



The Village of Biscayne Park

600 NE 114th St., Biscayne Park, FL 33161

Telephone: 305 899 8000 Facsimile: 305 891 7241

AGENDA
REGULAR COMMISSION MEETING
Log Cabin - 640 NE 114th Street
Biscayne Park, FL 33161
Tuesday, December 03, 2019 7:00 pm

In accordance with the provisions of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will 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.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation to participate in the proceedings should call Village Hall at (305) 899 8000 no later than four (4) days prior to the proceeding for assistance.

DECORUM - All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks, or who becomes boisterous while addressing the Commission, shall be barred from further audience before the Commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the Commission members present. No clapping, applauding, heckling or verbal outbursts in support or in opposition to a speaker or his/her remarks shall be permitted. No signs or placards shall be allowed in the Commission Chambers. Please mute or turn off your cell phone or pager at the start of the meeting. Failure to do so may result in being barred from the meeting. Persons exiting the Chamber shall do so quietly.



Indicates back up documents are provided.

1 Call to Order

2 Roll Call

Mayor Truppman

Vice-Mayor Samaria

Commissioner Tudor

3 Pledge of Allegiance

4 Additions, Deletions or Withdrawals to the Agenda

At this time, any member of the Village Commission or the Village Manager may request to add, change, or delete items from the agenda.

5 Presentation

-  5.a Vice-Mayor Nomination
- 5.b Proclamation - Metro Ford Winterfest

6 Public Comments Related to Agenda Items / Good & Welfare

Comments from the public relating to topics that are on the agenda, or other general topics.

7 Information / Updates

7.a 2020 Commission Meeting Schedule

- Change date of Regular Commission Meeting - due to Special Election on the first Tuesday of the month - January 07, 2020

8 Consent Agenda

Items listed under Consent Agenda are viewed to be routine, and the recommendation will be enacted by ONE MOTION in the form listed below. If discussion is desired, then the item(s) will be removed from the Consent Agenda and will be considered separately.

8.a Acceptance of Commission Minutes

- Regular Commission Meeting 10 01 2019
- Special Commission Meeting 10 17, 2019
- Workshop Discussion on Residents Communication 10 17, 2019
-  • Special Commission Meeting October 24, 2019
- Workshop Review Branding Proposal October 24, 2019
- Regular Commission Meeting 11 05 2019
- Special Commission Meeting 11 08 2019
- Special Commission Meeting 11 15 2019

8.b Acceptance of Boards Minutes

-  • Charter Review Advisory Board October 3, 2019
- Public Safety Advisory Board October 23, 2019

8.c Resolution # 2019-24 - MOA - Memorandum of Agreement with the City of North Miami - Landscape on median at 121st Street



A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA; APPROVING THE LANDSCAPE AND MAINTENANCE MEMORANDUM OF AGREEMENT (MMA) BETWEEN THE VILLAGE OF BISCAYNE PARK AND THE CITY OF NORTH MIAMI FOR THE MEDIANS LOCATED ALONG NORTHEAST 121 STREET FROM GRIFFING BOULEVARD TO 10th AVENUE; PROVIDING FOR AN EFFECTIVE DATE.

8.d Resolution 2019-28 - Judo Program



A RESOLUTION OF THE MAYOR AND VILLAGE COMMISSION OF BISCAYNE PARK, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AGREEMENT FOR THE PROVISION OF A JUDO PROGRAM BETWEEN THE VILLAGE OF BISCAYNE PARK AND JOSUE DEPREZ; PROVIDING FOR AN EFFECTIVE DATE.

8.e Resolution 2019-32 - Donation of Vehicle



A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA; ACCEPTING THE DONATION OF A VEHICLE FROM OFFICER ROGER LOPEZ; AUTHORIZING THE VILLAGE MANAGER TO ACCEPT TITLE TO THE VEHICLE TO BE USED WITHIN THE VILLAGE'S POLICE DEPARTMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

8.f Resolution 2019-33 - MOA State Attorney Office and Eleventh Circuit Court



A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO AN AGREEMENT BETWEEN THE VILLAGE OF BISCAYNE PARK AND THE STATE OF FLORIDA, OFFICE OF THE STATE ATTORNEY FOR THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA TO REIMBURSE THE STATE ATTORNEY'S OFFICE FOR THE COST OF STATE ATTORNEY PROSECUTION OF CERTAIN CRIMINAL VIOLATIONS OF THE MUNICIPAL CODE OF THE VILLAGE OF BISCAYNE PARK; PROVIDING FOR AN EFFECTIVE DATE

8.g Commission Permission to Host Event - Meet the Candidates Night



9 Ordinances

9.a Ordinance # 2019-05 - Special Magistrate - Second Reading



AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING CHAPTERS 14 AND 15 OF THE LAND DEVELOPMENT CODE OF THE VILLAGE OF BISCAYNE PARK; AUTHORIZING SPECIAL MAGISTRATE POSITION FOR CERTAIN CODE ENFORCEMENT PROCEEDINGS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Public hearing on proposed Ordinance 2019-05

9.b Ordinance # 2019-06 - Commission Rules and Procedures - First Reading

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING SECTION 2-16 OF THE VILLAGE OF BISCAYNE PARK CODE OF ORDINANCES; ADOPTING COMMISSION RULES AND PROCEDURES FOR MEETINGS AND WORKSHOPS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Public hearing on proposed Ordinance 2019-06

10 Resolutions

10.a Resolution 2019-31 - Biscayne Park Foundation new members selection

RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, RATIFYING THE SELECTION AND APPOINTMENT OF BOARD MEMBER TO THE BISCAYNE PARK FOUNDATION; PROVIDING FOR AN EFFECTIVE DATE

11 Old Business

 **11.a** Whistleblower Protection for Village of Biscayne Park Employees - by Commissioner Samaria

12 New Business

13 Request for placement of items on next meeting agenda

Through general consensus a member of the Commission may request an item be placed on the next agenda for discussion (New Business) or as a Resolution/Ordinance.

14 Reports

14.a Village Attorney

14.b Village Manager

14.c Board / Committee Reports

14.d Commissioners Comments:

- Mayor Truppmann
- Vice Mayor Tudor
- Commissioner Samaria

15 Announcements

Planning & Zoning Board, Monday, December 2, 2019 6:30 pm

Biscayne Park Foundation, Tuesday, December 10, 2019 7:00 pm

Public Art Advisory Board, Thursday, December 12, 2019 5:00 pm

Planning & Zoning Board, Monday, December 17, 2019 6:30 pm

Public Safety Advisory Board, Wednesday December 18, 2019 6:00 pm

Next Regular Commission Meeting, Tuesday, January 07, 2020 7:00 pm

All Village Departments will be closed - Wednesday, December 25, 2019 - Christmas Day

All Village Departments will be closed - Wednesday, January 1, 2020 - New Year's Day

16 Adjournment



VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report

Item # 5.a

REGULAR MEETING

TO: Honorable Mayor & Members of the
Biscayne Park Village Commission

FROM: Roseann Prado, Village Clerk

DATE: December 03, 2019

TITLE: Nomination for Vice-Mayor

Background

At the Regular Commission meeting of June 04, 2019, Commissioner Daniel Samaria was nominated Vice-Mayor for the period of six (6) months from June 1st to November 30th.

Vice-Mayor Daniel Samaria's term has been completed and Commissioner William Tudor is next for the position according to the Village Charter, Article 2, Section 2.02.

Recommendation

I am respectfully requesting the nomination of Vice Mayor for Commissioner William Tudor to become Vice Mayor from December 1st to May 31st of 2020.

Resource Impact

None

Attachment

None

Prepared by: Roseann Prado, Village Clerk



PROCLAMATION

Whereas, Santa Claus was unable to bring his reindeer to the Village of Biscayne Park for the past several Winterfests;

Whereas, Metro Ford has consistently ensured Santa Claus and the Commissioner Elves are able to parade through the Village in style, distributing candy to all;

Whereas, Metro Ford assembled their distinguished team of mustangs so that Rudolph, Dasher, Dancer, Prancer, Vixen, Comet, Cupid, Donner and Blitzen could have more time prepare for the holidays the world over;

Whereas, Metro Ford fleet sleigh our Santa Claus and Village Officials throughout the winding and lush tropical Village canopies onto our beautiful neighborhood streets to usher in Winterfest;

Whereas, Metro Ford lends the Village of Biscayne Park their sleek convertible mustangs to escort Santa Claus and his helpers safely to the Recreation Center to celebrate Winterfest with all Village residents and visitors;

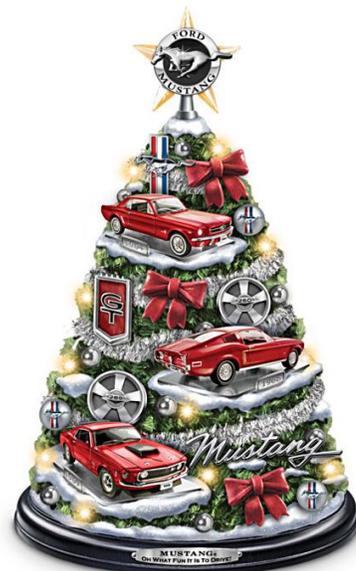
Whereas, Metro Ford partners with the Village of Biscayne Park to bring joy and happiness to so many children and families during the holiday season;

Whereas, Metro Ford, continues the tradition of supporting the Village of Biscayne Park's historic annual Winterfest;

NOW THEREFORE, the Honorable Mayor and Village Commission of the Village of Biscayne Park do hereby proclaim **December 3, 2019**, as **"METRO FORD DAY"** in the Village of Biscayne Park,

Given under my hand and seal of office on this 3rd day of December, 2019.

Mayor Tracy Truppman





VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report
REGULAR MEETING

Item # 7.a

TO: Honorable Mayor & Members of the
Biscayne Park Village Commission

FROM: Roseann Prado, Village Clerk

DATE: December 03, 2019

TITLE: 2020 Commission Meeting Schedule
Change of Commission Meeting of January 2020

Background

In order to maintain a consistent schedule each month for the regular commission meetings on the first Tuesday of each month, and changing only when a holiday or event falls on the day of, before or after the first Tuesday, the entire 2020 regular commission meeting schedule is provided. This will allow the Village to give notice to the public by posting it on our website, at Village Hall and the Ed Burke Recreation Center. It will also allow the Commission and staff to plan their schedules accordingly.

All meetings are scheduled for the first Tuesday of the month at 7:00 pm at the Log Cabin, 640 NE 114th Street, Biscayne Park, FL 33161.

Recommendation

Village staff is respectfully requesting to reschedule the meetings of January and November 2020 as the follows:

1. January 2020 – scheduled for the second Tuesday due to Special Election on January 07, 2020.
2. November 2020 – scheduled to the second Tuesday due to General Election on November 03, 2020.

Resource Impact

None

Attachment

December 03, 2019
Item # 7.a

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- 2020 Commission Meeting Schedule
-

Prepared by: Roseann Prado, Village Clerk



2020 COMMISSION MEETING SCHEDULE

All meetings will take place at the
LOG CABIN
640 NE 114th Street, Biscayne Park, FL

Date	Time
Tuesday, January 7, 2020 ¹	7:00 p.m.
Tuesday, February 4, 2020	7:00 p.m.
Tuesday, March 3, 2020	7:00 p.m.
Tuesday, April 7, 2020	7:00 p.m.
Tuesday, May 5, 2020	7:00 p.m.
Tuesday, June 2, 2020	7:00 p.m.
Tuesday, July 7, 2020	7:00 p.m.
Tuesday, August 4, 2020	7:00 p.m.
Tuesday, September 1, 2020	7:00 p.m.
Tuesday, October 6, 2020	7:00 p.m.
Thursday, November 10, 2020 ²	7:00 p.m.
Tuesday, December 1, 2020	7:00 p.m.

¹ Scheduled for the second Tuesday due to Special Election on January 07, 2020.

² Scheduled for the second Tuesday due to the General Election on November 03, 2020.



VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report
REGULAR MEETING

Item # 8.a

TO: Honorable Mayor & Members of the
Biscayne Park Village Commission

FROM: Roseann Prado, Village Clerk

DATE: December 3, 2019

TITLE: Acceptance of Commission Minutes

Background

The minutes as listed below are being provided for the Commissioner's review and acceptance.

Recommendation

Acceptance at Consent Agenda.

Attachment

- Regular Commission Meeting 10 01 2019
- Special Commission Meeting 10 17, 2019
- Workshop Discussion on Residents Communication 10 17, 2019
- Special Commission Meeting October 24, 2019
- Workshop Review Branding Proposal October 24, 2019
- Regular Commission Meeting 11 05 2019
- Special Commission Meeting 11 08 2019
- Special Commission Meeting 11 15 2019

Prepared by: Roseann Prado, Village Clerk



The Village of Biscayne Park

600 NE 114th St., Biscayne Park, FL 33161

Telephone: 305 899 8000 Facsimile: 305 891 7241

MINUTES

**Regular Commission Meeting
Log Cabin - 640 NE 114th Street
Biscayne Park, FL 33161
Tuesday, October 01, 2019 at 7:00 pm**

1 Call to Order

Mayor Tracy Truppman called the meeting to order at 7:00 pm.

2 Roll Call

Mayor Truppman - present
Vice Mayor Samaria - present
Commissioner Johnson-Sardella - absent
Commissioner Tudor - present
Commissioner Wise - present

Staff present:

Village Attorney Rebecca Rodriguez
Village Clerk Roseann Prado
Sergeant of Arms Officer Paul Eppler
Officer Johnny Bryant
Finance Director Paul Winklejohn
Recording: Cesar Hernandez

3 Pledge of Allegiance

4 Additions, Deletions or Withdrawals to the Agenda

- Mayor Truppman reinstated her objection to item 11.a.
Commissioner Wise moved to approve agenda as amended. Commissioner Tudor seconded. **Motion passed 4 - 0.**

5 Presentations

Proclamation - Red Ribbon Week - ready by Commissioner Wise.
Proclamation - Hispanic Heritage Month - ready by Village Clerk.

Presentation - Javier Betancourt, Executive Director - CITT and Nestor Toledo.

6 Public Comments Related to Agenda Items / Good & Welfare

Comments from the public relating to topics that are on the agenda, or other general topics.

The following persons spoke on the record:

Bob Anderson
Rox Ross

Barbara Kuhl
Janey Anderson
Dale Blanton
Dan Keys
Chuck Ross
David Raymond
Gary Kuhl
Fred Jonas
Ramon Irrizarri

7 Information / Updates

8 Consent Agenda

8.a Acceptance of Commission Minutes

- Regular Commission Meeting August 06, 2019
- Special Commission Meeting August 30, 2019
- First Budget FY 2019-2020 Hearing Meeting September 10, 2019 6:30 pm
- Regular Commission Meeting September 10, 2019 7:00 pm
- Workshop Discussion on Meetings Policies and Procedures September 18, 2019
- Second Budget FY 2019-2020 Hearing Meeting September 20, 2019 6:30 pm
- Special Commission Meeting September 20, 2019 7:00 pm
- Workshop Communication September 24, 2019 6:30 pm

8.b Acceptance of Board Minutes

- Biscayne Park Foundation minutes May 13, 2019
- Biscayne Park Foundation minutes July 08, 2019
- Biscayne Park Foundation minutes August 12, 2019
- Public Art Advisory Board minutes September 11, 2019
- Public Safety Advisory Board minutes June 26, 2019
- Public Safety Advisory Board minutes August 28, 2019
- Public Safety Advisory Board minutes September 25, 2019

8.c Resolution # 2019-24 - MOA - Memorandum of Agreement with the City of North Miami - Landscape on median at 121st Street

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA; APPROVING THE LANDSCAPE AND MAINTENANCE MEMORANDUM OF AGREEMENT (MMA) BETWEEN THE VILLAGE OF BISCAYNE PARK AND THE CITY OF NORTH MIAMI FOR THE MEDIANS LOCATED ALONG NORTHEAST 121 STREET FROM GRIFFING BOULEVARD TO 10th AVENUE; PROVIDING FOR AN EFFECTIVE DATE.

8.d Resolution # 2019-25 - MOA - Memorandum Aid Agreement with the City of North Miami Beach Police Department

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA; APPROVING A MUTUAL AID AGREEMENT BETWEEN THE CITY OF NORTH MIAMI BEACH AND THE VILLAGE OF BISCAYNE PARK, FLORIDA TO ENSURE PUBLIC SAFETY BY PROVIDING ADEQUATE LEVELS OF POLICE SERVICES; PROVIDING FOR AN EFFECTIVE DATE.

Minutes from Workshop Communication September 24, 2019 was requested to be removed from Consent Agenda by Vice-Mayor Samaria to be discussed. Vice-Mayor Samaria requested the e-mails from Commissioners not attending the meeting to be added to the minutes.

Commissioner Tudor motioned to accept the minutes with the addition of the e-mails. Vice-Mayor Samaria seconded. **Motion passed 4 - 0.**

Village Attorney requested to remove Resolution # 2019-24 from Consent Agenda. Commissioner Tudor motioned to remove Resolution 2019-24. Commissioner Wise seconded. **Motion passed 4 - 0.**

Vice-Mayor Samaria motioned to approve Consent Agenda as amended. Commissioner Tudor seconded. **Motion passed 4 - 0.**

9 Ordinances

None

10 Resolutions

None

11 Old Business

11.a Discussion of Mayor - Change of Leadership by Dan Samaria

Mayor Truppmann recused herself and left the Chambers. Commissioner Tudor moved to return the item to November 5th Commission Meeting with more details of the specific allegations and additional background and additional guidance from the Village attorney. **Motion passed 2 -1** (Commissioner Wise opposed).

11.b Village Attorney Invoices and Future Role - by Dan Samaria

Vice-Mayor Samaria motioned to hire an auditor to review attorney bills after John Herin to present. No second to the motion. Motion failed.

Commissioner Tudor motioned to direct the Village Manager to find out a cost to audit the attorney's bills. Vice-Mayor Samaria seconded. **Motion failed 2 - 2** (Commissioner Wise and Mayor Truppmann opposed). No majority vote.

12 New Business

12.a Discussion - draft Ordinance regarding Special Magistrate

Consensus to schedule meetings as follows:

- 10/17 - Special Commission Meeting - discussion on draft Ordinance regarding Special Magistrate at 6:30 pm.

- 10/17 - Workshop Residents Communication at 7:00 pm.
- 10/24 - Special Commission Meeting - Ordinance on Special Magistrate - First Reading at 6:30 pm.
- 10/24 - Workshop Review of Branding Proposal at 7:00 pm.
- 11/05 - Regular Commission Meeting - Ordinance on Special Magistrate - Second Reading at 7:00 pm.

12.b Discussion - draft Ordinance on Commission Procedures

12.c Discussion - Vacation Rental Concerns - by Mayor Truppman

Vice-Mayor Samaria motioned to move forward with recommendations 1 through 4 with the amended version sent to Village Attorney to present at Regular Commission Meeting on November 5, 2019. Commissioner Wise seconded. **Motion passed 4 - 0.**

12.d Discussion Whistleblower Protection - by Vice-Mayor Samaria

Commissioner Wise moved to direct the Village Manager determine what are the more accurate costs for this procedure. Commissioner Tudor seconded. **Motion passed 4 - 0.**

13 Request for placement of items on next meeting agenda

Through general consensus a member of the Commission may request an item be placed on the next agenda for discussion (New Business) or as a Resolution/Ordinance.

14 Reports

14.a Village Attorney

Updates:

- FEMA claims.

14.b Village Manager

14.c Board / Committee Reports

14.d Commissioners Comments:

- Mayor Truppman
- Vice-Mayor Samaria
- Commissioner Johnson-Sardella
- Commissioner Tudor
- Commissioner Wise

15 Announcements

Public Art Advisory Board, Wednesday September 11, 2019 6:00 pm

Planning & Zoning Board, Monday September 16, 2019 6:30 pm

Parks & Parkway Advisory Board, Thursday September 19, 2019 5:30 pm

Public Safety Advisory Board, Wednesday September 25, 2019 7:00 pm

Second Budget FY 2019-2020 Hearing Friday, September 20, 2019 6:30 pm
Regular Commission Meeting, Tuesday October 1, 2019 7:00 pm

16 Adjournment

Mayor Truppman motioned to adjourn and Commissioner Wise seconded. Meeting adjourned at 11:00 pm.

Commission approved on November 05, 2019.

Attest:

Tracy Truppman, Mayor

Roseann Prado, Village Clerk



The Village of Biscayne Park

640 NE 114th St., Biscayne Park, FL 33161

Telephone: 305 899 8000 Facsimile: 305 891 7241

MINUTES
SPECIAL COMMISSION MEETING
Log Cabin - 640 NE 114th Street
Biscayne Park, FL 33161
Thursday, October 17, 2019 6:30 pm

1 Call to Order

Mayor Truppman called the meeting to order at 6:30 pm

2 Roll Call

Mayor Truppman - present
Vice Mayor Johnson-Sardella - absent
Commissioner Samaria - present
Commissioner Tudor - present
Commissioner Wise - absent

Present from staff were:

Village Manager Krishan Manners
Village Attorney Rebecca Rodriguez
Chief of Police Luis Cabrera
Village Clerk Roseann Prado

3 Pledge of Allegiance

4 Public Comments

The following persons spoke on the record:

Dan Keys
MacDonald Kennedy

5 Ordinance

5.a discussion on Ordinance regarding Special Magistrate

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING CHAPTERS 14 AND 15 OF THE LAND DEVELOPMENT CODE OF THE VILLAGE OF BISCAYNE PARK; AUTHORIZING SPECIAL MAGISTRATE POSITION FOR CODE ENFORCEMENT PURPOSES; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Commission came to a consensus to keep both: Code Board and Special Magistrate.
Village Attorney was directed to adjust language at Ordinance.

6 Adjourment

Vice-Mayor Dan Samaria motioned to adjourn. Commissioner Tudor seconded.
Meeting adjourned at 7:41 pm.

Commission approved on Regular Commission Meeting of November 05, 2019.

