill. If legislation were to be brought up on regulating cell phone use, I would look forward to supporting that.

Fred Jonas: I am vehemently anti-gun. In discussion with Linda, I see a three-prong problem. 1) the availability of guns; 2) the characteristic of those who use guns; 3) our society's culture of violence. Gun ownership is equal in Canada, but much less crimes. In this resolution, you may want to be broader and to talk about the culture of violence or anger in America, instead of one specific issue. To the Mayor, your efforts as commissioners are for the Village and not just about you. On voting delegate resolution, the appointed representative stated he did not want to take the time to do the task. To the Mayor, remember that you receive twice as much as the other commissioners and you should be more generous with your time. You get paid to do those things. To Vice Mayor Cooper, can't expect League to change their procedures. They function a certain way and it has to be that way. If you want to be that representative, you had the opportunity to ask for it. And if you don't, then to give it up to that person who does choose to do it.

14 Reports

14.a Boards / Committees:

> Parks & Parkway Advisory Board: Barbara Kuhl advised that the board had a fund raising event and the money collected will be given to the Biscayne Park Foundation to hold until it is decided upon on how to spend.

Clerk Camara read a statement from the Chair, Dan Keys: The board has passed a motion to request that the commission not take any action on the proposed changes by the Code Review Board that are related to the public right of way, and the board further requests that it be permitted to recommend comprehensive changes to the code related to public right of ways for commission consideration.

> Code Review Board: No report. Clerk Camara passed out to the Commission the updated proposed changes to the code, chapters 6, 7 and 8, from the Code Review Board.

> Recreation Advisory Board: Chair Dan Samaria looks for direction on how to handle the donations that came from the Car/Motorcycle Show that were supposed to go towards the Recreation Department, but instead were given to the Biscayne Park Foundation.

Manager Garcia: Suggested that the Attorney look into the process and advise.

Commissioner Ross: On page six of the ordinance that governs Boards & Committees that was passed in 2010, it states that boards are not to participate in any fund raising unless authorized by the commission.

Commission provided direction to the Attorney to look into the Recreation Advisory Board's request, and provide guidance on the overall procedure for donations through the Boards.

> Ecology Board: No report

> Biscayne Park Foundation: Fred Jonas advised that on the situation of the donations from the Car & Motorcycle show, that this matter will be discussed at the next meeting of the Foundation which is scheduled for January 30th. The donation mentioned is currently in the possession of Joe Chao and it has not been formally accepted by the Foundation. Please come to the meeting.

14.b Village Attorney: No report.

Commissioner Ross: On the Code Review proposed code changes, confirms with the attorney that the best method is to submit the changes on a per chapter basis.

14.c Vice Mayor Cooper: Appointment of Ray Atesiano to Chief is a watershed moment for the Village. Under the Chief's leadership, have seen considerable changes and the department's efforts. Looks forward to more great changes.

Commissioner Anderson: Hope everyone had a good holiday. Looks for a better year. Recommends that the Code Review Board and the Parks & Parkway Advisory Board have a joint meeting to discuss the issue brought up by Dan Keys.

There was consensus to direct Clerk Camara to ask both the Parks & Parkway Advisory Board and the Code Review Board to hold a joint meeting to discuss.

Commissioner Ross: January is Jewish History Month. January 26th is the 3rd annual MLK Day of Service. Will again partner with North Miami to work on the 121st Street median. It starts at 10:00 am. Has personally pledged \$150 to match donations.

Commissioner Watts: Happy new year to all. Hope no one gets the flu. On League meetings, in her case it is difficult to attend based on school schedule, and perhaps the same situation for the Mayor.

Mayor Jacobs: Want to recognize our new Chief of Police, Ray Atesiano, and also our new Finance Director. Also Doc Morris and the Rotary Club. Looks forward to the MLK Day of Service event.

15 Announcements

Clerk Camara read the announcements:

All public meetings are held at the Ed Burke Recreation Center, 11400 NE 9th Court, Biscayne Park.

Wednesday, January 9th - Code Compliance Board at 7:00pm.

Thursday, January 10th - Recreation Advisory Board at 7:00pm.

Wednesday, January 16th - Parks & Parkway Advisory Board at 6:00pm.

Wednesday, January 16th - Code Review Board at 7:00pm.

Thursday, January 17th - Ecology Board at 6:30pm.

Monday, January 21st - All Village departments are closed in observance of Martin Luther King Day

Tuesday, January 22nd - Planning & Zoning at 6:30pm.

Saturday, January 26th - MLK Day of Service at 10:00am.

Wednesday, January 30th - Biscayne Park Foundation at 6:00pm

Monday, February 4th - Planning & Zoning at 6:30pm.

The next regular Commission meeting is Tuesday, February 5, 2013 at 7:00pm.

16 Adjournment

The meeting was adjourned at 10:03pm.

Commission approved on February 5, 2013.

Attest:



Noah Jacobs, Mayor



Maria Camara, Village Clerk