Attest:

Tracy Truppman, Mayor

Roseann Prado, Village Clerk



The Village of Biscayne Park

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MINUTES
SPECIAL COMMISSION MEETING
Log Cabin - 640 NE 114th Street
Biscayne Park, FL 33161
Thursday, October 24, 2019 6:30 pm

1 Call to Order

Mayor Truppman called the meeting to order at 6:30 pm

2 Roll Call

Mayor Truppman - present
Vice Mayor Johnson-Sardella - absent
Commissioner Samaria - present
Commissioner Tudor - present

Present from staff were:

Village Manager Krishan Manners
Village Attorney Rebecca Rodriguez
Village Clerk Roseann Prado
Recordings: Cesar Hernandez

3 Pledge of Allegiance

4 Public Comments

The following persons spoke on the record:

MacDonald Kennedy
Dan Keys
Janey Anderson
Barbara Kuhl
Chuck Ross
Gary Kuhl

5 Ordinance

5.a Ordinance 2019-05 - Special Magistrate - First Reading

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING CHAPTERS 14 AND 15 OF THE LAND DEVELOPMENT CODE OF THE VILLAGE OF BISCAYNE PARK; AUTHORIZING SPECIAL MAGISTRATE POSITION FOR CODE ENFORCEMENT PURPOSES; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Public Hearing related to Ordinance 2019-05.

The following persons spoke on the record:

Janey Anderson

Rox Ross

Chuck Ross

Dan Keys

Barbara Kuhl

MacDonald Kennedy

Bob Anderson

Fred Jonas

Gary Kuhl

Commissioner Tudor motioned to approve Ordinance # 2019-05 on first reading with the amendments indicated by Commissioners to Village Attorney. Mayor Truppman seconded.

Commission voted as follows:

Mayor Truppman: Yes

Vice-Mayor Samaria: No

Commissioner Tudor: Yes

Motion passed 2 - 1

6 Resolutions

6.a Resolution # 2019-26 - Special Election

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA; CALLING A SPECIAL ELECTION TO FILL VACANCY OF ONE COMMISSION SEAT; SCHEDULING SPECIAL ELECTION TO BE HELD ON TUESDAY, JANUARY 07, 2020; PROVIDING FOR NOTICE OF SPECIAL ELECTION; PROVIDING FOR CANDIDATE QUALIFYING; PROVIDING FOR SPECIAL ELECTION POLLING LOCATION: PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Tudor motioned to approve Resolution 2019-26. Mayor Truppman seconded. **Motion passed 3 - 0.**

6 Adjournment

Vice-Mayor Samaria motioned to adjourn. Mayor Truppman seconded. Meeting adjourned at 8:47 pm.

Commission approved on Regular Commission Meeting of November 05, 2019.

Attest:

Tracy Truppman, Mayor

Roseann Prado, Village Clerk



**MINUTES
WORKSHOP
REVIEW OF BRANDING PROPOSAL
Log Cabin - 640 NE 114th Street
Thursday, October 24, 2019 - 7:30 pm**

1 Call to Order

Vice-Mayor Samaria called the meeting to order at 7:51 pm.

2 Roll Call

Mayor Tracy Truppman - present

Vice-Mayor Dan Samaria - present

Commissioner Jenny Johnson-Sardella - absent

Commissioner William Tudor - present

Present from staff were:

Village Manager Krishan Manners

Village Clerk Roseann Prado

Recordings: Cesar Hernandez

3 Pledge of Allegiance

4 Public Comments Related to Agenda Items

The following persons spoke on the records:

Dan Keys

Janey Anderson

Chuck Ross

Linda Dillon

Jared Susi

5 Information / Updates

5.a

Review of Branding Proposal - Village Manager explained the results of the survey.

6 Adjournment

Vice-Mayor Samaria motioned to adjourn. Commissioner Tudor seconded. Meeting adjourned at 9:36 pm.

Commission approved on November 05, 2019

Attest:

Tracy Truppman, Mayor

Roseann Prado, Village Clerk



The Village of Biscayne Park

600 NE 114th St., Biscayne Park, FL 33161

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MINUTES

**Regular Commission Meeting
Log Cabin - 640 NE 114th Street
Biscayne Park, FL 33161
Tuesday, November 05, 2019 at 7:00 pm**

1 Call to Order

Mayor Tracy Truppman called the meeting to order at 7:03 pm.

2 Roll Call

Mayor Truppman - present
Vice Mayor Samaria - present
Commissioner Johnson-Sardella - absent
Commissioner Tudor - absent

Staff present:

Village Manager Krishan Manners
Village Attorney Rebecca Rodriguez
Village Clerk Roseann Prado
Sergeant of Arms Officer Paul Eppler
Paul Winkeljohn, Finance
Recording: Cesar Hernandez

3 Pledge of Allegiance

4 Additions, Deletions or Withdrawals to the Agenda

5 Presentations

6 Public Comments Related to Agenda Items / Good & Welfare

Comments from the public relating to topics that are on the agenda, or other general topics.

7 Information / Updates

8 Consent Agenda

9 Ordinances

10 Resolutions

None

11 Old Business

12 New Business

13 Request for placement of items on next meeting agenda

Through general consensus a member of the Commission may request an item be placed on the next agenda for discussion (New Business) or as a Resolution/Ordinance.

14 Reports

14.a Village Attorney

14.b Village Manager

14.c Board / Committee Reports - Barbara Kuhl from Parks & Parkway Advisory Board.

14.d Commissioners Comments:

- Mayor Truppman
- Vice-Mayor Samaria
- Commissioner Johnson-Sardella
- Commissioner Tudor

15 Announcements

16 Adjournment

Meeting canceled due to a lack of quorum.

Commission approved on December 03, 2019.

Attest:

Tracy Truppman, Mayor

Roseann Prado, Village Clerk



The Village of Biscayne Park

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MINUTES
SPECIAL COMMISSION MEETING
Log Cabin - 640 NE 114th Street
Biscayne Park, FL 33161
Friday, November 08, 2019 7:30 pm

1 Call to Order

Mayor Truppman called the meeting to order at 7:30 pm

2 Roll Call

Mayor Truppman - present
Vice Mayor Samaria - present
Commissioner Tudor - present

Present from staff were:

Village Manager Krishan Manners
Village Attorney Rebecca Rodriguez
Village Clerk Roseann Prado
Finance Paul Winkeljohn
Recordings: Cesar Hernandez

3 Pledge of Allegiance

Mayor Truppman asked for a moment of silence and read a Proclamation honoring the Veterans.
Proclamation - Veteran's Day

4 Public Comments

The following persons spoke on the record:

Bob Anderson
Chuck Ross
Janey Anderson
David Raymond
Linda Dillon
Rox Ross
Barbara Kuhl
Amy Raymond
Judi Hamelburg

5 New Business

5.a TRIM Non-Compliance letter

Vice-Mayor Samaria motioned to approve a re-advertisement on November 13, 2019 following up by a Special Commission on November 15, 2019 according to State Department of Revenue requirements. Commissioner Tudor seconded. **Motion passed 3 - 0.**

5.b Miami-Dade Tree-Matching Grant

Mayor Truppman motioned to move forward with the Miami-Dade Tree-Matching Grant. Vice-Mayor Samaria seconded. **Motion passed 3 - 0.**

5.c Special Election - 2 Vacant Seats

Resolution # 2019-29 - Adding a second Commission vacancy to Special Election on January 07, 2020

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA; ADDING A SECOND COMMISSION VACANCY TO UPCOMING SPECIAL ELECTION SCHEDULED FOR JANUARY 7, 2020; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Tudor motioned to approve Resolution 2019-29. Vice-Mayor Samaria seconded. **Motion passed 3 - 0.**

6 Adjournment

Vice-Mayor Samaria motioned to adjourn. Mayor Truppman seconded. Meeting adjourned at 8:10 pm.

Commission approved on Regular Commission Meeting of December 03, 2019.

Attest:

Tracy Truppman, Mayor

Roseann Prado, Village Clerk



The Village of Biscayne Park

640 NE 114th St., Biscayne Park, FL 33161

Telephone: 305 899 8000 Facsimile: 305 891 7241

MINUTES
SPECIAL COMMISSION MEETING
Log Cabin - 640 NE 114th Street
Biscayne Park, FL 33161
Friday, November 15, 2019 6:30 pm

1 Call to Order

Mayor Truppman called the meeting to order at 6:30 pm

2 Roll Call

Mayor Truppman - present
Vice Mayor Samaria - present
Commissioner Tudor - present

Present from staff were:

Village Manager Krishan Manners
Village Attorney Rebecca Rodriguez
Village Clerk Roseann Prado
Recordings: Cesar Hernandez

3 Pledge of Allegiance

Mayor Truppman asked for a moment of silence and read a Proclamation honoring the Veterans.

Proclamation - Veteran's Day

4 Public Comments

The following persons spoke on the record:

Mac Kennedy
Janey Anderson
Chuck Ross
Linda Dillon

5 New Business

5.a Resolution # 2019-30 - Fixing TRIM Non-Compliance advertisement

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, RECERTIFYING THE MILLAGE RATE FOR FISCAL YEAR 2019–2020 AS 9.700 MILS PER \$1,000 OF ASSESSED VALUE; REMEDYING COMPLIANCE IN PREVIOUSLY PUBLISHED NOTICE OF PROPOSED TAX INCREASE; RATIFYING THE ADOPTION OF BISCAYNE PARK ORDINANCE NOS. 2019-03 & 2019-04,; PROVIDING FOR CONFLICT, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

Mayor Truppman motioned to ratify the adoption of **Ordinance 2019-03** - Millage Rate FY 201-2020. Commissioner Tudor seconded. **Motion passed 3 - 0.**

Mayor Truppman motioned to ratify the adoption of **Ordinance 2019-04** - Budget FY 201-2020. Commissioner Tudor seconded. **Motion passed 3 - 0.**

Mayor Truppman motioned to approve Resolution 2019-30. Commissioner Tudor seconded. **Motion passed 3 - 0.**

6 Adjournment

Vice-Mayor Samaria motioned to adjourn. Commissioner Tudor seconded. Meeting adjourned at 6:48 pm.

Commission approved on Regular Commission Meeting of December 03, 2019.

Attest:

Tracy Truppman, Mayor

Roseann Prado, Village Clerk



VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report

Item # 8.b

REGULAR MEETING

TO: Honorable Mayor & Members of the
Biscayne Park Village Commission

FROM: Roseann Prado, Village Clerk

DATE: December 03, 2019

TITLE: Acceptance of Board Minutes

Background

The board/committee minutes as listed below are being provided for the commission's review and acceptance.

Recommendation

Acceptance on Consent Agenda

Attachment

- Charter Review Advisory Board October 3, 2019
- Public Safety Advisory Board October 23, 2019

Prepared by: Roseann Prado, Village Clerk



The Village of Biscayne Park

640 NE 114th St., Biscayne Park, FL 33161

Telephone: 305 899 8000 Facsimile: 305 891 7241

Judith Gersten

Chair

Rachamin "Rocky" Cohen

Vice Chair

Kate Eaton

Manny Espinoza

Victoria Hernandez

Louis Rogers

Roxanna Ross

Alternate:

Daniel Keys

MINUTES

Charter Review Advisory Board

Ed Burke Recreation Center - 11400 NE 9th Court

Biscayne Park, FL 33161

Thursday, October 3, 2019 at 6:30 pm

A. Call to Order

Village Clerk Roseann Prado called the meeting to order at 6:30 pm.

Roll Call

Rachamin "Rocky" Cohen - present

Kate Eaton - present

Manny Espinoza - present

Judith Gersten - present

Victoria Hernandez - present

Louis Rogers - present

Roxanna Ross - present

Daniel Keys - present

Present from staff:

Village Clerk Roseann Prado

B. Agenda additions and deletions

None

C. Public Comment

None

D. Approval of Chair, Vice-Chair and Secretary

Louis Rogers nominated Judith Gersten to the position of Chair. Manny Espinoza seconded. Votes were as follows:

Louis Rogers

Manny Espinoza

Victoria Hernandez

Kate Eaton

Rox Ross

Rocky Cohen

Judith Gersten was appointed Chair of Charter Review Advisory Board.

Manny Espinoza nominated Rock Cohen for Vice-Chair. Judith Gersten seconded. Votes were as follows:

Kate Eaton

Rox Ross

Louis Rogers

Judith Gersten

Manny Espinoza

Victoria Hernandez

Rachamin "Rocky" Cohen was appointed Vice-Chair of Charter Review Advisory Board.

Chair Judith Gersten, requested the Village Clerk to fill the Secretary position, in lieu of a board member.

E. New Business

The Chair Gersten asked to everyone introduce themselves and Kate Eaton asked to everyone also mention their main reason to love to live at Biscayne Park.

Introductions were around all the board members.

F. Next Meeting Date

It was consensus between the board members to hold the meetings once a month at the first Thursday of the month at 6:30 pm at the Recreation Center.

Chair Gersten requested to ask Commissioners for their suggestions in written in order to be added to next Agenda.

G. Adjournment

Louis Rogers motioned to adjourn and Victoria Hernandez seconded. Meeting adjourned at 7:34 pm.



MINUTES

PUBLIC SAFETY ADVISORY BOARD MEETING

Village Hall

640 NE 114 ST – Biscayne Park, FL

Wednesday, October 23, 2019 at 6:00 p.m.

1. CALL TO ORDER

The meeting was called to order at 6:10pm

2. ROLL CALL

Louis Rogers – Present

Russell Ely – Present

Michael Redmond – Present

Gavin McKenzie and Sandor Scher excused

Also, present:

Village Manager Krishan Manners

Chief Luis Cabrera

David Hernandez public works director by speaker phone

3. AGENDA ADDITIONS AND DELETIONS

None

4. APPROVAL OF MINUTES

- Approved Minutes of August 28, 2019 meeting.

5. Discussions

Started our meeting with the NEW pilot program speed tables temporarily removed on 10th ave. between 117th & 118th streets while different ones are on order.

We made mention of the new stop signs on 8th ave at 111st and 115th st

These have been asked for since the founding of this board. Still working on more stop signs in a couple more locations in the village.

It still seems very difficult to do anything on Griffing Blvd. being a county road is Making all the difference.

We opened discussion on about drop off days and or program in the village For unused / old medications.

Which lead to mention of hazardous chemicals and paint drop off location and dates.

Which lead to having a SHREDDER DAY in the park where we could have our Village residence have old home paperwork and recorder permanently destroyed.

Do to thanksgiving our next meeting will be on November 20th, 2019



The Village of Biscayne Park

600 NE 114th St., Biscayne Park, FL 33161
Telephone: 305-899-8000 Facsimile: 305 891 7241

6. The next meeting was approved for November 20th, 2019 at 6:00pm.
At the VILLAGE HALL

7. **ADJOURNMENT**

Louis Roger made the motion to adjourn and was seconded by Mike Redmond
Meeting was adjourned at 6:35pm

Minutes approved on: 11/20/2019

By: [Signature]

Louis Rogers, Chair of Public Safety Advisory Board



VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report

Item # 8.c

REGULAR MEETING

TO: Honorable Mayor & Members of the
Biscayne Park Village Commission

FROM: Krishan Manners, Village Manager

DATE: October 1, 2019

TITLE: Memorandum of Agreement with N. Miami for Median on 121st Street

Recommendation

Staff recommends the Village enter into this MOA with the City of N. Miami to divide the responsibilities for maintaining the median on 121st Street.

Background

The median on 121st Street from Griffing Blvd. to 10th Avenue is shared between N. Miami on the north side and Biscayne Park on the south side. This Landscape and Maintenance agreement defines the roles expected from each municipality to maintain this median. This provides a clear delineation of which municipality is responsible for maintaining, landscaping, tree trimming, etc.

Resource Impact

As the Village's role in this is similar to the service we already provide on this median, there is no expected budget increase.

Prepared by: Krishan Manners

1
2
3 **RESOLUTION NO. 2019-24**
4

5 **A RESOLUTION OF THE VILLAGE COMMISSION OF THE**
6 **VILLAGE OF BISCAYNE PARK, FLORIDA; APPROVING THE**
7 **LANDSCAPE AND MAINTENANCE MEMORANDUM OF**
8 **AGREEMENT (MMOA) BETWEEN THE VILLAGE OF**
9 **BISCAYNE PARK AND THE CITY OF NORTH MIAMI FOR**
10 **THE MEDIANS LOCATED ALONG NORTHEAST 121 STREET**
11 **FROM GRIFFING BOULEVARD TO 10th AVENUE; PROVIDING**
12 **FOR AN EFFECTIVE DATE.**
13

14 **WHEREAS**, the Village of Biscayne Park, Florida (the “Village”) and the City of
15 North Miami (“North Miami”) have mutual jurisdiction over certain medians located along
16 Northeast 121 Street from Griffing Boulevard to 10th Avenue (the “Mutual Medians”); and

17 **WHEREAS**, the Village and North Miami are both desirous to coordinate their
18 respective maintenance efforts to the Mutual Medians, including beautification improvements
19 such as landscaping and sod replacement; and

20 **WHEREAS**, the Village and North Miami have reached a proposed memorandum of
21 maintenance agreement (the “MMOA”) regarding maintenance of the Mutual Medians; and

22 **WHEREAS**, the Village Commission has determined it is in the best interests of
23 Village residents to enter into the MMOA with North Miami to ensure the Mutual Medians are
24 properly maintained;

25 **NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COMMISSION**
26 **OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, that:**

27 **Section 1.** The Village Commission approves the Landscape and Maintenance
28 Memorandum of Agreement with the City of North Miami for the medians located along
29 Northeast 121 Street from Griffing Boulevard to 10th Avenue, in form and substance similar to
30 that attached hereto as Exhibit ‘A.’

**LANDSCAPE AND MAINTENANCE
MEMORANDUM OF AGREEMENT
WITH THE
VILLAGE OF BISCAYNE PARK**

This **AGREEMENT**, entered into on _____, 2019, by and between the **CITY OF NORTH MIAMI**, a municipal corporation of the State of Florida, hereinafter called the **CITY**, and the **VILLAGE OF BISCAYNE PARK**, a Florida municipal corporation, having its principal office at 640 NE 114th Street, Biscayne Park, FL 33161, hereinafter called the **VILLAGE**, and collectively referred to as the **PARTIES**.

RECITALS:

- A. The **CITY** and the **VILLAGE** have split jurisdiction over the medians that are located on N.E. 121 Street from Griffing Blvd. to 10th Avenue; and
- B. The **VILLAGE** would like to perform scheduled maintenance to the medians, including beautification improvements such as landscaping and sod replacement; and
- C. The **PARTIES** to this **AGREEMENT** mutually recognize the need for entering into an agreement designating and setting forth the responsibilities of each party with regards to the maintenance of the medians; and
- D. The **CITY** desires to enter into this **AGREEMENT** and authorizes its officers to do so.

NOW, THEREFORE, for and in consideration of the mutual benefits contained herein and other good and valuable consideration, the parties covenant and agree as follows:

1. RECITALS

The recitals in this **AGREEMENT** are true and correct, and are incorporated herein by reference and made a part hereof.

2. VILLAGE RESPONSIBILITIES

The **PARTIES** agree that by executing this **AGREEMENT** the **VILLAGE** shall be responsible for maintaining the landscaping that it installs, in accordance with all applicable **CITY** guidelines. The **VILLAGE**'s maintenance obligations shall include but not be limited to:

- a. Mowing, cutting, weed eating, blowing and/or trimming and edging the grass, turf and hedges for site clearance.
- b. Pruning all plant materials, which include shrubs and ground covers and parts thereof.

c. Removing and properly disposing of dead, diseased or otherwise deteriorated plants and fallen limbs in their entirety, and replacing those that fall below the **CITY**'s standards. All plantings shall be Florida Friendly/Native plants which have been approved by the **CITY**.

d. Mulching all plant beds and tree rings.

e. Removing and disposing of all undesirable vegetation including but not limited to weeding of plant beds and removal of invasive exotic plant materials.

f. Taking all necessary maintenance measures necessary to ensure all the plant materials remain in a healthy and vigorous growing condition.

g. Installation of wood pole to deter traffic cutting over medians.

3. **CITY'S MAINTENANCE RESPONSIBILITIES**

The **CITY** shall maintain all trees in the medians. The **CITY'S** maintenance obligations shall include but not be limited to:

- a) Tree removal.
- b) Removal of tree stumps.
- c) Tree trimming.
- d) Planting of new trees upon approval of **VILLAGE** and **CITY**.

4. **MAINTENANCE DEFICIENCIES**

If at any time it shall come to the attention of the **CITY** that the **VILLAGE's** responsibilities as established herein are not being properly accomplished pursuant to the terms of this **AGREEMENT**, the **CITY** shall issue a written notice, to the **VILLAGE MANAGER**, to notify the **VILLAGE** of the maintenance deficiencies. From the date of receipt of the notice, the **VILLAGE** shall have a period of thirty (30) calendar days, within which to correct the cited deficiency or deficiencies. Receipt is determined in accordance with Section 5 of this **AGREEMENT**.

If said deficiencies are not corrected within this time period, the **CITY** may, at its option, proceed as follows:

- a) Perform the required maintenance activities and invoice the **VILLAGE** for expenses incurred; or

b) Terminate this Agreement in accordance with Section 7.

5. NOTICES

All notices, requests, demands, consents, approvals, and other communication which are required to be served or given hereunder, shall be in writing and shall be sent by certified U.S. mail, return receipt requested, postage prepaid, addressed to the party to receive such notices as follows:

To the CITY: City of North Miami
776 NE 125th Street
North Miami, Florida 33161
Attention: City Manager

With a Copy to: City of North Miami
776 NE 125th Street
North Miami, Florida 33161
Attention: City Attorney

To the VILLAGE: Village of Biscayne Park
600 NE 114th Street
Biscayne Park, FL 33161
Attention: Village Manager

Notices shall be deemed to have been received by the end of five (5) business days from the proper sending thereof unless proof of prior actual receipt is provided.

6. REMOVAL, RELOCATION OR ADJUSTMENT. The Parties agree that the landscaping addressed by this **AGREEMENT** may be removed, relocated or adjusted at any time in the future, by t the **CITY'S**, with the written approval of the **VILLAGE**, which approval will not be unreasonably withheld. In the event that the **CITY** relocates or adjusts the landscaping pursuant to the Paragraph 6 the **VILLAGE'S** maintenance responsibilities will survive the relocation or adjustment, so long as the materials remain within the medians.

7. TERMINATION

This **AGREEMENT** is subject to termination under any one of the following conditions:

- a) By the **CITY**, if the **VILLAGE** fails to perform its duties under Section 3 of this **AGREEMENT**, following the thirty (30) days written notice, as specified in Section 4 of this **AGREEMENT**.
- b) By either parties, upon thirty (30) days advance notice.

8. TERMS

- a) The effective date of this **AGREEMENT** shall commence upon execution by the **PARTIES**. This **AGREEMENT** shall continue in perpetuity or until termination as set forth in Section 7.
- b) This writing embodies the entire agreement and understanding between the parties hereto and there are no other agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.
- c) This **AGREEMENT** shall not be transferred or assigned, in whole or in part, without the prior written consent of **either PARTY**.
- d) This **AGREEMENT** shall be governed by and constructed in accordance with the laws of the State of Florida. Any provisions of this **AGREEMENT** found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions of the **AGREEMENT**.
- e) Venue for any and all actions arising out of or in connection to the interpretation, validity, performance or breach of this **AGREEMENT** shall lie exclusively in a state court of proper jurisdiction in Miami-Dade County, Florida.
- f) A modification or waiver of any of the provisions of this **AGREEMENT** shall be effective only if made in writing and executed with the same formality as this agreement.
- g) The section headings contained in this **AGREEMENT** are for reference purposes only and shall not affect the meaning or interpretation hereof.
- h) No term or provision of this **AGREEMENT** shall be interpreted for or against either Party because the Party or its legal representative drafted the provision.
- i) The **PARTIES** are subject to the provisions of Section 768.28, Florida Statutes, as may be amended from time to time. Nothing in this **AGREEMENT** shall be deemed or otherwise interpreted as waiving sovereign immunity protections, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.

9. INDEMNIFICATION

Subject to Section 768.28, Florida Statutes, , the **VILLAGE** shall promptly indemnify, defend, save and hold harmless the **CITY**, its officers, and employees from any and all losses, expenses, fines, fees, taxes, assessments, penalties, costs, damages, judgments, claims, demands, liabilities, attorney's fees, (including regulatory and appellate fees), and suits of any nature or kind whatsoever caused by, arising out of, or related to the

VILLAGE'S exercise or attempted exercise of its responsibilities as set out in this **AGREEMENT**.

Subject to Section 768.28, Florida Statutes, , the **City** shall promptly indemnify, defend, save and hold harmless the **VILLAGE**, its officers, and employees from any and all losses, expenses, fines, fees, taxes, assessments, penalties, costs, damages, judgments, claims, demands, liabilities, attorney's fees, (including regulatory and appellate fees), and suits of any nature or kind whatsoever caused by, arising out of, or related to the **CITY'S** exercise or attempted exercise of its responsibilities as set out in this **AGREEMENT**.

Each PARTY'S obligation to indemnify, defend and pay for the defense of the other, or at each PARTY'S option, to participate and associate with the other in the defense and trial of any claim and any related settlement negotiations, shall be triggered immediately upon the **receipt** of the **notice** of claim for indemnification. The notice of claim for indemnification shall be deemed received if the PARTY sends the notice in accordance with the formal notice mailing requirements set forth in Section 5 of this **AGREEMENT**. **A PARTY'S failure** to notify the **other** of a claim shall not release the **obligation** of the above duty to defend and indemnify.

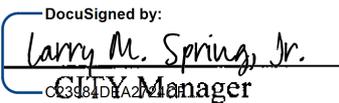
The indemnification provisions of this section shall survive termination or expiration of this **AGREEMENT**, but only with respect to those claims that arose from acts or circumstances which occurred prior to termination or expiration of this **AGREEMENT**.

Nothing in this Paragraph 9 shall be deemed or otherwise interpreted as waiving sovereign immunity protections, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.

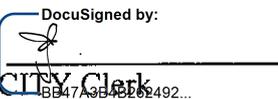
IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

CITY OF NORTH MIAMI

VILLAGE OF BISCAYNE PARK:

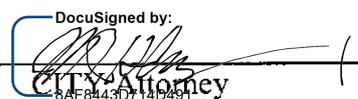
BY:  DocuSigned by:
Larry M. Springs, Jr.
CITY Manager

BY: _____
VILLAGE Manager

ATTEST:  DocuSigned by:
CITY Clerk

ATTEST: _____
VILLAGE Clerk

LEGAL REVIEW:

BY:  DocuSigned by:
CITY Attorney

BY: _____
VILLAGE Attorney

EXHIBIT 'A'

Below are the limits of the landscape and signage to be maintained under this **AGREEMENT**.

Agreement Limits: Medians located on NE 121 Street, From Griffing Blvd. to NE 10th Avenue

County: Miami-Dade



VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report
REGULAR MEETING

Item # 8.d

TO: Honorable Mayor & Members of the
Biscayne Park Village Commission

FROM: Krishan Manners, Village Manager

DATE: December 3, 2019

TITLE: Resolution No. 2019-28 – Contract for Judo Training/Instruction at Ed
Burke Recreation Center

Recommendation

Staff recommends the Village enters into contract with USA Judo Coach Josue Deprez to provide professional services in the form of judo instruction at the Ed Burke Recreation Center for the benefit of Village residents.

Background

In an effort to create more programming at the Ed Burke Recreation Center, the Village has contacted to USA Judo Coach Josue Deprez (“Coach Deprez”). Coach Deprez is a decorated Olympian. The Parks and Recreation Manager met with Coach Deprez, who expressed an interest in providing a Judo Program (as well as a women’s self-defense class) at the Ed Burke Recreation Center.

Legal Note

As this would be a contract to provide professional services – providing judo instruction to residents – it is exempted from competitive bidding requirements pursuant to Section 2-141 of the Village’s Code of Ordinances.

Resource Impact

The Judo Program will provide revenue to the Village. Staff recommends that for the first year of the program the revenue split be set at 80%(Instructor) and 20%(Village). This request is based on the anticipated start-up costs associated with the first year of the program (equipment, mats, etc.).

Attachments

- Resolution No. 2019-28
 - Proposal and Credentials
 - Section 2-141 of the Village Code
-

Prepared by: Krishan Manners

1
2
3 **RESOLUTION NO. 2019-28**
4

5 **A RESOLUTION OF THE VILLAGE COMMISSION OF THE**
6 **VILLAGE OF BISCAYNE PARK, FLORIDA, AUTHORIZING**
7 **THE VILLAGE MANAGER TO NEGOTIATE A PROFESSIONAL**
8 **SERVICES CONTRACT WITH USA JUDO INSTRUCTOR**
9 **JOSUE DEPREZ TO PROVIDE CERTAIN JUDO AND SELF**
10 **DEFENSE TRAINING SERVICES TO VILLAGE RESIDENTS IN**
11 **THE ED BURKE RECREATION CENTER; PROVIDING FOR AN**
12 **EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.**
13

14 **WHEREAS**, the Village of Biscayne Park, Florida (the "Village") is desirous to
15 provide various courses to its residents at the Village's Ed Burke Recreation Center (the
16 "Recreation Center");

17 **WHEREAS**, the Parks and Recreation Director has proposed offering certain martial
18 arts and self-defense courses to Village residents at the Recreation Center;

19 **WHEREAS**, the Village Manager has presented the Village Commission with a
20 proposed training instructor, Josue Deprez, to provide certain judo and self-defense training
21 professional services to Village residents in the Recreation Center;

22 **WHEREAS**, pursuant to Section 2-141 of the Village's Code of Ordinances,
23 professional services are exempted from competitive solicitation requirements;

24 **WHEREAS**, the Village Commission finds it to be in the best interest and welfare of
25 the Village and its residents to offer these courses to the residents at the Recreation Center;

26 **NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COMMISSION**
27 **OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, that:**

28 **Section 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as being
29 true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

30 **Section 2.** The Village Commission approves instructor Josue Deprez to provide judo
31 and self-defense training professional services.

**AGREEMENT BETWEEN THE VILLAGE OF BISCAYNE PARK
AND Josue Deprez FOR THE PROVISION OF
JUDO PROGRAM**

THIS AGREEMENT is entered into this ___ day of _____, 20___ between the Village of Biscayne Park, a Florida municipal corporation, (VILLAGE), and Josue Deprez (INSTRUCTOR).

WHEREAS, the VILLAGE desires to retain the professional services of INSTRUCTOR to provide a JUDO program; and

WHEREAS, the INSTRUCTOR desires to provide a JUDO program at the Ed Burke Recreation Center.

**ARTICLE I
SCOPE OF SERVICES**

The INSTRUCTOR agrees to:

- 1.1 Provide a JUDO program for ALL AGES, to be based at the Ed Burke Recreation Center.
- 1.2 Conduct classes in a professional, careful and responsible manner with due regard for the safety of the participants and others, during normal operating hours.
- 1.3 Be solely responsible, at INSTRUCTOR's sole expense, for providing and paying for all instructors, counselors, and other personnel costs associated with the program.
- 1.4 Be solely responsible for securing the services of and compensating assistants or other personnel, as may be required, to perform the program.
- 1.5 Provide to VILLAGE at the close of registration, a list of all participants, along with a signed VILLAGE approved Release form.
- 1.6 Permit only registered program participants to attend program sessions.
- 1.7 Vacate the program facility promptly at the conclusion of the program session in equal or better condition than it was found.
- 1.8 Accept neither fees nor any other payment other than as specifically set forth in this Agreement.
- 1.9 Immediately notify the Village Manager, or her designee, in the event it becomes necessary to cancel a program session.

- 1.10 Immediately notify the Village Manager, or her designee, of any injury sustained by a program participant.
- 1.11 Comply with any other rules adopted by the Village Manager, or her designee, for use of VILLAGE's property, including the facilities used by INSTRUCTOR pursuant to this Agreement.
- 1.12 Actively supervise the operation of each program.
- 1.13 Be responsible for enforcing compliance with the approved rules for all programs. The VILLAGE reserves the right to enact other rules, if necessary, at its sole discretion.
- 1.14 Require that INSTRUCTOR and all other counselors, employees, and/or instructors undergo Level 2 background screening and drug screening prior to supervising children, and furnish all reports to the VILLAGE. The VILLAGE reserves the right to suspend, bar, or expel an employee, counselor, or instructor for any reason, at its sole discretion, without recourse from the subject person or the INSTRUCTOR. Drug screening shall be completed annually on the anniversary of the Agreement.
- 1.15 The VILLAGE reserves the right to suspend, bar, or expel any employee, counselor, or instructor for any reason, at its sole discretion, without recourse from the subject person or the INSTRUCTOR.

The VILLAGE agrees to:

- 1.16 Allow INSTRUCTOR the use of the Ed Burke Recreation Center for INSTRUCTOR's **JUDO** program.
- 1.17 Allow INSTRUCTOR advertising in VILLAGE's newsletters and publications, at no cost to INSTRUCTOR.
- 1.18 Process program participants' fees in accordance with VILLAGE revenue processing procedures.
- 1.19 Grant INSTRUCTOR license, revocable at will, to use the Ed Burke Recreation Center, consistent with the obligations under this Agreement.

ARTICLE 2

FEES AND COMPENSATION

- 2.1 The INSTRUCTOR shall be compensated from fees collected from participants. The parties agree that VILLAGE shall retain thirty percent (30%) of all registration fees and the INSTRUCTOR shall retain seventy percent (70%) of all registration fees.

- 2.2 INSTRUCTOR shall not charge any participant for any other services not contained in the Agreement.
- 2.3 All items sold by INSTRUCTOR shall be approved by the VILLAGE Manager prior to offering any item for sale.
- 2.4 INSTRUCTOR shall keep all books, rosters and attendance in accordance with standard accounting procedures, and shall make them available to the VILLAGE for inspection and audit at all times.

ARTICLE 3
TERMINATION OF AGREEMENT

- 3.1 This Agreement may be terminated upon thirty (30) days written notice from the VILLAGE at VILLAGE's sole discretion. INSTRUCTOR may terminate this Agreement, at its sole discretion, by giving thirty (30) days written notice to the VILLAGE.
- 3.2 The VILLAGE may unilaterally immediately terminate this Agreement and the license granted by this Agreement if VILLAGE determines, in its sole discretion, that INSTRUCTOR is not conducting his operations in complete accord with this Agreement, or in the best interests of the VILLAGE.

ARTICLE 4
INDEPENDENT CONTRACTOR

- 4.1 The parties agree and affirm that INSTRUCTOR is an independent contractor and not an agent, partner or employee of the VILLAGE, nor shall this Agreement be construed as a partnership nor joint venture between VILLAGE and INSTRUCTOR, the relationship being solely on of licensor and licensee.
- 4.2 INSTRUCTOR has control over the means and methods by which it performs the services. INSTRUCTOR, its employees and agents shall be deemed independent contractors and not agents or employees of the VILLAGE, and shall not attain any rights or benefits generally afforded VILLAGE employees; further, INSTRUCTOR, its employees and agents shall not be deemed entitled to the VILLAGE's worker's compensation, insurance benefits or similar laws.

ARTICLE 5
INDEMNIFICATION CLAUSE

INSTRUCTOR agrees to defend, indemnify and hold harmless the VILLAGE from and against any and all claims, suits, damages, liabilities or causes of action arising during the term of this Agreement, arising out of, related to, or in any way connected with the performance or non-performance of any provision of this

Agreement required of the INSTRUCTOR, including personal injury, loss of life or damage to property and from and against any orders, judgment or decrees which may be entered, and from and against all costs, attorney's fees, and expenses incurred in and about the defense of any such claim and the investigation thereof. However, nothing shall be deemed to indemnify VILLAGE for any liability or claim arising solely out of the negligent performance or failure of performance of VILLAGE.

ARTICLE 6 **INSURANCE**

- 6.1 INSTRUCTOR shall provide, pay for, and maintain in force at all times during the period of this Agreement, a Comprehensive General Liability Insurance Policy with minimum bodily injury coverage of \$500,000.00 (five hundred thousand dollars) and \$200,000.00 (two hundred thousand dollars) property damage liability; workers compensation insurance as required by State Statute. The INSTRUCTOR'S insurance coverage shall be considered the primary carrier.
- 6.2 To the extent applicable, the worker's compensation insurance shall be at the statutory amount to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include: Employers' Liability at the statutory coverage amount.
- 6.3 The VILLAGE shall be named, as an additional insured on all insurance policies the INSTRUCTOR is required to provide.

ARTICLE 7 **MISCELLANEOUS**

- 7.1 INSTRUCTOR shall, without additional expenses to VILLAGE be responsible for obtaining any necessary licenses and for complying with any applicable federal, state, county, and municipal laws, ordinances, and regulations in connection with the performance of the services specified herein. INSTRUCTOR shall take proper safety and health precautions, including the employment of needed assistance, to protect participants, the VILLAGE, the public and property of others. INSTRUCTOR shall be responsible for all services performed until completion of this Agreement.
- 7.2 The INSTRUCTOR shall not promote any privately owned business in a VILLAGE park facility or solicit any participant in a VILLAGE park for any privately owned business other than the **JUDO** program. It is further understood that such action(s) may result in immediate termination of the Agreement and the forfeiture of all compensation due to the INSTRUCTOR.

- 7.3 INSTRUCTOR shall meet with the Village Manager or her designee as requested.
- 7.4 No modification, amendment, or alteration of the terms and conditions contained shall be effective unless contained in a written document executed with the same formality and equal dignity herewith.
- 7.5 This Agreement is non-transferable or assignable, and INSTRUCTOR agrees not to transfer or assign the performance of services called for in the Agreement.
- 7.6 This Agreement sets forth the full and complete understanding of the parties as of the effective date, and supersedes any and all negotiations, agreements, and representations made or dated prior to this Agreement.

ARTICLE 8

PUBLIC RECORDS

If INSTRUCTOR has questions regarding the application of Chapter 119, Florida Statutes, as to INSTRUCTOR's duty to provide public records relating to this Letter of Understanding, contact Village Clerk, Roseann Prado, 640 NE 114 Street, Biscayne Park, FL 33161, villageclerk@biscayneparkfl.gov, (305) 899-8000.

INSTRUCTOR understands, acknowledges and agrees that INSTRUCTOR shall, pursuant to Section 119.0701, Florida Statutes, as amended from time to time, do the following:

- (1) Keep and maintain public records required by the Village to perform the service.
- (2) Upon request from the Village's custodian of public records, provide the Village with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Ch. 119, Florida Statutes, or as otherwise provided by law or Village policy.
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the INSTRUCTOR does not transfer the records to the Village.
- (4) Upon completion of the contract, transfer, at no cost, to the Village all public records in possession of INSTRUCTOR or keep and maintain public records required by the Village to perform the service. If the INSTRUCTOR

transfers all public records to the Village upon completion of the contract, the INSTRUCTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If INSTRUCTOR keeps and maintains public records upon completion of the contract, the INSTRUCTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Village, upon request from the Village's custodian of public records, in a format that is compatible with the information technology systems of the Village.

REQUEST FOR NONCOMPLIANCE

(a) A request to inspect or copy public records relating to a Village's contract for services must be made directly to the Village. If the Village does not possess the requested records, the Village shall immediately notify the INSTRUCTOR of the request, and INSTRUCTOR must provide the records to the Village or allow the records to be inspected or copied within a reasonable amount of time.

(b) If INSTRUCTOR does not comply with the Village's request for records, the Village shall enforce the contract provisions in accordance with the contract.

(c) Should INSTRUCTOR fail to provide the public records to the Village within a reasonable time INSTRUCTOR may be subject to penalties under s. 119.10.

CIVIL ACTION

(a) If a civil action is filed against INSTRUCTOR to compel production of public records relating to a Village's contract for services, the court shall assess an award against INSTRUCTOR the reasonable costs of enforcement, including reasonable attorney fees, if:

(1) The court determines that INSTRUCTOR unlawfully refused to comply with the public records request within a reasonable time; and

(2) At least eight (8) business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that INSTRUCTOR has not complied with the request, to the Village and to the INSTRUCTOR.

(b) A notice complies with subparagraph (a)2 if it is sent to the Village's custodian of public records and to INSTRUCTOR at INSTRUCTOR's address listed on its contract with the Village or to INSTRUCTOR's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

(c) Should INSTRUCTOR comply with a public records request within eight (8) business days after the notice is sent it shall not be liable for the reasonable costs of enforcement.

IN WITNESS THEREOF, the parties hereto have made and executed this Agreement on the date above:

VILLAGE OF BISCAYNE PARK,
FLORIDA, a municipal corporation,
organized and existing under the laws of
the State of Florida

ATTEST:

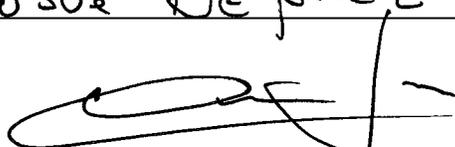
By: _____
Tracy Truppman, Mayor

Roseann Prado, Village Clerk

Approved as to form:

By: _____
Rebecca A. Rodriguez, Village Attorney

<Instructor>

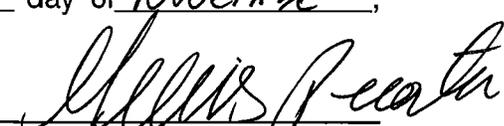
Josue De Perez


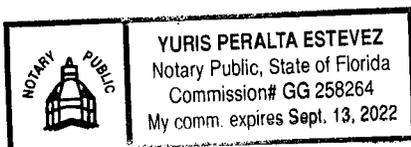
STATE OF FLORIDA)
COUNTY OF DADE)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Josue De Perez and acknowledged he/she executed the foregoing Agreement as the proper official of INSTRUCTOR, for the use and purposes mentioned in it and that the instrument is the act and deed of INSTRUCTOR.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 18 day of November, 2016.

My Commission Expires:


NOTARY PUBLIC



USA Judo Coach, Josue Deprez

**Proposal for Judo Program incorporating emotional health.
Prepared by USA Judo Coach Josue Deprez**

USA Judo Coach, Josue Deprez

I started Judo as a young boy (8 years old) while living in Haiti. I was inspired by Holman Jean Alix, a former national champion living just couple blocks from me. Throughout my career, I won 8 national titles, 5 Panamanian titles, and became the first Haitian to ever go to the 3rd round at the world championship Rio 2013, and then returned to Rio and participated in 2016 Olympic Game. I went on to win the 2015 Pan American Championship in Ecuador, World Championship in Kazakhstan, Gold in the 2016 Memphis National, USA Tournament, and the 2016 Pan American Championship in Havana, Cuba. Currently I coach judo at the Spa of Quayside, winners training center, and I'm the USA Judo National Coach.

In this proposal I plan to show how my Judo program, when incorporating emotional health, can benefit the children of North Miami in the Biscayne Park Recreation Center. Judo is a perfect choice for children. Though it is a martial art, Judo emphasizes these two principles:

- Maximum efficiency with minimum effort
- Mutual welfare benefits for all

What is Judo?

In 1882, Dr. Jigoro Kano (The Father of Judo) made a comprehensive study of ancient self-defense forms. Judo is a sport that demands both physical prowess and mental discipline. Judo is simple and basic, and anyone can learn. Judo in particular, develops discipline, manners, punctuality, strength, stamina, tenacity, toughness, and confidence, which are all character traits that are essential to achievement for overall emotional health and balance.

What students will learn

➤ **Self-Awareness**

Seeing their child excited about learning is something all parents strive to achieve. Judo is mentally and physically stimulating in a productive learning environment; by learning to align their mind with their body, kids become very aware of themselves and others.

USA Judo Coach, Josue Deprez

- **Flexibility and Balance** By learning the techniques and movements involved in Judo children are twisted, turned, contorted and as a result increase their flexibility. These exercises also help kids maintain balanced posture even if they do stumble.

- **Concentration and Focus**

When participating in a Judo class a student needs to remain focused so as to not injure themselves or their classmates. Incorporating emotion regulation to a Judo program is essential in developing a whole person approach to helping students improve on academic performance, self-esteem, confidence, self-reliability, focus mental toughness and clarity, physical and emotional health. This will improve their athleticism, personal development, academic performance, and success goals.

- **Ethical Competition**

The process involves bowing to your opponent and the referee; these are acknowledgements of your opponent's willingness to engage you in a bout and the referee's position in control of the fight. The compulsory bowing and handshake upon completion of the fight means sportsmanship is paramount.

- **Self Defense**

Judo does not teach weapons fighting or even striking (punches and kicks).

However, they learn to grapple and control an opponent to defend long enough for a chance to run away unscathed. The confidence that Judo gives a child also helps to make them bully-proof.

- **Technique**

In my program kids will learn an array of techniques used in Judo. Not only will they learn and master each technique but will be educated on the meaning and rules of each move.

- **Exercise**

Judo can provide a variety of forms of exercise, a long low intensity workout providing aerobic benefits, short intense workouts building anaerobic benefits. Physical activity as you know helps to release endorphins, powerful chemicals that lift your mood and increase energy levels. That increased energy level has an impact on mental and emotional health.

USA Judo Coach, Josue Deprez

Action Plan:

My motto is “help a child be great!!!!” The program I’m proposing will assist each child with his or her individual needs, taking the students step by step through the art, and providing the tools to succeed, all while incorporating emotional health. Each class will start with a warm up followed by a lecture on two or more techniques, followed by practice. My goal is not to push students from one belt to another, but to help them achieve the skills and confidence to earn their rank while helping them to understand how to accept, process, and release emotional stress, which is imperative for their academic, personal growth and success. We are facing a crisis with our youth to include but not limited to bullying, low self-esteem, increased suicide rates, poor academic performance, higher than normal high school dropout rates, negative coping mechanisms, suicides and gun violence deaths. As a certified USA Judo coach who participated in several tournaments across the world, I will also prepare and train each qualifying student to participate in tournaments.



NBCA CEU
APPROVED

Josue Deprez

CERTIFICATE OF COMPLETION FOR:

**BOMMARITO UNIVERSITY
M.A.S.S CERTIFICATION**

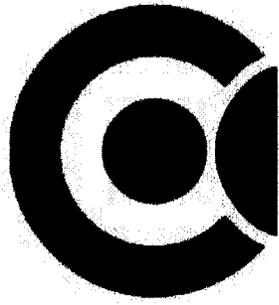
NSCA PROVIDER # L1321
NASM PROVIDER # 1,084

JUNE 10TH, 2019

Pete Bommarito

PETE BOMMARITO, PRESIDENT

CERTIFICATE OF COMPLETION



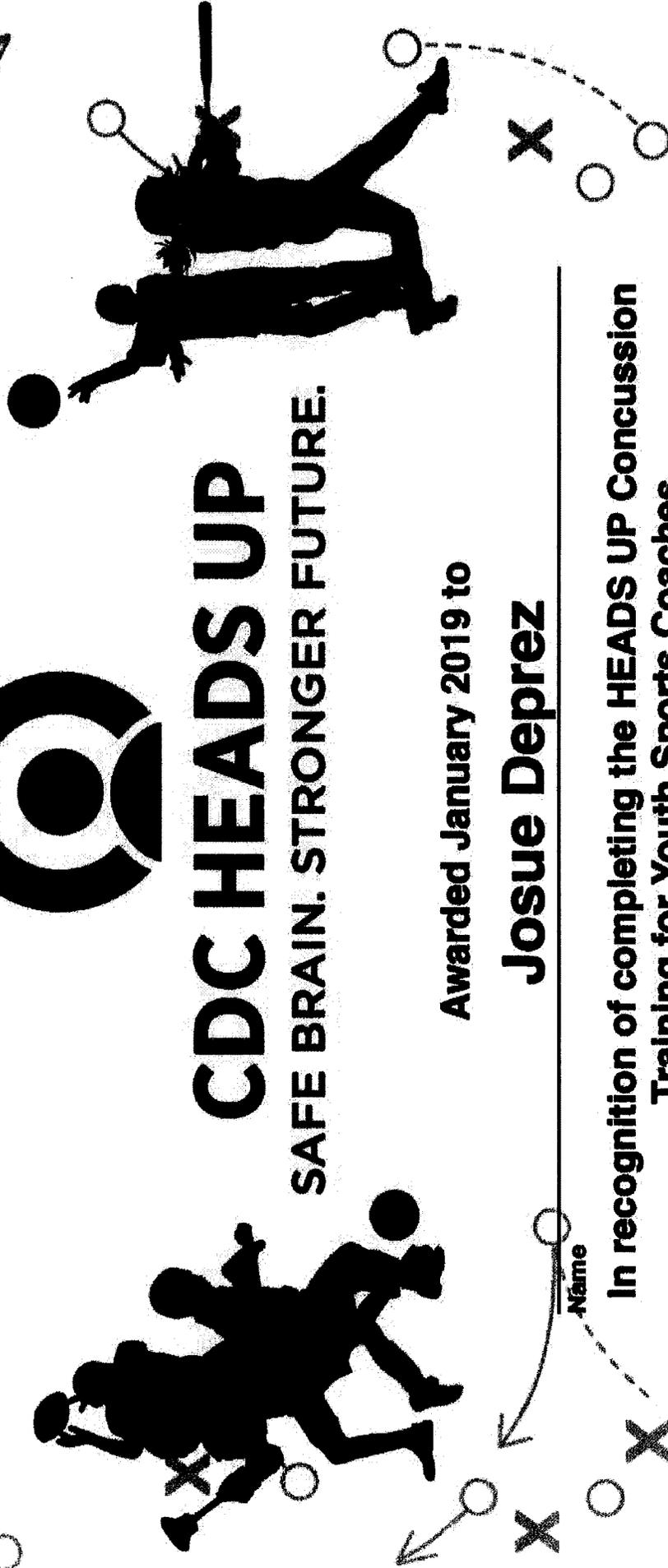
CDC HEADS UP

SAFE BRAIN. STRONGER FUTURE.

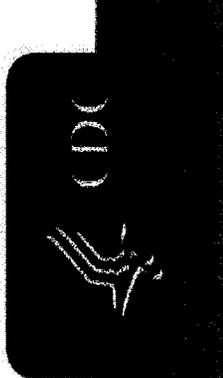
Awarded January 2019 to

Josue Deprez

In recognition of completing the HEADS UP Concussion
Training for Youth Sports Coaches



Name





USA Judo

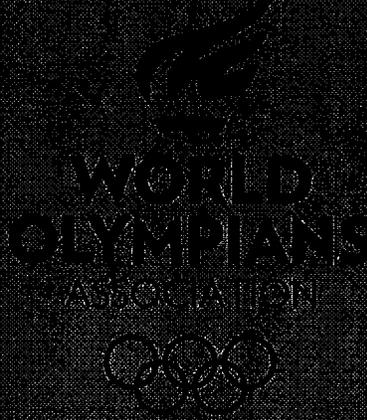
2019 Certificate of Membership

This certifies that

Deprez Judo Club

is a club member in good standing with

USA Judo and is subject to the rules
and regulations of USA Judo



EMPHATIC RECOGNITION

Presented by

WORLD OLYMPIANS ASSOCIATION

Presented by the World Olympians Association, the only
international organization of athletes and coaches, and the
only organization of athletes and coaches in the world, the
World Olympians Association is the only organization of
athletes and coaches in the world.

Signed

President of the World Olympians Association

WORLD OLYMPIANS ASSOCIATION
11811 GARDEN VIEW DRIVE, SUITE 100, LOS ANGELES, CA 90024



SAFESPORT

Where your game plan starts

Josue Deprez

has successfully completed

SafeSport Refresher Training

On: 11/5/2017

Completion Code: USOC-SSR-2014-1-567818



VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report
REGULAR MEETING

Item # 8.e

TO: Honorable Mayor & Members of the
Biscayne Park Village Commission

FROM: Krishan Manners, Village Manager

DATE: December 3, 2019

TITLE: Resolution No. 2019-32 Vehicle Donation

Recommendation

Acceptance of Resolution 2019-32 Vehicle Donation

Background

Officer Roger Lopez has offered to donate in good condition a Ford Taurus to the Village of Biscayne Park.

2007 Ford Taurus VIN# 1FAHP53U27A138935 Mileage: 86,243

This vehicle will be used to supplement the current fleet to assist in the ongoing growth of the police department in its continued commitment to excellence. The Village has the right to surplus and sell the vehicle at any time after title transfer.

Resource Impact

N/A

Attachment

- Title
- Resolution No. 2019-32 - Vehicle Donation

Prepared by: Krishan Manners, Village Manager

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3 **RESOLUTION NO. 2019-32**
4

5 **A RESOLUTION OF THE VILLAGE COMMISSION**
6 **OF THE VILLAGE OF BISCAYNE PARK, FLORIDA;**
7 **ACCEPTING THE DONATION OF A VEHICLE**
8 **FROM OFFICER ROGER LOPEZ; AUTHORIZING**
9 **THE VILLAGE MANAGER TO ACCEPT TITLE TO**
10 **THE VEHICLE TO BE USED WITHIN THE**
11 **VILLAGE'S POLICE DEPARTMENT; AND**
12 **PROVIDING FOR AN EFFECTIVE DATE.**
13

14 **WHEREAS**, a donation and gift policy exist in the Village of Biscayne Park which
15 provides direction to the Village Manager; and,
16

17 **WHEREAS**, the Village desires to promote consistency and transparency; and,
18

19 **WHEREAS**, consistent with the proposed gift policy the Village Manager is seeking
20 authorization to accept the following vehicle donation:
21

- 22 • 2007 Ford Taurus VIN# 1FAHP53U27A138935 Mileage: 86,243
23

24 **WHEREAS**, the Village Manager would like the Village to accept title to the donated
25 vehicle and to use the vehicle to enhance the Village's Police Department fleet; and,
26

27 **WHEREAS**, the Village Manager, is seeking authorization to accept the vehicle from
28 Reserve Officer Roger Lopez to have title transferred to the Village, and to mark and stripe the
29 vehicle for Village police use.
30

31 **NOW THEREFORE IT IS HEREBY RESOLVED BY THE MAYOR AND VILLAGE**
32 **COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA:**
33
34

35 **Section 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as
36 being true and correct and hereby made a specific part of this Resolution upon adoption hereof.
37

38 **Section 2.** The Mayor and Village Commission authorize the Village Manager to
39 accept the donation of:
40

- 41 • 2007 Ford Taurus VIN# 1FAHP53U27A138935 Mileage: 86,243
42

43 from Reserve Officer Roger Lopez to the Village, and is authorized to obtain title to the vehicle
44 and expend such funds as is necessary to make the vehicles part of the Village Police
45 Department's fleet (striping, identifying markers, etc).
46

47 **Section 3.** The Mayor and Village Commission recognize the generosity of Officer
48 Roger Lopez, and recognizes the efforts of the Village Manager and her staff in obtaining the
49 donation.

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Section 4. This Resolution shall become effective upon adoption.

PASSED AND ADOPTED this 3rd day of December, 2019.

The foregoing resolution upon being put to vote, the vote was as follows:

Tracy Truppman, Mayor

Mayor Truppman:
Vice Mayor Tudor:
Commissioner Samaria:

Attest:

Roseann Prado, Village Clerk

Approved as to form:

Rebecca A. Rodriguez, Village Attorney

SUBMIT THIS FORM TO YOUR LOCAL TAX COLLECTOR OFFICE

www.flhsmv.gov/offices/

**Notice of Sale and/or Bill of Sale for a Motor Vehicle,
Mobile Home, Off-Highway Vehicle or Vessel**

Notice of Sale (Seller must complete sections 1 & 3). The purchaser's signature in section 3 is optional.

Bill of Sale (Seller and purchaser must complete sections 1, 2 (when applicable) & 3).

1. Motor Vehicle, Mobile Home, Off- Highway or Vessel Description

Year 2007	Make/Manufacturer Ford	Body Type 4 dr	Model Taurus	Color Silver
Certificate of Title Number 96575857		Vehicle/Vessel Identification Number 1FAHP53U27A138935		
I/we do hereby sell or have sold and delivered the above described motor vehicle, mobile home, off-highway vehicle or vessel to:				
Print Name(s) of Purchaser(s) Village of Biscayne Park Police Department				
Address 600 N.E. 114th Street		City Biscayne Park	State FL	Zip Code 33161
Date of Sale 09/10/2019		Selling price \$ Donation		

2. Odometer Disclosure Statement (Required For a Motor Vehicle)

Federal and State law requires that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

WE STATE THAT THIS MOTOR VEHICLE'S 5 DIGIT OR 6 DIGIT ODOMETER NOW READS 8 6 , 2 4 3 .xx
(NO TENTHS) MILES, DATE READ 09 / 10 / 2019, AND WE HEREBY CERTIFY THAT TO THE BEST OF OUR KNOWLEDGE THE ODOMETER READING:

1. REFLECTS THE ACTUAL MILEAGE. 2. IS IN EXCESS OF ITS MECHANICAL LIMITS. 3. IS NOT THE ACTUAL MILEAGE.

Affidavit (When applicable):

3. Certification

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED IN IT ARE TRUE.

Seller's Signature 	Seller's Printed Name Roger Lopez	Date 09/10/2019
Seller's Address 17990 Southwest 168th Street	City Miami	State FL
		Zip Code 33187
Co-Seller's Signature (when applicable)	Co-Seller's Printed Name (when applicable)	Date
Co-Seller's Address (when applicable)	City	State
		Zip Code
N/A		
Purchaser's Signature	Purchaser's Printed Name	Date
Co-Purchaser's Signature (when applicable)	Co-Purchaser's Printed name (when applicable)	Date

* OWNERSHIP STATUS FOR THE ABOVE DESCRIBED MOTOR VEHICLE, MOBILE HOME, OFF-HIGHWAY VEHICLE OR VESSEL WILL NOT CHANGE UNTIL THE PURCHASER APPLIES FOR AND IS ISSUED A CERTIFICATE OF TITLE.

Check your local phone book government pages or visit the following website for current mailing addresses: <http://www.flhsmv.gov/offices/>

T# 1108293142
B# 198050

Identification Number 1FAHP53U27A138935	Year 2007	Make FORD	Body 4D	WT-L-BHP 3177	Vessel Regis. No.	Title Number 96575857
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Registered Owner: **ROGER JOSE LOPEZ**
Date of Issue: **09/10/2019**

17990 SW 168 ST
MIAMI, FL 33187

Lien Release
Interest in the described vehicle is hereby released
By _____
Title _____
Date _____

IMPORTANT INFORMATION

- When ownership of the vehicle described herein is transferred, the seller MUST complete in full the Transfer of Title by Seller section at the bottom of the certificate of title.
- Upon sale of this vehicle, the seller must complete the notice of sale on the reverse side of this form.
- Remove your license plate from the vehicle.
- See the web address below for more information and the appropriate forms required for the purchaser to title and register the vehicle, mobile home or vessel: <http://www.hsmv.state.fl.us/html/titlfnf.html>

Mail To:

ROGER JOSE LOPEZ
17990 SW 168 ST
MIAMI, FL 33187

CERTIFICATE OF TITLE

Identification Number 1FAHP53U27A138935	Year 2007	Make FORD	Body 4D	WT-L-BHP 3177	Vessel Regis. No.	Title Number 96575857
--	--------------	--------------	------------	------------------	-------------------	--------------------------

Lien Release
Interest in the described vehicle is hereby released

Prev. State FL	Color SIL	Primary Brand POLICE	Secondary Brand	No of Brands 1	Use PRIVATE	Prev Issue Date 08/25/2006
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By _____

Odometer Status or Vessel Manufacturer or OH use 86,214 MILES 09/03/2019 ACTUAL	Engine Drive	Hull Material	Prop	Date of Issue 09/10/2019
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Title _____
Date _____

Registered Owner
ROGER JOSE LOPEZ
17990 SW 168 ST
MIAMI, FL 33187

1st Lienholder
NONE

DIVISION OF MOTORIST SERVICES

TALLAHASSEE



FLORIDA

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Robert R. Kynoch
Director

Control Number **138953256**

Terry L. Rhodes
Executive Director

10 /13 138953256

TRANSFER OF TITLE BY SELLER (This section must be completed at the time of sale.)

Federal and/or state law require that the seller state the mileage, purchaser's name, selling price and date sold in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment. This title is warranted to be free from any liens except as noted on the face of the certificate and the motor vehicle or vessel described is hereby transferred to:

Seller Must Enter Purchaser's Name: Village of Biscayne Park Police

Address: _____

Seller Must Enter Selling Price: Donation

Seller Must Enter Date Sold: _____

I/We state that this 5 or 6 digit odometer now reads 86,214 (no tenths) miles, date read 9/10/19 and I hereby certify that to the best of my knowledge the odometer reading: 1 reflects ACTUAL MILEAGE 2 is IN EXCESS OF ITS MECHANICAL LIMITS 3 is NOT THE ACTUAL MILEAGE.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED IN IT ARE TRUE.

SELLER Must

Sign Here: _____

CO-SELLER Must

Sign Here: NA

Print Here: Roger Lopez

Print Here: _____

Selling Dealer's License Number: _____

Tax No: _____

Tax Collected: _____

Auction Name: _____

License Number: _____

PURCHASER Must

Sign Here: _____

CO-PURCHASER Must

Sign Here: _____

Print Here: _____

Print Here: _____

NOTICE: PENALTY IS REQUIRED BY LAW IF NOT SUBMITTED FOR TRANSFER WITHIN 30 DAYS AFTER DATE OF PURCHASE.



VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report
REGULAR MEETING

Item # 8.f

TO: Honorable Mayor & Members of the
Biscayne Park Village Commission

FROM: Krishan Managers, Village Manager

DATE: December 03, 2019

TITLE: State Attorney Agreement and 11th Circuit Court

Background

That legislation passed on 2004 to implement Revision 7 to Article V of the Florida Constitution provides that the State Attorney may prosecute municipal ordinances only if (1) the ordinance violation is ancillary to a felony prosecution (s. 27.02(1), Florida Statutes), or (2) the county/municipality has entered into a contract with the State Attorney for these prosecutions (s.27.34(1), Florida Statutes).

Recommendation

The staff finds that it is more effective and efficient to contract with the Office of the State Attorney for the Eleventh Judicial Circuit of Florida to prosecute violations of the ordinances of the Village.

Attachment

- Resolution 2019-32
- Agreement with State Attorney and 11th Circuit Court

Prepared by: Krishan Manners, Village Manager

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3 **RESOLUTION NO. 2019-33**
4

5 **A RESOLUTION OF THE VILLAGE COMMISSION OF**
6 **THE VILLAGE OF BISCAYNE PARK, FLORIDA,**
7 **AUTHORIZING THE VILLAGE MANAGER TO**
8 **ENTER INTO AN AGREEMENT BETWEEN THE**
9 **VILLAGE OF BISCAYNE PARK AND THE STATE OF**
10 **FLORIDA, OFFICE OF THE STATE ATTORNEY FOR**
11 **THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**
12 **TO REIMBURSE THE STATE ATTORNEY'S OFFICE**
13 **FOR THE COST OF STATE ATTORNEY**
14 **PROSECUTION OF CERTAIN CRIMINAL**
15 **VIOLATIONS OF THE MUNICIPAL CODE OF THE**
16 **VILLAGE OF BISCAYNE PARK; PROVIDING FOR AN**
17 **EFFECTIVE DATE**
18
19

20 WHEREAS, the Village finds that in order to maintain and improve the health, safety, and
21 welfare of this community, it is necessary to adequately enforce and prosecute violations of the
22 Village's Municipal Code; and
23

24 WHEREAS, the violation of some of these ordinances actually represent criminal
25 violations enforceable by prosecution in the judicial system; and
26

27 WHEREAS, Section 27.02, Florida Statutes, authorizes the Office of the State Attorney in
28 each county to prosecute municipal ordinance violations punishable by incarceration if ancillary to
29 state prosecution or, if not ancillary to state prosecution, when the State Attorney contracts with the
30 local government for reimbursement.
31

32 WHEREAS, the Village finds that it is more effective and efficient to contract with the
33 Office of the State Attorney for the Eleventh Judicial Circuit of Florida to prosecute violations of
34 the ordinances of the Village.
35

36 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMISSION**
37 **OF THE VILLAGE OF BISCAYNE PARK, THAT:**
38

39 **Section 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as
40 being true and correct and hereby made a specific part of this Resolution upon adoption hereof.

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Section 2. The Village Manager is authorized to execute the agreement between the State of Florida, Office of the State Attorney for the Eleventh Judicial Circuit of Florida and the Village of Biscayne Park, to reimburse the State for the cost of state attorney prosecution of certain criminal violations of the municipal code of the Village of Biscayne Park, attached hereto and incorporated herein as Exhibit "1."

Section 3: This resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 3rd day of December, 2019.

The foregoing resolution upon being put to vote, the vote was as follows:

Tracy Truppman, Mayor

Mayor Truppman:
Vice Mayor Tudor:
Commissioner Samaria:

Attest:

Roseann Prado, Village Clerk

Approved as to form:

Rebecca A. Rodriguez, Village Attorney



STATE ATTORNEY

ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
E. R. GRAHAM BUILDING
1350 N.W. 12TH AVENUE
MIAMI, FLORIDA 33136-2111

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY

TELEPHONE (305) 547-0100

October 25, 2019

Ms. Roseann Prado
Village Clerk
Village of Biscayne Park
640 NE 114 Street
Biscayne Park FL 33161

Dear Ms. Prado:

Legislation passed in 2004 to implement Revision 7 to Article V of the Florida Constitution provides that the State Attorney may prosecute municipal ordinances only if (1) the ordinance violation is ancillary to a felony prosecution (s. 27.02(1), Florida Statutes), or (2) the county/municipality has entered into a contract with the State Attorney for these prosecutions (s. 27.34(1), Florida Statutes).

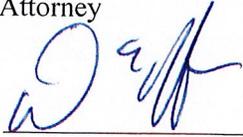
Enclosed please find the proposed agreement for the prosecution of ordinance violations for the period of October 1, 2019 to September 30, 2020. Please sign three originals and return to this office as soon as possible. If you desire to make changes to the contract and want an electronic version of this document, please contact me at donlhorn@miamisao.com and I will forward you a copy. This contract is for the prosecution of ordinances only; the State Attorney's Office has no statutory authority to handle appeals relating to the constitutionality of ordinances. If you choose to not have the Office of the State Attorney prosecute municipal ordinance violations in accordance with sections 4 & 5 of Chapter 2004-265, Laws of Florida, you are requested to send a letter to that effect to the above address as soon as possible.

You will be billed at the statutorily prescribed rate of \$50 per hour. Our estimate is that, on average, it takes approximately 20 minutes per case; therefore, you will be charged at the rate of \$16.67 per case. Please note that this is the charge for ordinance prosecution only. Pursuant to state law, there are separate charges for indigent defense from the Public Defender and filing fees from the Clerk of the Court.

If you have any questions about the contract or if I can provide any other information, please do not hesitate to contact me at 305-547-0562 or at donlhorn@miamisao.com.

Sincerely,

KATHERINE FERNANDEZ RUNDLE
State Attorney

By: 

Don L. Horn
Chief Assistant State Attorney for Administration

DLH/cj

Enclosures

**AGREEMENT BETWEEN VILLAGE OF BISCAYNE PARK AND THE
STATE OF FLORIDA, OFFICE OF THE STATE ATTORNEY FOR THE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA TO REIMBURSE THE
STATE FOR THE COST OF STATE ATTORNEY PROSECUTION OF
CERTAIN CRIMINAL VIOLATIONS OF THE
_____ CODE**

This agreement is entered into this _____ day of _____, 2019, by and between Village of Biscayne Park, a political subdivision of the State of Florida (hereinafter referred to as the “City”) and the Office of the State Attorney for the Eleventh Judicial Circuit of Florida (hereinafter referred to as “State Attorney”).

WHEREAS, the City finds that in order to maintain and improve the health, safety, and welfare of this community, it is necessary to adequately enforce and prosecute violations of the City’s Municipal Code; and

WHEREAS, Section 27.02, Florida Statutes, authorizes the State Attorney to prosecute municipal ordinance violations punishable by incarceration if ancillary to state prosecution or, if not ancillary to state prosecution, when the State Attorney contracts with the City for reimbursement.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I
Services

The State Attorney agrees to prosecute municipal ordinance violations as authorized in Sections 27.02, and 27.34, Florida Statutes. The City agrees to remit, subject to the terms outlined in Article III of this agreement, to the State Attorney the required funds to reimburse for costs associated with the prosecution of violations of the Municipal Code for the period of October 1, 2019 to September 30, 2020. The State Attorney shall provide such clerical and professional personnel as may be required for the performance of any of the functions of the State Attorney as set forth in this agreement. This agreement does not commit the City to pay for the prosecution of Municipal Code violations ancillary to state prosecution or for the prosecution of municipal ordinance violations not punishable by incarceration. This agreement specifically does not authorize the State to handle appeals of municipal ordinances on constitutional grounds, which shall remain the responsibility of the municipality that passed the ordinance.

ARTICLE II
Terms

This agreement shall expire on September 30, 2020, unless terminated earlier pursuant to Article VII of this agreement. Under no circumstances shall the City be liable to continue or extend this agreement beyond this date. This agreement may only be amended in writing, through a document executed by duly authorized representatives of the signatories to this agreement.

ARTICLE III
Payment Schedule

The City agrees to reimburse the State Attorney on an hourly basis for services rendered at a rate of Fifty dollars (\$50) per hour. On a quarterly basis, the State Attorney shall provide the City with an invoice including, but not limited to, the hours of services rendered, number of cases prosecuted as set forth in this agreement, and the total amount due for payment for the previous month. The City shall remit each payment within ten (10) days after receiving said invoice from the State Attorney.

ARTICLE IV
Responsibilities

The City does not delegate any of its responsibilities or powers to the State Attorney other than those enumerated in this agreement. The State Attorney does not delegate any of its responsibilities or powers to the City other than those enumerated in this agreement.

ARTICLE V
Reporting

All required reports shall be submitted to the _____

ARTICLE VI
Indemnification

It is expressly understood and intended that the State Attorney is only a recipient of the reimbursements paid by the City and is not an agent of the City. The respective parties agree, subject to the provisions of Chapter 768.28 (17), Florida Statutes, that they will hold each other harmless from any claims arising from this agreement.

ARTICLE VII
Termination

Either party may terminate this agreement at any time with or without cause by furnishing written notice to the other party with no less than ninety (90) days notice.

ARTICLE VIII
Service Charges

This agreement is contingent upon all City funding provided, and any interest earned thereon, not being subject to any State service charges or administrative assessments.

ARTICLE IX
Non-Discrimination

The State Attorney agrees to abide and be governed by Title II of the Americans with Disabilities Act of 1990, Title VI and VII, Civil Rights Act of 1964 (42 USC 200d, e) and Title VIII of the Civil Rights Act of 1968, as amended, which provides in part that there will not be discrimination of race, color, sex, religious background, ancestry, or national origin in performance of this contract, in regard to persons served, or in regard to employees or applicants for

employment and it is expressly understood that upon receipt of evidence of discrimination, the City shall have the right to terminate said agreement.

IN WITNESS THEREOF, the parties have caused this agreement to be executed by their respective and duly authorized officers the day and year first above written.

ATTEST:

NAME

City Commission

By: _____
POSITION

By: _____

ATTEST

State Attorney's Office
Eleventh Judicial Circuit

By: _____

By: _____

Don L. Horn
Chief Assistant State Attorney
for Administration



VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report
REGULAR MEETING

Item # 8.g

TO: Honorable Mayor Members of the Biscayne Park Village Commission

FROM: Roseann Prado, Village Clerk

DATE: December 03, 2019

TITLE: Meet the Candidates Night – Linda Dillon and Judi Hamelburg

Background

Residents of the Village of Biscayne Park, Linda Dillon and Judi Hamelburg are respectfully asking the Commission permission to host an event called “Meet the Candidates Night” at Ed Burke Recreation on December 19, 2019 from 7:00 pm to 9:00 pm and also to waive the fee for the use of the location in preparation for the Special Election scheduled for January 07, 2020.

Resource Impact

Minimal – time for staff to set up and remove / restore original set up.

Attachment(s)

- Linda Dillon e-mail dated November 24, 2019
-

Prepared by: Roseann Prado, Village Clerk

Roseann Prado

From: Linda Dillon <lpdillon@bellsouth.net>
Sent: Sunday, November 24, 2019 12:10 AM
To: Roseann Prado
Subject: For the December Meeting

Hi Roseann,

All three candidates have agreed to participate in a “Meet The Candidates Night”. Judi Hamelburg and I would like to host this event.

We would like to do it on December 19th from 7:00 PM to 9:00 PM in the Recreation Center. Please put this on the agenda for the Dec. 3rd meeting so that we can ask the Commission for approval and also ask that the rental fee be waived, which has been the practice for many years. I know this is short notice but I didn't get them all to agree to attend until tonight.

Thank you.
Linda

Select Year:

The 2019 Florida Statutes

[Title IX](#)[ELECTORS AND ELECTIONS](#)[Chapter 106](#)[CAMPAIGN FINANCING](#)[View Entire Chapter](#)**106.113 Expenditures by local governments.—**

(1) As used in this section, the term:

(a) “Local government” means:

1. A county, municipality, school district, or other political subdivision in this state; and
2. Any department, agency, board, bureau, district, commission, authority, or similar body of a county, municipality, school district, or other political subdivision of this state.

(b) “Public funds” means all moneys under the jurisdiction or control of the local government.

(2) A local government or a person acting on behalf of local government may not expend or authorize the expenditure of, and a person or group may not accept, public funds for a political advertisement or electioneering communication concerning an issue, referendum, or amendment, including any state question, that is subject to a vote of the electors. This subsection does not apply to an electioneering communication from a local government or a person acting on behalf of a local government which is limited to factual information.

(3) With the exception of the prohibitions specified in subsection (2), this section does not preclude an elected official of the local government from expressing an opinion on any issue at any time.

History.—s. 1, ch. 2009-125.



VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report
REGULAR MEETING

Item # 9.a

TO: Honorable Mayor & Members of the
Biscayne Park Village Commission

FROM: Krishan Manners, Village Manager

DATE: December 3, 2019

TITLE: Special Magistrate

Recommendation

Staff recommends the Village engage Special Magistrate to hear Code Cases.

Background

Pursuant to the Commission's comments at the October 24, 2019 Special Commission Meeting, attached is an Ordinance for second reading. This ordinance amends the Village's current Land Development Code to allow for a Special Magistrate to hear Code cases, as well as for a Code Board to continue to be utilized for certain cases.

Resource Impact

The cost of a Special Magistrate is approximately \$300 per meeting. Because the number of cases sent to the Special Magistrate will vary, I recommend we budget \$6000 for the FY19/20. In addition, to maintain a Code Board, an attorney will need to be hired to attend those meetings. An additional \$5000 should be budgeted for this added expense, based on an estimate of 20 hours at \$250/hr.

Prepared by: Krishan Manners

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ORDINANCE NO. 2019-05

**AN ORDINANCE OF THE VILLAGE COMMISSION OF
THE VILLAGE OF BISCAYNE PARK, FLORIDA,
AMENDING CHAPTERS 14 AND 15 OF THE LAND
DEVELOPMENT CODE OF THE VILLAGE OF
BISCAYNE PARK; AUTHORIZING SPECIAL
MAGISTRATE POSITION FOR CERTAIN CODE
ENFORCEMENT PROCEEDINGS; PROVIDING FOR
ORDINANCES IN CONFLICT, REPEALER,
CODIFICATION, SEVERABILITY, AND AN EFFECTIVE
DATE.**

16 **WHEREAS**, pursuant to Section 162.03(2), Florida Statutes, a charter municipality may,
17 by ordinance, adopt an alternate code enforcement system that gives code enforcement boards or
18 special magistrates designated by the local governing body, or both, the authority to hold
19 hearings and assess fines against violators of the respective county or municipal codes and
20 ordinances;

21 **WHEREAS**, pursuant to Section 162.03(2), Florida Statutes, a special magistrate shall
22 have the same status as a code enforcement board;

23 **WHEREAS**, Chapter 14 of the Village’s Land Development Code created a code
24 compliance board to preside over the Village’s code enforcement proceedings;

25 **WHEREAS**, Chapter 15 of the Village’s Land Development Code provides enforcement
26 guidelines for code compliance issues;

27 **WHEREAS**, the Village Commission is desirous to also utilize a special magistrate for
28 certain code enforcement proceedings in the Village;

29 **WHEREAS**, on September 10, 2019, the Village Manager recommended the Village
engage a special magistrate to preside over Village code enforcement proceedings;

1 **WHEREAS**, on October 1, 2019, the Village Commission had a preliminary discussion
2 during its regular commission meeting about potentially adding a special magistrate authority for
3 certain code enforcement proceedings;

4 **WHEREAS**, on October 17, 2019, the Village Commission held a special commission
5 meeting to receive resident comments regarding, and discuss the potential for codifying,
6 amendments to the Village’s Land Development Code to provide for a special magistrate in
7 certain code enforcement proceedings;

8 **WHEREAS**, on October 24, 2019, the Village Commission held a special commission
9 meeting to have a public hearing on, and first reading of, the proposed ordinance;

10 **WHEREAS**, on October 24, 2019, the proposed ordinance passed on its first reading;

11 **WHEREAS**, on October 25, 2019, the Village advertised the second reading and public
12 hearing date for the proposed enactment of the ordinance in the Daily Business Review (ad. no.
13 0000433955-01) in compliance with Section 166.041(3)(a), Florida Statutes;

14 **NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COMMISSION OF**
15 **THE VILLAGE OF BISCAYNE PARK, FLORIDA, AS FOLLOWS:**

16 **Section 1.** **Ratification.** The foregoing “Whereas” clauses are hereby ratified and
17 confirmed as being true and correct and are hereby made a specific part of this Ordinance upon
18 adoption hereof.

19 **Section 2.** **Land Development Code Amended.** Chapters 14 and 15 of the Land
20 Development Code of the Village of Biscayne Park, Florida shall be amended to read as follows:

21 CHAPTER 14. – SPECIAL MAGISTRATE AND CODE COMPLIANCE
22 BOARD

23 14.1. – Special magistrate and code compliance board—Generally.
24
25

1 14.1.1 Purpose. This chapter sets forth the procedures of governing the
2 special magistrate and the code compliance board. When not expressly provided
3 for in this chapter, article III, section 2-30 of the Biscayne Park Code shall apply.
4

5 14.1.2 Intent. It is the intent of the village to provide an equitable,
6 expeditious, effective, and inexpensive method of enforcing the codes and
7 ordinances in force in the village by granting to the special magistrate and the
8 code compliance board the authority to impose administrative fines and other
9 non-criminal penalties for violation(s) of said codes and ordinances. Any alleged
10 violation of the Code may also be enforced by the Village in any court of
11 competent jurisdiction.
12

13 14.1.3 Composition.

14 (a) Special magistrates.

15
16 (1) Appointment. Appointments of special magistrates shall be
17 made by the Village Manager or his or her designee on the basis of
18 experience. Such appointments shall be submitted to the Village
19 Clerk for ratification by the Village Commission. The hiring of a
20 special magistrate must be ratified by a simple majority vote of the
21 Village Commission to become final.
22

23
24 (2) Authority. Special magistrates shall be authorized to hear
25 and decide cases involving code violations in the same manner as
26 the code compliance board.
27

28 (3) Qualifications. The special magistrate must be a licensed
29 attorney who is a member in good standing with the Florida Bar,
30 who possesses an outstanding reputation for civic pride, integrity,
31 fairness, objectivity, responsibility, and the appropriate legal
32 experience or background. A special magistrate must maintain a
33 professional liability insurance policy with a policy limit deemed
34 acceptable to the Village Manager. A copy of the policy must be
35 presented to the Village Commission for review prior to voting on
36 ratifying the hiring of a special magistrate.
37

38 (4) Term of Appointment. Appointments shall be made for a
39 term of two years. Any special magistrate may be reappointed at
40 the discretion of the city manager, subject to ratification by the city
41 commission. There shall be no limit on the number of
42 reappointments of any individual hearing officer/special master. A
43 determination as to removal or reappointment must be made for
44 each hearing officer/special master at the end of each of his or her
45 two-year term. The city manager shall have authority to remove
46 hearing officers/special masters with or without cause.

1 Appointments to fill any vacancy shall be for the remainder of the
2 unexpired term

3
4 (5) Removal. The Village Manager may remove a special
5 magistrate at any time.

6
7 (b) Code compliance board.

8
9 (1) Composition. The five-member board shall be appointed
10 by the village commission.

11
12 (2) Qualifications; exceptions. Members of the code
13 compliance board shall be property owners and residents of
14 the Village of Biscayne Park. Residents who are not
15 property owners in the Village of Biscayne Park may be
16 appointed by the village commission by at least a four-
17 fifths super majority vote. Appointments shall be made on
18 the basis of experience or interest and, when possible,
19 include the following individuals: an architect, an attorney
20 a business person, an engineer, a general contractor, a
21 subcontractor and a licensed real estate person.

22
23 14.1.4 (3) Terms of office. The initial appointments to the code
24 compliance board and the alternate members shall be as
25 follows:

26
27 (1a) One (1) member appointed for a term of one (1)
28 year.

29
30 (2b) Two (2) members appointed for a term of two (2)
31 years.

32
33 (3c) Two (2) members appointed for a term of three (3)
34 years.

35
36 Thereafter, all appointments shall be made for a term of three (3) years and shall
37 take effect on May 1 of the year the appointment is made. A member may be
38 reappointed upon approval of the village commission. Appointments to fill any
39 vacancy on the code compliance board shall be for the remainder of the unexpired
40 term of office. For an excused absence, a board or committee member must
41 advise the village clerk prior to the meeting of the fact that they will be absent and
42 provide a reason for that absence. The board or committee may vote to excuse the
43 requested absence at the same meeting the board or committee member is absent.
44 The absence, and whether or not the absence is excused or unexcused, is to be
45 reflected in the minutes.

1 The members shall serve in accordance with the village Charter and may be
2 suspended and removed for cause as provided in the village code for removal of
3 members of village boards.

4
5 14.1.4 Jurisdiction of special magistrate and code compliance board.

6
7 (a) The special magistrate shall preside over code enforcement
8 proceedings involving:

9
10 (1) Irreparable or irreversible violations. For purposes of this
11 section, "irreparable" or "reversible" violations are those
12 that are incapable of correction, repair or return to an
13 original condition.

14
15 (2) Continuing violations. For purposes of this section,
16 "continuing" violations are those violations which remain
17 uncorrected beyond the prescribed time period for
18 correction contained in the civil violation notice. For each
19 day of continued violation after the time period for
20 correction has run, an additional penalty in the same
21 amount as for the original violation shall be added.

22
23 (3) Repeat violations. For purposes of this section, "repeat"
24 violation means a violation of a provision of a code or
25 ordinance by a person who has been previously found
26 through a code enforcement board or any other quasi-
27 judicial or judicial process, to have violated or who has
28 admitted violating the same provision within 5 years prior
29 to the violation, notwithstanding the violations occur at
30 different locations. For the purposes of this definition, a
31 plea of "No Contest" or "Nolo Contendere" shall be deemed
32 an admission of a violation.

33
34 (4) Uncorrectable violation. For purposes of this section, an
35 "uncorrectable" violation is a violation which cannot be
36 remedied after the violation has been committed because
37 the violation constitutes a single prohibited act rather than
38 an ongoing condition or circumstance. Each reoccurrence
39 of an uncorrectable violation shall constitute a separate
40 violation and shall subject the violator to an additional
41 penalty in the same amount as that prescribed for the
42 original violation. If, however, a violator has been once
43 found guilty of an uncorrectable violation, and causes the
44 same uncorrectable violation to occur a second time, each
45 reoccurrence of the uncorrectable violation by such violator
46 shall constitute a "repeat violation."

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- (5) Assessment of fines including costs relating to the prosecution of cases before the special magistrate and/or code compliance board in those cases where the village prevails;
- (6) Assessment of costs;
- (7) Assessment or mitigation of liens upon real property;
- (8) Fine reduction hearings brought at the request of the violator;
- (9) Amnesty hearings. For purposes of this section, “amnesty hearings” shall mean a presentation by the village manager or finance director requesting special magistrate ratification of proposed settlement terms to resolve an outstanding and unpaid fine or lien on the basis that said potential settlement would be in the best interests of the village and its residents;
- (10) Any proceedings involving real property presently owned by a governmental, quasi-governmental, or corporate entity;
- (11) Any proceeding wherein the respondent will be represented by legal counsel;
- (12) Any proceeding involving a violation which carries the potential to impose an initial fine equal to or greater than five thousand dollars and zero cents (\$5,000.00).

(b) The code compliance board shall preside over the following types of code enforcement hearings:

- (1) Hearings involving a first notice of violation, administrative citation, and any other preliminary or routine code compliance matters not specifically delegated to the special magistrate;
- (2) Requests for extensions of time to correct violation(s);
- (3) Any code proceedings not specifically delegated to the special magistrate’s jurisdiction shall be within the jurisdiction of the code compliance board.

1 (4) In the event the code compliance board does not meet to
2 hold a monthly hearing, the special magistrate shall preside
3 over all code proceedings that month. The village clerk
4 shall promptly notify both the respondent and the code
5 enforcement officer in writing of any reassignments from
6 the code compliance board's hearing docket to the special
7 magistrate's hearing docket.

8
9 14.1.5 Procedures for code compliance board.

- 10
11 (a) ~~Chairman~~ Chairperson. The members of the code compliance
12 board shall elect a ~~chairman~~ chairperson from among its members.
13
14 (b) Quorum. The presence of three (3) members shall constitute a
15 quorum of the code compliance board.
16
17 (c) Expenses. Members shall serve without compensation, but may be
18 reimbursed for such travel, mileage and per diem expenses as may
19 be authorized by the village commission.
20

21 14.1.6 Counsel. The village attorney shall either be counsel to the code
22 compliance board or shall represent the village by presenting cases before the
23 board, but in no case shall the village attorney serve in both capacities.
24

25 14.1.7 Compliance procedure.

- 26
27 (a) It shall be the duty of the code compliance officer to initiate
28 enforcement proceedings of the various codes; provided, however,
29 no member of the code compliance board shall have the power to
30 initiate such enforcement proceedings.
31
32 (b) Except as provided in subsections (c), (d) and (f), if a violation of
33 the codes is found, the code compliance officer shall notify the
34 violator and give the violator a reasonable time to correct the
35 violation. Should the violation continue beyond the time specified
36 for correction, the code compliance officer shall notify the special
37 magistrate or code compliance board of the charges and request a
38 hearing pursuant to procedure in section 14.1.8. Notice shall be
39 provided pursuant to section 14.1.13.
40
41 (c) If the violation is corrected and then recurs or if the violation is not
42 corrected by the time specified for correction by the code
43 compliance officer, the case may be presented to the special
44 magistrate or code compliance board even if the violation has been
45 corrected prior to the ~~board~~ hearing, and the notice shall so state. If
46 a repeat violation is found, the code compliance officer shall notify

1 the violator but is not required to give violator a reasonable time to
2 correct the violation. The code compliance officer, upon notifying
3 the violator of a repeat violation, shall notify the special magistrate
4 or code compliance board and request a hearing. The special
5 magistrate or code compliance board shall schedule a hearing and
6 shall provide notice pursuant to section 14.1.12. The case may be
7 presented to the special magistrate or code compliance board even
8 if the repeat violation has been corrected prior to the ~~board~~ hearing,
9 and the notice shall so state. "Repeat violation" means a violation
10 of a provision of a code or ordinance by a person who has been
11 previously found, through a special magistrate, code compliance
12 board, or other quasi-judicial or judicial process, to have violated
13 or has admitted violating the same provision within five (5) years
14 prior to the violation.

15
16 (d) If the code compliance officer has reason to believe a violation
17 presents a serious threat to the public health, safety and welfare,
18 the code compliance officer may proceed directly to the procedure
19 in subsection 14.1.7(b) without notifying the violator.

20
21 (e) If the owner of the property which is subject to an enforcement
22 proceeding before a special magistrate or code compliance board,
23 or if the court, transfers ownership of such property between the
24 time the initial pleading was served and the time of the hearing,
25 such owner shall:

26
27 (1) Disclose, in writing, the existence and the nature of the
28 proceeding to the prospective transferee.

29
30 (2) Deliver to the prospective transferee a copy of the
31 pleadings, notices, and other materials relating to the code
32 enforcement proceeding received by the transferor.

33
34 (3) Disclose, in writing, to the prospective transferee that the
35 new owner will be responsible for compliance with the
36 applicable code and with orders issued in the code
37 enforcement proceeding.

38
39 (4) File a notice with the code compliance department of the
40 transfer of the property, with the identity and address of the
41 new owner and copies of the disclosures made to the new
42 owner, within five (5) days after the date of the transfer. A
43 failure to make the disclosures described in this subsection
44 before the transfer creates a rebuttable presumption of
45 fraud. If the property is transferred before the hearing, the
46 proceeding shall not be dismissed, but the new owner shall

1 be provided a reasonable period of time to correct the
2 violation before the hearing is held.

3
4 (f) The village commission finds that aesthetics are paramount to
5 maintaining an attractive and marketable community. The
6 violations enumerated below severely damage the aesthetics and
7 livability of the community immediately upon their commission.
8 Such damage cannot be repaired or reversed. Therefore, the village
9 commission hereby deems a violation of this section an irreparable
10 and irreversible violation. As a result, the Village of Biscayne Park
11 adopts supplemental and alternative code enforcement procedures
12 pursuant to F.S. §§ 162.13 and 162.22, as amended, to authorize
13 code compliance officers to issue administrative citations for
14 review before the special magistrate or code compliance board. A
15 code compliance officer shall have the sole discretion in
16 determining whether to issue an administrative citation or a notice
17 of violation for the following offenses:
18

- 19 (1) Open feeding that causes a gathering of more than four (4)
20 dogs or four (4) cats or combination thereof totaling four
21 (4), in violation of section 3-4 of the code;
22
- 23 (2) Excessive barking or howling of dogs, in violation of
24 section 3-21 of the code;
25
- 26 (3) Parking not on an approved surface where there is an
27 approved parking surface as required by section 5.6.1 of the
28 Land Development Code;
29
- 30 (4) Garbage cans and trash receptacles not placed behind face
31 of building and screened from view, in violation of section
32 6.3.2 of the Land Development Code;
33
- 34 (5) Domestic trash and recycling materials placed at the
35 property line and/or not removed under the requirements of
36 section 6.3.3 of the Land Development Code;
37
- 38 (6) Trees and garden refuse placed at the property line and/or
39 not removed under the requirements of section 6.3.4 of the
40 Land Development Code;
41
- 42 (7) Overgrown grass in violation of section 8.4.1 of the Land
43 Development Code;
44
- 45 (8) Offensive noise, in violation of section 10-1 of the code.
46

1 In the issuance of an administrative citation, the following procedures shall be
2 used:

3
4 (1) For the offenses enumerated above, a code compliance officer
5 who, upon personal investigation, has reasonable cause to believe
6 that there is a violation, shall have the authority to issue an
7 administrative citation to the alleged violator and/or record owner
8 of the subject property.
9

10 (2) The administrative citation issued shall be in a form approved by
11 the village manager and shall contain:

- 12
13 a. The date and time of issuance.
14
15 b. The name and address of the person to whom the
16 administrative citation is issued.
17
18 c. The facts constituting reasonable cause.
19
20 d. The section of the code that is violated.
21
22 e. The name of the code compliance officer.
23
24 f. The procedure for the person to follow in order to pay or
25 contest the administrative citation.
26
27 g. The penalty, including administrative costs, if the person
28 elects to contest the administrative citation and is found in
29 violation.
30
31 h. The penalty if the person elects to pay the administrative
32 citation.
33
34 i. A conspicuous statement that if the person fails to pay the
35 penalty within the time allowed, or fails to appear before
36 the special magistrate or code compliance board, that the
37 person shall be deemed to have waived his or her right to
38 contest the administrative citation and that, in such case, a
39 final order and/or judgment may be entered against the
40 person up to five hundred dollars (\$500.00).
41

42 (3) After issuing the administrative citation, the code compliance officer
43 shall deposit an original with the village manager or their designee.
44

45 (4) A person who has been served with an administrative citation ~~shall~~
46 may elect either to:

- 1
2 a. Correct the violation immediately and pay within fourteen (14)
3 days of service of the administrative citation the penalty in the
4 manner indicated on the administrative citation; or
5
6 b. Request a hearing before the special magistrate or code compliance
7 board, depending on the applicable jurisdiction.
8

9 14.1.8 Conduct of hearing.
10

11 ~~(a) The chairman of the code compliance board may call hearings of the~~
12 ~~board, and hearings may also be called by written notice signed by at least three~~
13 ~~(3) members of the code compliance board. The board, at any hearing, may set a~~
14 ~~future hearing date. The board shall attempt to convene no less frequently than~~
15 ~~once every two (2) months, but it may meet more or less often as the demand~~
16 ~~necessitates. Minutes shall be kept of all hearings by the board, and all hearings~~
17 ~~and proceedings shall be open to the public. The village shall provide clerical and~~
18 ~~administrative personnel as may be reasonably required by the board for the~~
19 ~~proper performance of its duties.~~
20

21 ~~(b) Each case before the code compliance board shall be presented by a~~
22 ~~code compliance officer appointed by the village for that purpose.~~
23

24 ~~(c) The special magistrate and code compliance board shall proceed to~~
25 ~~hear the cases on the agenda for that day. All testimony shall be under oath and~~
26 ~~shall be recorded. The board shall take testimony from the code compliance~~
27 ~~officer, the alleged violator, and any witnesses called. Formal rules of evidence~~
28 ~~shall not apply, but fundamental due process shall be observed and govern said~~
29 ~~proceedings.~~
30

31 ~~(d) At the conclusion of the hearing, the special magistrate and code~~
32 ~~compliance board shall issue findings of fact, based on evidence recorded and~~
33 ~~conclusions of law, and shall issue an order affording the proper relief consistent~~
34 ~~with powers granted herein. The finding shall be by motion approved by a~~
35 ~~majority of those present and voting, except that at least three (3) members of the~~
36 ~~code compliance board must vote for the action to be official. The order may~~
37 ~~include a notice that it must be complied with by a specified date and that a fine~~
38 ~~may be imposed if the order is not complied with by said date. A certified copy of~~
39 ~~such order may be recorded in the public records of the county and shall~~
40 ~~constitute notice to any subsequent purchasers, successors in interest, or assigns if~~
41 ~~the violation concerns real property, and the findings therein shall be binding~~
42 ~~upon the violator and, if the violation concerns real property, any subsequent~~
43 ~~purchasers, successors in interest, or assigns. If an order is recorded in the public~~
44 ~~records pursuant to this subsection and the order is complied with by the date~~
45 ~~specified in the order, the code compliance board shall issue an order~~

1 ~~acknowledging compliance that shall be recorded in the public records. A hearing~~
2 ~~is not required to issue such an order acknowledging compliance.~~
3

4 (a) Upon request of the code inspector, or at such other times as may
5 be necessary, the special magistrate or chair of the code
6 compliance board may call a code enforcement hearing; a hearing
7 also may be called by written notice signed by at least two
8 members of the code compliance board. Minutes shall be kept of
9 all code enforcement hearings, and all hearings and proceedings
10 shall be open to the public. The village commission shall provide
11 clerical and administrative personnel as may be reasonably
12 required by the special magistrate or code compliance board for the
13 proper performance of code enforcement duties.
14

15 (b) Each case before the special magistrate or code compliance board
16 shall be presented either (1) a member of the Village
17 administrative staff, or (2) the Village Attorney. The Village
18 Attorney shall only present cases in the event of unavailability of
19 staff, or if a matter involves legal issues requiring argument of
20 counsel as determined by the Village Manager. If the Village
21 prevails in prosecuting a case before the special magistrate or
22 enforcement board, it shall be entitled to recover all costs incurred
23 in prosecuting the case before the board and such costs may be
24 included in the lien authorized under s. 162.09(3).
25

26 (c) The special magistrate or code compliance board shall proceed to
27 hear the cases on the agenda for that day. All testimony shall be
28 under oath and shall be recorded. The enforcement board shall take
29 testimony from the code inspector and alleged violator. Formal
30 rules of evidence shall not apply, but fundamental due process
31 shall be observed and shall govern the proceedings.
32

33 (d) At the conclusion of the hearing, the special magistrate or code
34 compliance board shall issue written findings of fact, based on
35 evidence of record and conclusions of law, and shall issue an order
36 affording the proper relief consistent with powers granted herein.
37 The finding shall be by motion approved by a majority of those
38 members present and voting, except that at least three members of
39 the code compliance board, must vote in order for the action to be
40 official. The order may include a notice that it must be complied
41 with by a specified date and that a fine may be imposed and, under
42 the conditions specified in s. 162.09(1), the cost of repairs may be
43 included along with the fine if the order is not complied with by
44 said date. A certified copy of such order may be recorded in the
45 public records of Miami-Dade County, Florida and shall constitute
46 notice to any subsequent purchasers, successors in interest, or

1 assigns if the violation concerns real property, and the findings
2 therein shall be binding upon the violator and, if the violation
3 concerns real property, any subsequent purchasers, successors in
4 interest, or assigns. If an order is recorded in the public records
5 pursuant to this subsection and the order is complied with by the
6 date specified in the order, the special magistrate or code
7 compliance board must issue an affidavit acknowledging
8 compliance that shall be recorded in the public records of Miami-
9 Dade County, Florida. A hearing is not required to issue such an
10 affidavit acknowledging compliance.

11
12 14.1.9 Powers of the special magistrate and code compliance board. The
13 special magistrate and code compliance board shall have the power to:

- 14
15 (1) Adopt rules for the conduct of its hearings.
16
17 (2) Subpoena alleged violators and witnesses to its hearings.
18 Subpoenas may be served by the police department.
19
20 (3) Subpoena evidence to its hearings.
21
22 (4) Take testimony under oath.
23
24 (5) Issue orders having the force of law commanding whatever steps
25 are necessary to bring a violation into compliance.
26

27 14.1.10 Fines; liens.

28
29 (a) The special magistrate and code compliance board, pursuant to their
30 respective authority delegated herein, upon notification by the code compliance
31 officer that a previous order ~~of the board~~ has not been complied with by the set
32 time, or finds a person to be a repeat violator under subsection (c), may order the
33 violator to pay a fine in an amount specified in this section for each day the
34 violation continues past the date set by the special magistrate or code compliance
35 board for compliance or, in the case of a repeat violation, for each day the repeat
36 violation continues past the date of notice to the violator of the repeat violation. If
37 a finding of a violation or a repeat violation has been made as provided in this
38 part, a hearing shall not be necessary for issuance of the order imposing the fine.
39

40 ~~An "uncorrectable violation" is a violation which cannot be remedied after~~
41 ~~the violation has been committed because the violation constitutes a single~~
42 ~~prohibited act rather than an ongoing condition or circumstance. Each~~
43 ~~reoccurrence of an uncorrectable violation shall constitute a separation violation~~
44 ~~and shall subject the violator to an additional penalty in the same amount as that~~
45 ~~prescribed for the original violation. If, however, a violator has been once found~~
46 ~~guilty of an uncorrectable violation, and causes the same uncorrectable violation~~

1 to occur a second time, each recurrence of the uncorrectable violation by such
2 violator shall constitute a "repeat violation."
3

4 "~~Continuing violations~~" are those violations which remain uncorrected
5 beyond the reasonable time period for correction contained in either the civil
6 violation notice or the final order of the code compliance board, whichever is
7 applicable. For each day of continued violation after the time for correction has
8 run, an additional penalty in the same amount as that prescribed for the original
9 violation shall be added.
10

11 A "repeat violation" is a recurring violation of an ordinance by a violator
12 who has previously been guilty of the same violation within the last five (5) years.
13 In the case of correctable violations, a repeat violation can occur only after
14 correction of the previous violation has been made. For the first repeat violation,
15 the amount of the civil penalty shall be double the amount of penalty prescribed
16 for the original violation.
17

18 (b) Amount of fine.

19
20 (1) The fine amount(s) are referenced in a resolution kept on file by the
21 village clerk.
22

23 (2) In determining the amount of the fine, if any, the special magistrate
24 or code compliance board shall consider the following factors:
25

- 26 a. The gravity of the violation;
27
28 b. Any actions taken by the violator to correct the violation; and
29
30 c. Any previous violations committed by the violator.
31
32 (c) Reduction of fine imposed pursuant to this section.
33

34 (1) The special magistrate and code compliance board, pursuant to their
35 respective authority delegated herein, is hereby delegated the authority to may
36 hear requests for reduction of fines pursuant to this section and make the final
37 decision on behalf of the village.
38

39 (2) For all requests for reduction of fine, the code compliance officer
40 shall submit a written recommendation to the special magistrate code compliance
41 board. In formulating the recommendation, the code compliance officer shall
42 consider criteria, which includes, but is not limited to, the following:
43

- 44 a. The cooperation of the respondent petitioner seeking reduction,
45 including whether the respondent petitioner had appeared before

1 the special magistrate or code compliance board at the original
2 hearing;

- 3
- 4 b. The documentation provided ~~by the respondent~~ in support of the
5 fine reduction request;
- 6
- 7 c. Whether the ~~respondent~~ petitioner seeking reduction has new
8 evidence or information which could not be provided at the
9 original hearing;
- 10
- 11 d. Whether there was any extraordinary hardship which existed or
12 currently exists;
- 13
- 14 e. Whether the ~~respondent~~ petitioner seeking reduction is presently
15 ~~has come~~ into compliance with the prior order of the special
16 magistrate and/or code compliance board;
- 17
- 18 f. The number of days that the violation existed;
- 19
- 20 g. Whether the ~~respondent~~ petitioner seeking reduction ~~has been~~ was
21 previously deemed a repeat violator by order of the special
22 magistrate and/or code compliance board;
- 23
- 24 ~~h. Whether the property is homestead or non-homestead property;~~
25 ~~and~~
- 26
- 27 i.h. The total administrative cost to the village for the handling of the
28 case, which cost will be inclusive of staff time and recording and
29 release of lien fees.

30

31 (3) When issuing a determination for a fine reduction request, the ~~The~~
32 special magistrate code compliance board shall consider the same criteria as the
33 code compliance officer.

34

35 (4) The special magistrate code compliance board shall not waive
36 administrative costs incurred by the ~~local government~~ Village in enforcing its
37 codes. In addition, the ~~code compliance board and the administrative panel~~ special
38 magistrate shall not waive costs of any repairs incurred by the Village local
39 government.

40

41 (d) A certified copy of an order imposing a fine, or a fine plus repair
42 costs, may be recorded in the public records of Miami-Dade County, Florida and
43 thereafter shall constitute a lien against the land on which the violation exists, or,
44 if the violator does not own the land, upon any other real or personal property
45 owned by the violator. Upon petition to the circuit court, such order shall be
46 enforceable in the same manner as a court judgment by the sheriffs of this state,

1 including execution and levy against the personal property of the violator but such
2 order shall not be deemed otherwise to be a judgment of a court except for
3 enforcement purposes. A fine imposed pursuant to this part shall continue to
4 accrue until the violator comes into compliance or until judgment is rendered in a
5 suit to foreclose on a lien filed pursuant to this section, whichever occurs first.
6 After three (3) months from the filing of any such lien which remains unpaid, the
7 special magistrate or code compliance board may authorize the village attorney to
8 initiate court proceedings to foreclose upon the lien. No lien created pursuant to
9 the provisions of this chapter may be foreclosed on real property, which is a
10 homestead under the Florida Constitution, Art. X, § 4. For purposes of this
11 section, there is a rebuttable presumption that a residential property for which a
12 homestead exemption for taxation was granted according to the certified rolls of
13 the latest assessment by the county property appraiser, before the filing of the
14 foreclosure action, is an owner-occupied residential property.

15
16 14.1.11 Duration of lien.

17
18 No lien provided by the ~~Code Compliance Boards Act~~ for herein shall continue to
19 encumber real property for a longer period than twenty (20) years after the
20 certified copy of an order imposing a fine has been recorded, unless within that
21 time an action to foreclose on the lien is commenced in a court of competent
22 jurisdiction. In an action to foreclose on the lien, the prevailing party is entitled to
23 recover all costs, including a reasonable attorney's fee, that it incurs in the
24 foreclosure. The continuation of the lien effected by the commencement of the
25 action shall not be good against creditors or subsequent purchasers for valuable
26 consideration without notice, unless a notice of lis pendens is recorded.

27
28 14.1.12 Appeal.

29
30 (a) Pursuant to Section 162.11, Florida Statutes, An an aggrieved
31 party, including the Village, may appeal a final order of the special
32 magistrate or code compliance board to the ~~circuit court~~ Circuit
33 Court of the Eleventh Judicial Circuit in and for Miami-Dade
34 County, Florida. Such an appeal shall not be a hearing ~~de~~ de novo,
35 but shall be limited to appellate review of the record created before
36 the special magistrate or code compliance board.

37
38 (b) Pursuant to the applicable Florida Rules of Appellate Procedure,
39 the following documents must be filed within thirty (30) calendar
40 days of rendition of the order to be appealed:

41
42 (1) Original notice of appeal with the Village Clerk;

43
44 (2) File a copy of the notice of appeal and order being
45 appealed, accompanied with the requisite court filing fees,
46 with the Miami-Dade County Clerk of the Court.

1
2 (c) The Village Clerk shall process any requests for a copy of the
3 record created before the special magistrate or code compliance
4 board. The Village may assess a reasonable charge for the
5 preparation and transmission of the record to be paid by the
6 petitioner in accordance with Section 119.07, Florida Statutes.
7

8 14.1.13 Notice and procedures.
9

10 (a) All notices required by this part shall be provided to the alleged
11 violator by:

12
13 (1) Certified mail, return receipt requested, provided if such
14 notice is sent under this subsection to the owner of the
15 property in question at the address listed in the tax
16 collector's office for tax notices, and at any other address
17 provided to the village by such owner and is returned as
18 unclaimed or refused, notice may be provided by posting as
19 described in subsections (b)(1) and (2) below, and by first
20 class mail directed to the addresses furnished to the ~~local~~
21 ~~government~~ Village with a properly executed proof of
22 mailing or affidavit confirming the first class mailing; or
23

24 (2) Hand delivery by the sheriff or other law enforcement
25 officer, code compliance officer, or other person designated
26 by the ~~local governing body~~ Village; or
27

28 (3) Leaving the notice at the violator's usual place of residence
29 with any person residing therein who is above fifteen (15)
30 years of age and informing such person of the contents of
31 the notice.
32

33 (b) (1) In lieu of notice as described in subsection (a), such notice
34 may be posted at least ten (10) days prior to the hearing, or
35 prior to the expiration of any deadline contained in the
36 notice, in at least two (2) locations, one of which shall be
37 the property upon which the violation is alleged to exist and
38 the other of which shall be at the Village Hall.
39

40 (2) Proof of posting shall be by affidavit of the person posting
41 the notice, which affidavit shall include a copy of the notice
42 posted and the date and places of its posting.
43

44 (c) Evidence that an attempt has been made to hand deliver or mail
45 notice as provided in subsection (a), together with proof of notice
46 or posting as provided in subsection (b), shall be sufficient to show

1 that the notice requirements of this chapter have been met, without
2 regard to whether or not the alleged violator actually received such
3 notice.
4

5 14.1.14 Enforcement procedures by code compliance officer.
6

7 (a) For the purposes of this chapter, a "code compliance officer" is
8 defined to be any agent or employee of the village or Miami-Dade
9 County whose duty is to assure the enforcement of and compliance
10 with the village code, the Florida Building Code, or Miami-Dade
11 County, as applicable. Prior to being provided the authority to
12 initiate enforcement proceedings under this chapter, a code
13 compliance officer shall be required to successfully complete a
14 criminal background investigation as prescribed by administrative
15 order of the county manager. Subject to the requirements of section
16 8CC-11, a "code compliance officer" is also defined to be any
17 agent or employee of a municipality who has been authorized
18 pursuant to that section to assure code compliance. Municipal
19 employees shall also be required to successfully complete a
20 criminal background investigation prior to being provided
21 authority to initiate enforcement proceedings under this chapter.
22

23 (b) For the purposes of this chapter, "violators" shall be deemed to be
24 those persons or entities legally responsible for the violation of the
25 village's Code of Ordinances, applicable provision of the Miami-
26 Dade County Code, or the Florida Building Code.
27

28 (c) A code compliance officer who finds a violation of an ordinance
29 shall determine a reasonable time period within which the violator
30 must correct the violation. This determination shall be based on
31 considerations of fairness; practicality; ease of correction; ability to
32 correct; severity of violation; nature, extent and probability of
33 danger or damage to the public; and other relevant factors relating
34 to the reasonableness of the time period prescribed. A time for
35 correction need not be specified if the violation is deemed to be an
36 uncorrectable violation.
37

38 (d) Service shall be effected by delivering the civil violation notice to
39 the violator or his agent, or by leaving the civil violation notice at
40 the violator's usual place of abode with any person residing therein
41 who is fifteen (15) years of age or older and informing that person
42 of its contents. If such service cannot be effected, the notice may
43 be sent by certified mail, return receipt requested, or by posting of
44 the civil violation notice in a conspicuous place on the premises or
45 real property upon which the violation has been observed or by
46 mailing to or posting the civil violation notice at the property

1 owner's mailing address as listed in the tax records of Miami-Dade
2 County. Such posting of the notice or violation shall be deemed
3 proper service, and the time for compliance, stated in the notice,
4 shall commence with the date such notice is posted.
5

6 (e) A code compliance officer is authorized to record in the public
7 record the civil violation notice or a notice of violation which is
8 based upon the civil violation notice. The recording of the civil
9 violation or a notice of violation under this section shall not act as
10 or be a lien on the property and shall not act as a notice of a lien on
11 the property but shall merely act as public notice of the existence
12 of the violation.
13

14 (f) A code compliance officer must have, at a minimum, a Florida
15 Association of Code Enforcement (F.A.C.E.) Level 1 certification
16 within one (1) year of hire.
17

18 CHAPTER 15. - ENFORCEMENT

19 15.1. - Generally.

20
21
22 15.1.1 Enforcement of Land Development Code. The planning board,
23 special magistrate, and the code compliance board shall enforce the Land
24 Development Code.
25

26 15.2. - Building official.

27
28 15.2.1 Designation. The building official shall be designated by the
29 appointing authority, whatever the official title, to enforce the provisions of the
30 Florida Building Code and other applicable laws; provided, the official may act
31 with the aid and through authorized assistants.
32

33 15.2.2 Authority. The building official is hereby authorized and directed
34 to interpret and enforce all of the provisions of this code subject to the powers
35 vested in the planning board and the code compliance board.
36

37 15.3. - Violations and general penalty.

38
39 15.3.1 General penalty. Whenever in this code or in any ordinance of
40 the village any act is prohibited or is made or declared to be unlawful or an
41 offense, or whenever in such code or ordinance the doing of any act is required or
42 the failure to do any act is declared to be unlawful, where no specific penalty is
43 provided therefor, the violation of any such provision of this code or any
44 ordinance shall be punished by a fine not to exceed five hundred dollars
45 (\$500.00), or imprisonment for a term not exceeding sixty (60) days, or by both a

1 fine and imprisonment. Each day violation of any provision of this code or of any
2 ordinance shall continue shall constitute a separate offense.

3
4 15.3.2 Continuation of violation. In addition to the penalties
5 hereinabove provided, any condition caused or permitted to exist in violation of
6 any of the provisions of this code or any ordinance shall be deemed a public
7 nuisance and may be, by the village, abated as provided by law, and each day that
8 such condition continues shall be regarded as a new and separate offense.

9
10 15.4. - Other penalties and remedies.

11
12 15.4.1 Civil remedies. If any building or structure is erected,
13 constructed, reconstructed, altered, repaired, or maintained or any building,
14 structure, land, or water is used in violation of this code, the village, through the
15 village attorney, may institute any appropriate civil action or proceedings in any
16 court to prevent, correct, or abate the violation.

17
18 **Section 3.** **Severability.** Should any section, provision, paragraph, sentence, clause of
19 word of this Ordinance or portion hereof be held or declared by any court of competent jurisdiction
20 to be unconstitutional or invalid, in part or application, it shall be considered as eliminated and shall
21 not affect the validity of the remaining portions or applications of this Ordinance.

22 **Section 4.** **Codification.** It is the intention of the Village Commission of the Village of
23 Biscayne Park, that the provisions of this Ordinance shall become and made a part of the Land
24 Development Code of the Village of Biscayne Park, Florida, and that the Sections of this Ordinance
25 may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article"
26 or other word or phrase in order to accomplish such intention.

27 **Section 5.** **Conflicts.** That all Ordinances or parts of Ordinances, Resolutions or parts
28 thereof in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

29 **Section 6.** **Effective Date.** This Ordinance shall become effective immediately upon its
30 passage and adoption, in accordance with the Village Charter.

31 The foregoing Ordinance was offered by Mayor Truppman who moved its adoption.

1 The motion was seconded by _____ and upon being put to a vote, the vote was as
2 follows:

3 PASSED AND ADOPTED upon first reading this 24th day of October, 2019.

4 PASSED AND ADOPTED upon second reading this 3rd day of December, 2019.

5 **The foregoing ordinance upon being put**
6 **to a vote, the vote was as follows:**

7
8
9 Mayor Truppman:
Vice Mayor Tudor:
Commissioner Samaria:

8 _____
9 Tracy Truppman, Mayor

10
11
12
13 Attest:

14
15
16
17 _____
18 Roseann Prado, Village Clerk

19
20
21 Approved as to form:

22
23
24
25 _____
26 Rebecca A. Rodriguez, Village Attorney

27



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Daily Business Review

Miami Dade

Customer No: 9008253

VILLAGE OF BISCAYNE PARK
Attention To: ROSEANN PRADO
600 NE 114TH ST
BISCAYNE PARK, FL 33161

Invoice #:	10000433955-1025
Invoice Date:	10/25/2019
Due Date:	Due Upon Receipt
AMOUNT DUE:	\$94.40

PLEASE RETURN THIS SECTION WITH PAYMENT

Amount Remitted

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Daily Business Review

Miami Dade

Invoice Date: 10/25/2019	Customer #: 9008253
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Invoice #	Description	Amount
10000433955-1025	Placement/Position: Bids/Hearngs/Meetings/Ordinances/Hearings Run Dates: 10/25/2019 Ad Size: 2 x 5.28 Inches VILLAGE OF BISCAYNE PARK - PUBLIC HEARING - ORDINANCE NO. 2019-05 - NOV. 05, 2019	\$94.40
	Subtotal	\$94.40
	Total Due	\$94.40

Visit our online payment portal at <http://almpaymentcenter.com> to pay via credit card

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MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared GUILLERMO GARCIA, who on oath says that he or she is the DIRECTOR OF OPERATIONS, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

VILLAGE OF BISCAYNE PARK - PUBLIC HEARING -
ORDINANCE NO. 2019-05 - NOV. 05, 2019

in the XXXX Court,
was published in said newspaper in the issues of

10/25/2019

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

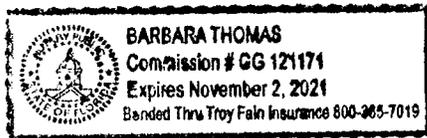
Guillermo Garcia

Sworn to and subscribed before me this
25 day of OCTOBER, A.D. 2019

Barbara Thomas

(\$SEAL)

GUILLERMO GARCIA personally known to me



**PUBLIC NOTICE
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Village Commission of the Village of Biscayne Park, Florida will hear the following ordinance at a Public Hearing to be held beginning at 7:00 PM, Tuesday, November 05, 2019, at the Log Cabin, 640 NE 114th Street, Biscayne Park, FL 33161.

ORDINANCE NO. 2019-05

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING CHAPTERS 14 AND 15 OF THE LAND DEVELOPMENT CODE OF THE VILLAGE OF BISCAYNE PARK; AUTHORIZING SPECIAL MAGISTRATE POSITION FOR CERTAIN CODE ENFORCEMENT PROCEEDINGS; PROVIDING FOR ORDINANCES IN CONFLICT; REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

All documentation pertaining to this notice may be inspected by the public at the Office of the Village Clerk in Village Hall, 600 NE 114th Street. Interested parties may appear at the meeting and be heard with respect to the proposed Ordinances.

In accordance with the provision of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will 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.

In accordance with the Americans with Disabilities Act of 1990, persons who require special accommodation to participate in the proceedings should call the Village Clerk's office at (305) 899-8000 no later than (4) days prior to the proceeding for assistance. On day of meeting, if called in by 11:00am, we will do our best to accommodate your request. Roseann Prado, Village Clerk
10/25 19-161/0000433955M

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10/25/2019



PUBLIC NOTICE
NOTICE OF PUBLIC HEARING

CATEGORY Hearings FL
AD NUMBER 0000433955-01

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Prado, Village Clerk

10/25 19-161/0000433955M



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Please Remit To:

Daily Business Review

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Customer No: 9008253

VILLAGE OF BISCAYNE PARK
Attention To: ROSEANN PRADO
600 NE 114TH ST
BISCAYNE PARK, FL 33161

Invoice #:	10000439907-1122
Invoice Date:	11/22/2019
Due Date:	Due Upon Receipt
AMOUNT DUE:	\$97.03

Amount Remitted

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Daily Business Review

Miami Dade

Invoice Date: 11/22/2019	Customer #: 9008253
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Invoice #	Description	Amount
10000439907-1122	Placement/Position: Bids/Hearngs/Meetings/Ordinances/Hearings Run Dates: 11/22/2019 Ad Size: 2 x 5.43 Inches VILLAGE OF BISCAYNE PARK - PUBLIC HEARING - ORDINANCE NO. 2019-05 - DEC. 03, 2019	\$97.03
	Subtotal	\$97.03
	Total Due	\$97.03

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MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared GUILLERMO GARCIA, who on oath says that he or she is the DIRECTOR OF OPERATIONS, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

VILLAGE OF BISCAYNE PARK - PUBLIC HEARING -
ORDINANCE NO. 2019-05 - DEC. 03, 2019

in the XXXX Court,
was published in said newspaper in the issues of

11/22/2019

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

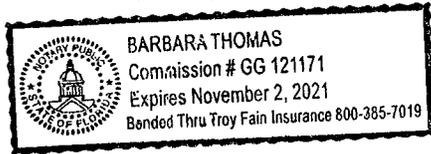
Guillermo Garcia

Sworn to and subscribed before me this
22 day of NOVEMBER, A.D. 2019

Barbara Thomas

(SEAL)

GUILLERMO GARCIA personally known to me



**PUBLIC NOTICE
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Village Commission of the Village of Biscayne Park, Florida will hear the following ordinance at a Public Hearing to be held beginning at 7:00 PM, Tuesday, December 03, 2019, at the Log Cabin, 640 NE 114th Street, Biscayne Park, FL 33161.

ORDINANCE NO. 2019-05

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING CHAPTERS 14 AND 15 OF THE LAND DEVELOPMENT CODE OF THE VILLAGE OF BISCAYNE PARK; AUTHORIZING SPECIAL MAGISTRATE POSITION FOR CERTAIN CODE ENFORCEMENT PROCEEDINGS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

All documentation pertaining to this notice may be inspected by the public at the Office of the Village Clerk in Village Hall, 600 NE 114th Street. Interested parties may appear at the meeting and be heard with respect to the proposed Ordinances.

In accordance with the provision of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will 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.

In accordance with the Americans with Disabilities Act of 1990, persons who require special accommodation to participate in the proceedings should call the Village Clerk's office at (305) 899-8000 no later than (4) days prior to the proceeding for assistance. On day of meeting, if called in by 11:00am, we will do our best to accommodate your request. Roseann Prado, Village Clerk
11/22

19-53/0000439907M

Rebecca A. Rodriguez, Esq.
Of Counsel

954-761-8111
REBECCA.RODRIGUEZ@GRAY-ROBINSON.COM

401 EAST LAS OLAS BLVD.
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FORT LAUDERDALE, FLORIDA 33301
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WEST PALM BEACH

MEMORANDUM

TO: Village Commission, Village of Biscayne Park, Florida

FROM: Rebecca A. Rodriguez, Village Attorney

DATE: December 3, 2019

SUBJECT: Proposed Ordinance No. 2019-06 – An Ordinance Of The Village Commission Of The Village Of Biscayne Park, Florida, Amending Section 2-16 Of The Village Of Biscayne Park Code Of Ordinances; Adopting Commission Rules And Procedures For Meetings And Workshops; Providing For Ordinances In Conflict, Repealer, Codification, Severability And An Effective Date.

Background

On July 24, 2019 and September 18, 2019 the Village Commission hosted two public workshops to explore codifying various potential rules and procedures for future Village Commission meetings and workshops.

The Village Commission further discussed these potential rules and procedures during its regular meeting on October 1, 2019. The Village Commission received public comments from Village residents during the workshops and the October regular meeting, and also discussed various sample rules and procedures from other jurisdictions.

After these discussions, the attached draft ordinance was prepared at the directive of the Village Commission for a first reading. This draft ordinance is presented to the Village Commission for a public hearing and first reading during the Village Commission's November 5, 2019 regular meeting.

Legal Note

The attached draft ordinance is provided for a first reading pursuant to Fla. Stat. § 166.041.

Recommendation

Provide any feedback and/or changes to this draft ordinance during the first reading, and have the second reading during the December regular commission meeting to approve and adopt the ordinance.

Attachments

1. Draft ordinance for first reading.

December 3, 2019
Item # 9.b

1 **WHEREAS**, on October 1, 2019, the Village Commission publicly discussed the drafting
2 this ordinance during its regular Commission meeting; and

3 **WHEREAS**, the Village Commission held a public hearing and first reading for this
4 ordinance during its regular Commission meeting on November 5, 2019;

5 **WHEREAS**, the ordinance passed the first reading on November 5, 2019; and

6 **WHEREAS**, on November __, 2019, the Village advertised a notice of the ordinance’s
7 second reading and proposed enactment in the Daily Business Review in compliance with Section
8 166.041(3)(a), Florida Statutes;

9 **NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COMMISSION OF**
10 **THE VILLAGE OF BISCAYNE PARK, FLORIDA, AS FOLLOWS:**

11 **Section 1. Ratification.** The foregoing “Whereas” clauses are hereby ratified and
12 confirmed as being true and correct and are hereby made a specific part of this Ordinance upon
13 adoption hereof.

14 **Section 2. Section 2-16 of the Village Code of Ordinances Amended.** Section 2-16
15 of the Code of Ordinances for the Village of Biscayne Park, Florida shall be amended to read as
16 follows:

17 Sec. 2-16. – Rules of procedure for Commission mMeetings and public workshops.

18
19 (a) GOVERNING RULES; AMENDMENT.

20
21 Except as may be provided in the Charter, the Code or by these rules, questions of order,
22 the methods of organization and the conduct of business of the Commission shall be
23 governed by Roberts’ Rules of Order (current edition).
24
25

1 (h) SPECIAL MEETINGS AND EMERGENCY MEETINGS.

2
3 (1) Special meetings. A special meeting of the Commission may be called by
4 the Village Mayor, or by four (4) the members of the Commission. The
5 Village Clerk shall forthwith serve verbal and written notice upon each
6 member of the Commission stating the date, hour and place of the special
7 meeting and the purpose for which such meeting is called, and no other
8 business shall be transacted at that meeting. At least twenty-four (24) hours
9 must elapse between the time the Clerk receives notice in writing and the
10 time the meeting is to be held.

11 A special meeting of the Village Commissions may be cancelled (1) by
12 resolution or motion adopted at a regular meeting by a majority of the
13 Commission members present, or (2) by three (3) members of the Village
14 Commission each individually serving a notice of request for cancellation
15 upon the Clerk, who shall provide public notice when a meeting is
16 cancelled. The Commission chambers shall be made available for a special
17 meeting whenever such a meeting is called.

18 (2) Emergency meetings. An emergency meeting of the Commission may be
19 called by the Village Mayor whenever in his or her opinion an emergency
20 exists which requires immediate action by the Commission. Whenever such
21 emergency meeting is called, the Village Mayor shall notify the Clerk who
22 shall forthwith serve either verbal or written notice upon each member of
23 the Commission, stating the date, hour and place of the meeting and the
24 purpose for which it is called, and no other business shall be transacted at
25 that meeting. At least twenty-four (24) hours shall elapse between the time
26 the Clerk receives notice of the meeting and the time the meeting is to be
27 held. An emergency meeting of the Village Commission may be cancelled
28 by resolution or motion adopted at a regular meeting by a simple majority
29 of the Commission members present. The Commission chambers shall be
30 made available for an emergency meeting whenever such a meeting is
31 called.

32 After an emergency meeting, the Commission shall publicly ratify both the
33 calling of the emergency meeting and any emergency actions taken therein,
34 during its next regular commission meeting by adoption of a resolution. A
35 simple majority vote of Commission members present is required for the
36 ratification.

37 (3) Notice to Commissioners. If after reasonable diligence, it is impossible to
38 give notice to each Commissioner, such failure shall not affect the legality
39 of the meeting if a quorum is present. The minutes of each special or
40 emergency meeting shall show the manner and method by which notice of
41 such special or emergency meeting was given to each member of the
42 Commission, or shall show a waiver of notice. All special or emergency
43 meetings shall be open to the public and shall be held and conducted in the

1 Village Hall, or other suitable location within the Village of Biscayne Park,
2 Florida. Minutes thereof shall be kept by the Clerk.

- 3 (4) Waiver of Requirements. No special or emergency meeting shall be held
4 unless notice thereof shall be given in compliance with the provisions of
5 this rule, or notice thereof is waived by a supermajority vote of the entire
6 membership of the Commission.

7
8 (i) PUBLIC WORKSHOPS.

- 9 (1) Purpose. The Commission may, by a simple majority vote, schedule a
10 public workshop to receive resident comments or publicly discuss any issue.
11 Workshops shall be scheduled publicly by a simple majority vote of
12 Commission members present, with a clear and express workshop objective
13 stated at the time of the vote.
- 14 (2) Duties of Sponsoring Commissioner. The sponsoring Commission member
15 who moved to schedule a public workshop must provide their supporting
16 documentation and materials for the workshop to the Village Clerk at least
17 one (1) week in advance of the workshop date. The Village Clerk shall post
18 the agenda and all supporting materials in advance of the workshop.
- 19 (3) No action items permitted. The Village Commission may not adopt any
20 resolutions or ordinances during a public workshop. This prohibition cannot
21 be waived by a vote of the Commission, even if said vote is unanimous.

22 (j) CANCELLATION PROCEDURES.

- 23 (1) Authority to cancel. The Village Manager shall have the authority to cancel
24 any scheduled Commission meeting or public workshop.
- 25 (2) Basis for cancellation. At the next regular Commission meeting, the Village
26 Manager shall provide the Village Commission with a written
27 memorandum explaining the basis for cancellation.
- 28 (3) Notice to public for cancellation. The Village Clerk shall post all meeting
29 and workshop cancellation notices on the Village website. The Village
30 Clerk shall also post cancellation notices at the entrances of Village Hall on
31 the date of the cancelled meeting.

32 (k) AGENDA FOR MEETINGS AND WORKSHOPS.

- 33 (1) Five day rule. A copy of each agenda item shall be furnished to the members
34 of the Commission not later than five (5) business days before a vote may
35 be called on the item. The provisions of this rule shall be deemed waived
36 unless asserted by a Commissioner before the board takes action on the
37 resolution, ordinance, motion or other item in question. This rule is not
38 applicable to special or emergency meetings called in compliance with the
39 Village Code and Charter.

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- (2) *Publishing Agenda to the Public.* The agenda for a regular commission meeting shall be published by the Village Clerk no later than the Friday prior to that meeting. This requirement does not apply to special commission meetings, nor emergency or time sensitive matters which may be added to an agenda due to exigent circumstances as provided herein.

 - (3) *Minimum Standards for Proposed Agenda Items.* Proposed agenda items must include a cover memorandum providing, at minimum, the following information:
 - (A) *Background.* The cover memorandum must include a general background of the item being presented to the Village Commission.

 - (B) *Recommended Action.* The cover memorandum must express a clear proposed course of action to the Village Commission.

 - (C) *Financial Impact.* The cover memorandum must include an estimated financial impact. The memorandum must expressly state whether the adopted budget allocated funds for the proposed item. In the event a proposed item is contingent upon receiving grant funds, the memorandum shall so state.

 - (D) *Village Clerk.* The Village Clerk shall ensure all agenda materials conform to the requirements provided herein. The Village Clerk shall promptly notify a submitter of a deficient proposed item and provide an opportunity to correct the materials to be included in the agenda.

 - (4) *Emergency matters; time sensitive matters.* A matter may be placed on the meeting agenda to meet a public emergency or other time sensitive circumstance. Items placed on the agenda as an emergency or time sensitive matter shall so state. The Commission must ratify the emergency or time sensitive circumstance by a majority vote of Commission members present for the item to proceed.

 - (5) *Sponsorship; Authority to Sponsor or Present Agenda Items.* A Commissioner, Village Manager, Village Attorney, Village Clerk, or Village department head may sponsor any report or memorandum to be presented before the Commission. A Village Commissioner may assume sponsorship of any ordinance, resolution, report, or other matter.

 - (6) *Prime Sponsorship and Co-Sponsorship.* When a resolution or ordinance is placed on the agenda at the request of a Commissioner, the Commissioner who requested the preparation of the item shall be designated as the prime sponsor. Any other commissioner who wishes to sponsor the resolution or

1 ordinance shall so state during agenda approval and be designated a co-
2 sponsor of the item.

3
4 (7) Limitation on Amount of Sponsored Agenda Items. No Commissioner shall
5 be a prime sponsor of a total of more than three (3) action items on a single
6 regular Commission agenda unless the Presiding Officer of the Commission
7 authorizes the placement of additional items on the agenda by a particular
8 Commissioner when approving the agenda. For purposes of this section, an
9 "action item" means an ordinance for first reading or a resolution. This
10 provision shall not be applied to ordinances or resolutions which are
11 intended to correct scrivener's errors, or have "rolled over" from a prior
12 meeting's agenda.

13 (8) Limitation on Deferral of Agenda Items. An agenda item shall be deemed
14 withdrawn upon its third deferral. The provisions of this subsection shall
15 not apply to the certification of any election, quasi-judicial matters, zoning
16 applications, or applications to amend the Village's Land Development
17 Code.

18 (9) Approval by Village Attorney. All ordinances, resolutions, and contract
19 documents, before presentation to the Village Commission, shall have been
20 reduced to writing and shall have been approved as to form and legality by
21 the Village Attorney. All reports or memoranda that supplement pending
22 ordinances or resolutions shall be presented to the Village Attorney for
23 review and approval for placement on the agenda, when such reports or
24 memoranda contain proposed amendatory language that can be used to
25 formulate amendments to ordinances or resolutions. Prior to presentation all
26 such documents may be referred to the head of the department under whose
27 jurisdiction the administration of the subject matter of the ordinance,
28 resolution or contract document would devolve.

29 (10) Approval by Commission. The proposed agenda must be voted on and
30 approved by a simple majority vote of the Commission during the meeting.
31 Amendments to the agenda, such as tabling, deferral, and removal must be
32 made at that time. Any action item not removed, tabled, or otherwise
33 deferred prior to the agenda approval vote must proceed to a vote during
34 that meeting and cannot be subsequently withdrawn.

35
36 (1) CONDUCT OF MEETINGS AND WORKSHOPS.

37 (1) Call to Order. Promptly at the hour set for each meeting, the members of
38 the Commission, the Village Attorney, the Village Manager and the Village
39 Clerk shall take their regular stations on the dais. The Presiding Officer
40 shall take the chair and shall call the Commission to order immediately. In
41 the absence of the Presiding Officer, the Village Clerk shall then determine
42 whether a quorum is present and in that event shall call for the election of a
43 temporary Presiding Officer. Upon the arrival of the Mayor or Vice-Mayor,

1 the temporary Presiding Officer shall relinquish the chair upon the
2 conclusion of the business immediately before the Commission.

3 (2) Roll Call. The Village Clerk shall call the roll of the members, and the
4 names of those present shall be entered in the minutes. The Village Clerk
5 shall note in the minutes when a Commissioner arrives after the
6 commencement of a Commission meeting, or if a Commissioner departs a
7 Commission meeting before it has adjourned.

8 (3) Quorum. A simple majority of the Commission members then in office
9 shall constitute a quorum. No ordinance, resolution, or motion shall be
10 adopted by the Commission without the affirmative vote of the majority of
11 all the members present. A quorum is required for public workshops.

12 (4) Failure to Maintain a Quorum. Should no quorum attend within fifteen
13 (15) minutes after the hour appointed for the meeting of the Commission,
14 the Presiding Officer, the Village Manager, or the Village Clerk may
15 adjourn the meeting until another hour or day unless, by unanimous
16 agreement, those members present select another time and continue the
17 meeting to a date certain. The names of the members present and their
18 action at such meeting shall be recorded in the minutes by the Village Clerk.

19
20 (m) RULES OF DECORUM.

21 (1) Preservation of Order. Meetings of a Commission as herein defined shall
22 be conducted in an orderly manner to ensure that the public has a full
23 opportunity to be heard and that the deliberative process of the Commission
24 is conducted as efficiently as possible. The Presiding Officer shall be
25 responsible for maintaining the order and decorum of meetings.

26 (2) Commission Members. The members of a Commission as herein defined
27 shall preserve order and decorum, and a member shall not by conversation
28 or other means delay or interrupt the Commission's proceedings, including
29 delaying or interrupting any person who is speaking who has been
30 recognized by the Presiding Officer.

31 (3) Village Staff Members. Employees of the Village shall observe the same
32 rules of order and decorum as those that apply to members of the
33 Commission.

34 (4) Persons Addressing the Commission. Members of the public are afforded
35 the opportunity to address the Commission on any item of interest to the
36 public that is within the subject matter jurisdiction of the Commission.
37 Members of the public must address members of the Village Commission
38 and Village Officials by their respective titles, and not by first name. Each
39 person who addresses the Commission shall do so in an orderly manner and
40 shall not make personal, impertinent, slanderous, or profane remarks to any

1 member of the Commission, staff, or general public that disrupt, disturb, or
2 otherwise impede the orderly conduct of any meeting of the Commission.

3 Any person who makes such remarks; or who utters loud, threatening,
4 personal, or abusive language; or engages in any other disorderly conduct
5 that disrupts, disturbs, or otherwise impedes the orderly conduct of any
6 meeting of the Commission, including, but not limited to, addressing the
7 Commission without being recognized, repetitiously addressing the same
8 subject, or failing to relinquish the podium when requested to do so, shall,
9 at the discretion of the Presiding Officer, be barred from further audience
10 before the Commission during that meeting.

11 (5) Members of the Audience. No person in the audience at a Commission
12 meeting shall engage in disorderly or boisterous conduct, including the
13 utterance of loud, threatening, or abusive language; whistling; stamping of
14 feet; or other acts which disturb, disrupt, or otherwise impede the orderly
15 conduct of any meeting of the Commission. Any person who conducts
16 himself or herself in the aforementioned manner shall, at the discretion of
17 the Presiding Officer, be barred from further audience before the
18 Commission during that meeting.

19 (6) Addressing the Village Commission. Any person wishing to address the
20 Commission regarding an item which is on the meeting agenda or is
21 otherwise within the subject matter jurisdiction of the Commission may
22 submit a request on the form provided, or he or she may seek recognition
23 by the Presiding Officer during discussion of any such item. Persons
24 wishing to discuss a non-agenda item may seek recognition by the Presiding
25 Officer during the Public Comment portion of the meeting. No person shall
26 address the Commission without first being recognized by the Presiding
27 Officer.

28 The following procedures shall be observed by persons addressing the
29 Commission:

30 (A) Each person shall speak from the podium provided for the use of the
31 public.

32 (B) Each person shall limit his or her remarks to three (3) minutes.

33 (7) Enforcement of Decorum. The rules of decorum set forth above shall be
34 enforced in the following manner:

35 (A) Warning. The Presiding Officer shall request that a person who is
36 violating the rules of decorum conform his or her behavior to these
37 rules.

1 (B) Instructed to Leave Meeting. If, after receiving a warning from the
2 Presiding Officer, a person persists in disturbing the meeting, the
3 Presiding Officer shall order the individual to leave the meeting.

4 (C) Removal. If such person does not remove himself or herself from the
5 meeting, the Presiding Officer may order any law enforcement
6 officer who is on duty at the meeting as Sergeant-at-Arms to remove
7 that person from the meeting.

8 Any law enforcement officer who is serving as Sergeant-at-arms
9 may carry out orders and instructions given by the Presiding Officer
10 for the purpose of maintaining order and decorum at the meeting.
11 Upon instruction of the Presiding Officer, the Sergeant-at-Arms
12 may remove any person(s) who is (are) disturbing the proceedings
13 of the Commission in violation of these rules from the meeting.

14 (D) Resisting Removal. Any person who resists removal by the
15 Sergeant-at-Arms may be charged with a violation of this section.

16 (E) Commission Override; Reinstatement. The Commission may, by a
17 simple majority vote, override the Presiding Officer's removal
18 determination and reinstate an individual's ability to attend any
19 meeting or public workshop.

20 (F) Citations and Arrests. Nothing in this section precludes the
21 Sergeant-at-Arms from utilizing their authority as a sworn law
22 enforcement officer to cite or arrest any individual for violating the
23 law, including, but not limited to, breach of the peace, disorderly
24 conduct, disorderly intoxication, or trespass after warning.

25 (G) Clearing the Meeting Site. In the event that any meeting is willfully
26 interrupted by a group or groups of persons so as to render the
27 orderly conduct of such meeting unfeasible and order cannot be
28 restored by the removal of individuals who are willfully interrupting
29 the meeting, the Presiding Officer may order the room cleared and
30 continue in session. The Presiding Officer may subsequently
31 readmit individuals not believed to be responsible for creating the
32 disturbance into the meeting. If a meeting of the Commission is
33 disturbed or disrupted in such a manner as to make unfeasible or
34 improbable the restoration of order, the meeting may be adjourned
35 or continued at the discretion of the Presiding Officer, and any
36 remaining business of the Commission may be considered at the
37 next scheduled Commission meeting.

38 (8) Rules for recording meetings. As permitted by Florida Statutes, members of
39 the public are permitted to record any open and public Commission

1 meeting. In order to provide for the recording of such meetings by members
2 of the public, the Village has developed the following guidelines:

3 (A) The recording procedure must not disrupt, disturb, or otherwise
4 impede the conduct of the meeting. A disruption or disturbance of
5 the orderly conduct of the meeting can include, but is not limited to,
6 the following:

7 1. Obstructing the view of audience/staff members.

8 2. Creating noise that keeps audience/staff members from
9 hearing the proceedings.

10 3. Treating potential interviewees, and/or conducting
11 interviews, in a belligerent manner.

12 4. Interfering with the Village's audio and/or recording
13 equipment for the meeting. This includes, but is not limited
14 to, the use of equipment which creates beeping, radio noise,
15 or static interference "white noise" with Village equipment
16 during the pendency of a Commission meeting.

17 (B) Placement of video recording equipment/crew:

18 1. When recording is taking place in the meeting chambers,
19 video cameras, tripods, and/or crew shall be located in the
20 back corner of the room and shall be situated so the public is
21 able to safely walk around the room's aisles and perimeter
22 without being impeded by such video cameras, tripods,
23 and/or crew.

24 2. When recording is taking place at a meeting of a
25 Commission herein defined at a location other than the
26 Village Council Chambers, video cameras, tripods, and/or
27 crew shall be situated so neither the view nor the circulation
28 of the audience or staff is impeded.

29 3. All audio/electrical cords must be securely taped or covered
30 with a mat.

31 4. No recording devices may be placed on the dais, podium, or
32 other Village-owned apparatus.

33 (C) Village staff is in charge of enforcing the recording guidelines at the
34 meeting site. The Presiding Officer may instruct the Sergeant-at-
35 arms to unplug or otherwise remove any equipment which fails to
36 conform with the rules provided herein.

1 (n) PUBLIC PARTICIPATION.

2 (1) Persons authorized on the dais; approaching dais prohibited. No person,
3 except Village officers or their representatives, shall be permitted on the
4 dais unless authorized by the Presiding Officer or a majority vote of the
5 Commission. Unauthorized individuals approaching the dais is strictly
6 prohibited and may result in removal from the Commission meeting.

7 (2) Registration of speakers for public hearing items.

8 (A) The Village Clerk shall prepare appropriate sign-in sheets for public
9 hearing items which should indicate the speaker's name, the public
10 hearing item on which he or she is speaking, and whether he or she
11 is speaking in favor of or against the proposed item.

12 (B) On the day of the meeting or workshop, a person desiring to speak
13 shall sign in with the Village Clerk, at least five (5) minutes prior to
14 the commencement of the discussion on the item, at a registration
15 table in the meeting chambers.

16 (C) Failure to comply with the registration provisions of this rule shall
17 prohibit a person from speaking on any public hearing item for
18 which he or she is not properly signed-in.

19 (3) Addressing the Commission, manner, time for public hearing items. Each
20 person, other than salaried members of the Village staff, who addresses the
21 Commission or a committee shall step up to a podium and shall give the
22 following information in an audible tone of voice for the minutes:

23 (A) Name;

24 (B) Address;

25 (C) Whether the person speaks on his or her own behalf, a group of
26 persons, or a third party; or if the person represents an organization;
27 and whether the view expressed by the speaker represents an
28 established policy of the organization approved by the board or
29 governing council;

30 (D) Compensation, if any, including in-kind compensation;

31 (E) Whether the person or any immediate family member has a personal
32 financial interest in the pending matter, other than as set forth in (d).

33 Unless further time is granted by the Commission or committee, the
34 statement on a public hearing item shall be limited to three (3) minutes. All
35 remarks shall be addressed to the Commission or committee as a body and
36 not to any member thereof. No person, other than Commissioners and the
37 person having the floor, shall be permitted to enter into any discussion,
38 either directly or through a member of the Commission, without the
39 permission of the Presiding Officer. No question shall be asked directly to
40 a Commissioner except through the Presiding Officer.

1 (o) RULES OF DEBATE.

- 2 (1) Questions under consideration. When a motion is presented and seconded,
3 it is under consideration and no other motion shall be received thereafter,
4 except to adjourn, to lay on the table, to postpone, or to amend until the
5 question is decided. These motions shall have preference in the order in
6 which they are mentioned and the first two (2) shall be decided without
7 debate. Final action upon a pending motion may be deferred until a date
8 certain by a simple majority vote of the Commission members present.
- 9 (2) Getting the floor, improper references to be avoided. Every member
10 desiring to speak for any purpose shall address the Presiding Officer, and
11 upon recognition, shall be confined to the question under debate, avoiding
12 all personalities and indecorous language.
- 13 (3) Interruption; call to order; appeal a ruling of the chair. A Commission
14 member, once recognized, shall not be interrupted when speaking unless it
15 be a call to order or as herein otherwise provided. Should a member be
16 called to order, the member shall cease speaking until the question of order
17 be determined by the Presiding Officer, and if in order the member shall be
18 permitted to proceed. Any member may appeal to the Commission from the
19 decision of the Presiding Officer upon a question of order, when, without
20 debate, the Presiding Officer shall submit to the Commission the question,
21 "Shall the decision of the Chair be sustained?" and the Commission shall
22 decide by a majority vote.
- 23 (4) Privilege of closing debate. The Commissioner sponsoring or moving the
24 adoption of an ordinance, resolution or motion shall have the privilege of
25 closing the debate.
- 26 (5) Method of voting. Voting shall be by roll call, voice vote, or paper ballot.
27 Upon every roll call vote the Village Clerk shall call names of the
28 Commissioners alphabetically by title and surname. The Village Clerk shall
29 call the roll, tabulate the votes, and announce the results. The vote upon
30 every resolution and ordinance shall be taken by roll call. Board
31 appointments may be made by paper ballot which clearly identify the
32 Commissioner voting, but must be announced and confirmed thereafter by
33 roll call. The Village Clerk must incorporate copies of the paper ballots in
34 the minutes from the meeting.
- 35 (6) Explanation of vote; conflicts of interest. Upon any roll call, there shall be
36 no discussion by any commissioner voting, and the commissioner shall vote
37 yes or no. A commissioner shall have the privilege of filing with the clerk a
38 written explanation of his or her vote.
- 39 Any commissioner with a conflict of interest on a particular matter shall:
40 (1) announce publicly at the meeting the nature of the conflict before the
41 matter is heard; (2) absent himself or herself from the commission chambers
42 during that portion of the meeting when the matter is considered; and (3)
43 file a written disclosure of the nature of the conflict with the Village Clerk

1 consistent with state and local ethics rules. The filing of the State of Florida
2 form prescribed for written disclosure of a voting conflict shall constitute
3 compliance with this subsection. Any such Commissioner who does not
4 leave the chambers shall be deemed absent for purposes of constituting a
5 quorum, counting the vote, or for any other purpose.

6 (7) Tie votes. Whenever action cannot be taken because the vote of the
7 commissioners has resulted in a tie, and no other available motion on an
8 item is made and approved before the next item is called for consideration
9 or before a recess or adjournment is called, whichever occurs first, the item
10 shall be carried over to the next regularly scheduled meeting for the
11 consideration and Commission vote.

12 (8) Vote change. Any Commissioner may change his or her vote before the next
13 item is called for consideration, or before a recess or adjournment is called
14 whichever occurs first, but not thereafter.

15 (9) No motion or second. If an agenda item fails to receive a motion or second,
16 it shall be removed from the agenda and may only be reintroduced thereafter
17 in accordance with the renewal provisions of this section.

18 (10) Item Reconsideration. An action of the commission may be reconsidered
19 only at the same meeting at which the action was taken or at the next regular
20 meeting thereafter. A motion to reconsider may be made only by a
21 Commissioner who voted on the prevailing side of the question and must
22 be concurred in by a majority of those present at the meeting. A motion to
23 reconsider an item resulting in a tie vote is not in order, and no such motion
24 shall be reconsidered. A motion to reconsider shall not be considered unless
25 at least the same number of commissioners is present as participated in the
26 original vote, or upon affirmative supermajority vote of those
27 commissioners present. Adoption of a motion to reconsider shall rescind the
28 action reconsidered.

29 (11) Renewal. Once action is taken on a proposed ordinance or resolution,
30 neither the same matter nor its repeal or rescission may be brought before
31 the Commission again during the six (6) month period following the said
32 action, unless application for renewal is presented and approved by a
33 supermajority vote of the Commissioners present. An application for
34 renewal must be approved during a regular commission meeting prior to
35 that item being placed on a meeting agenda.

36 (12) Expiration of postponed items. Once an item before the Board is postponed
37 indefinitely, and no action is taken by the Board on such item for a period
38 of six (6) months following the latest postponement, such item shall be
39 deemed withdrawn. Consideration of the matter covered under the item
40 shall require the introduction of a new item.

41 (13) Recess. Any member of the Commission may move for a recess during a
42 pending meeting. The Presiding Officer has the authority to unilaterally

1 declare a recess in the interests of security, safety, and/or order during
2 Commission meetings.

3 (14) Adjournment. Any member of the Commission may move to adjourn a
4 meeting. A motion to adjourn will be approved if passed by a simply
5 majority vote of the Commission members present. A motion to adjourn
6 shall always be in order and decided without debate. The Presiding Officer
7 has the authority to unilaterally adjourn a meeting in the interests of
8 security, safety, and/or order.

9 (15) Suspension of the rules. No rule of procedure provided herein shall be
10 suspended except by an affirmative supermajority vote of the
11 Commissioner members present.

12
13 (p) CENSURE.

14
15 (1) Censure defined. Censure is a formal act by the Commission, as a body,
16 which publicly condemns and reprimands an individual or entity whose
17 action runs counter to the Village’s acceptable standards for behavior,
18 civility, order, or decorum.

19
20 (2) Authority to censure. The Village Commission may, as a body, censure any
21 individual or entity by a unanimous vote of the voting members of the
22 Commission at a properly noticed public hearing. Any Commission censure
23 must be memorialized in a signed written resolution detailing the conduct
24 at issue and basis for the Commission decision to censure.

25
26 (3) Public hearing required. Any proposal to censure is due to the Village
27 Clerk in writing at least thirty (30) calendar days prior to a regularly
28 scheduled Commission meeting. Upon receipt, the Village Clerk shall
29 immediately provide written notice to the potential respondent, and notify
30 the respondent of their ability to provide a written response to the
31 Commission in advance of the public hearing. Written responses are due to
32 the Village Clerk at least five (5) business days prior to the public hearing
33 on the censure proposal.

34
35 (4) Co-sponsorship required. A proposal to censure an individual or entity
36 must be co-sponsored by a second Commission member during the agenda
37 approval phase of a public meeting. In the event a proposal to censure does
38 not receive a co-sponsorship from a second Commission member, the
39 censure proposal must be removed from the agenda for the meeting and
40 shall be deemed a failed agenda item.

41
42 (5) No authority to unilaterally censure. No individual Commission member
43 has the authority to unilaterally censure or otherwise publicly reprimand any
44 individual or entity during a Commission meeting, or at any time
45 whatsoever, on behalf of the Village of Biscayne Park.

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Attest:

Roseann Prado, Village Clerk

Approved as to form:

Rebecca Rodriguez, Village Attorney



**VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report
REGULAR MEETING**

Item # 10.a

TO: Honorable Mayor & Members of the
Biscayne Park Village Commission

FROM: Krishan Manners, Village Manager

DATE: December 03, 2019

TITLE: Biscayne Park Foundation Appointments

Background

The Biscayne Park Foundation currently have two (2) members openings.

E-mails blast were sent to the Village Residents to apply for the Biscayne Park Foundation.

Two (2) applications were received for Biscayne Park Foundation as follows:

- Yessenia Gonzalez
- Kate Eaton

Attachments

Applications received are as follows:

- Yessenia Gonzalez – Biscayne Park Foundation application
- Kate Eaton – Biscayne Park Foundation application

Biscayne Park Foundation bylaws

Resolution 2019-31 – Biscayne Park Foundation new members selection

Prepared by: Roseann Prado, Village Clerk

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3 **RESOLUTION NO. 2019-31**
4

5 **RESOLUTION OF THE VILLAGE**
6 **COMMISSION OF THE VILLAGE OF**
7 **BISCAYNE PARK, FLORIDA, RATIFYING**
8 **THE SELECTION AND APPOINTMENT OF**
9 **BOARD MEMBERS TO THE BISCAYNE**
10 **PARK FOUNDATION; PROVIDING FOR**
11 **AN EFFECTIVE DATE**
12

13
14 WHEREAS, The Biscayne Park Foundation bylaws Section 3 requires the
15 qualification for membership on the Governing Board individual to be a resident of the
16 Village and is nominated and appointed by the Village Commission; and,
17

18
19 WHEREAS, The Biscayne Park Foundation has currently (2) two openings on the
20 Governing Board; and
21

22 WHEREAS, The Village sent email blasts to residents requesting residents
23 interested in serving on or continuing to serve on the Biscayne Park Foundation to submit
24 an application for the Commission's consideration; and
25

26 WHEREAS, following the process whereby, the Village Clerk received two (2)
27 applications for the Biscayne Park Foundation placed on a ballot, the Village Commission,
28 by majority vote, select new the board member as follows:
29

- 30
 - Yessenia Gonzalez
 - Kate Eaton
31
32

33
34 NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COMMISSION OF
35 THE VILLAGE OF BISCAYNE PARK, FLORIDA
36
37

38 **Section 1.** The foregoing "WHEREAS" clauses are true and correct and hereby
39 ratified and confirmed by the Village Commission.
40

41
42 **Section 2.** Consistent with the Biscayne Park Foundation bylaws, two (2)
43 member have been selected to serve.
44

45
46 **Section 3.** This Resolution shall become effective upon adoption.
47
48
49
50

1 PASSED AND ADOPTED this 3rd day of December, 2019

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The foregoing resolution upon being put to a
vote, the vote was as follows:

Tracy Truppman, Mayor

Mayor Truppman:
Vice Mayor Tudor:
Commissioner Samaria:

Attest:

Roseann Prado, Village Clerk

Approved as to form:

Rebecca A. Rodriguez Village Attorney



Village of Biscayne Park
BISCAYNE PARK FOUNDATION

A 501 (c) (3) Charitable Foundation
600 NE 114th Street

Biscayne Park, FL 33161

Tel: 305 899 8000 Fax: 305 891 7241

Dear Village of Biscayne Park Residents:

We are seeking Village residents to serve on the board of the Biscayne Park Foundation. This 501 (c) (3) charitable foundation is a not for profit organization that is the Village's fundraising arm.

Our volunteer residents that serve in our Boards and Committees are vital to our Village, and we are so grateful to the dedicated individuals that are truly making a difference in our community.

If you have any questions and/or inquiries call us at 305-899-8000. We look forward to hearing from you.

Submit completed application form either by fax, mail or in person: By fax: 305 891 7241 By e-mail: villageclerk@biscayneparkfl.gov In person: Village Hall, 640 NE 114th Street (Mon-Fri 9AM - 5PM)

BISCAYNE PARK FOUNDATION BOARD MEMBER APPLICATION

[X] Yes, I am interested in serving as a board member for the Biscayne Park Foundation.

Resident Name: Yessenia Gonzalez (Please print)

Address: 11800 NE 11th Ave

City: Biscayne Park, FL 33161

Telephone: (305) 343 3304 Best time of day to reach you: text is better after 5:30pm

E-Mail Address: jessed41102@gmail.com

Do you have fund raising experience? (X) Yes () No If yes, please describe: NOT for Profits; American Cancer Society, I P 36, Autism Speaks, AmO/En ACCION

Do you have grant writing experience? () Yes (X) No If yes, please describe:

Please describe your participation in community service: Veteran, Board member, sell items to bring awareness to causes dear to my heart

Other information related to your field expertise or pertinent experience: Event Planning

(Attach additional page if necessary.)



Address Owner Name Subdivision Name Folio

SEARCH: 11800 NE 11 Ave, Biscayne Park Suite [Back to Search Results](#)

PROPERTY INFORMATION

Folio: 17-2232-025-0090
 Sub-Division: BISCAYNE LAWN AMD PLAT
 Property Address: 11800 NE 11 AVE
 Owner: LAZARO VENTO JR, YESSENA GONZALEZ
 Mailing Address: 11800 NE 11 AVE, BISCAYNE PARK, FL 33161
 PA Primary Zone: 5900 DUPLEXES - >1200 SQFT/BLD
 Primary Land Use: 0101 RESIDENTIAL - SINGLE FAMILY: 1 UNIT
 Beds / Baths / Half: 1 / 1 / 0
 Floors: 1
 Living Units: 1
 Actual Area:
 Living Area:
 Adjusted Area: 733 Sq Ft
 Lot Size: 11,000 Sq Ft
 Year Built: 1936



Featured Online Tools

- Comparable Sales
- Glossary
- PA Additional Online Tools
- Property Record Cards
- Property Search Help
- Property Taxes
- Report Discrepancies
- Report Homestead Fraud
- Special Taxing Districts and Other Non-Ad valorem Assessments
- Tax Comparison
- Tax Estimator
- TRIM Notice
- Value Adjustment Board

ASSESSMENT INFORMATION

Year	2019	2018	2017
Land Value	\$187,165	\$187,165	\$187,165
Building Value	\$41,891	\$42,221	\$42,551
Extra Feature Value	\$0	\$0	\$0
Market Value	\$229,056	\$229,386	\$229,716
Assessed Value	\$115,733	\$113,576	\$213,881

BENEFITS INFORMATION

Benefit	Type	2019	2018	2017
Save Our Homes Cap	Assessment Reduction	\$113,323		
Non-Homestead Cap	Assessment Reduction			\$15,835
Portability	Assessment Reduction		\$115,810	
Homestead	Exemption	\$25,000	\$25,000	
Second Homestead	Exemption	\$25,000	\$25,000	

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

TAXABLE VALUE INFORMATION

	2019	2018	2017
COUNTY			
Exemption Value	\$50,000	\$50,000	\$0
Taxable Value	\$65,733	\$63,576	\$213,881
SCHOOL BOARD			
Exemption Value	\$25,000	\$25,000	\$0
Taxable Value	\$90,733	\$88,576	\$229,716
CITY			
Exemption Value	\$50,000	\$50,000	\$0
Taxable Value	\$65,733	\$63,576	\$213,881
REGIONAL			
Exemption Value	\$50,000	\$50,000	\$0
Taxable Value	\$65,733	\$63,576	\$213,881

FULL LEGAL DESCRIPTION

BISCAYNE LAWN AMD PLAT PB 39-48
 LOT 10
 LOT SIZE 100.000 X 110
 OR 20896-0531 12 2002 1

SALES INFORMATION

Previous Sale	Price	OR Book-Page	Qualification Description	Previous Owner 1	Previous Owner 2
06/28/2017	\$0	30596-0326	Corrective, tax or QCD; min consideration	YESSENA GONZALEZ	
02/28/2017	\$282,000	30439-1649	Qual by exam of deed	VALE PROPERTIES LLC	
09/29/2015	\$100	29838-1015	Corrective, tax or QCD; min consideration	ALBERT ESKENAZI	VIVIANA ARBOLEDA
09/22/2013	\$165,000	28802-4832	Qual by exam of deed	JOSE ALICEA	
12/01/2002	\$140,000	20896-0531	Sales which are qualified		

For more information about the Department of Revenue's Sales Qualification Codes.

2019 2018 2017

LAND INFORMATION

Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	1-R2, 1-R3	5900 - DUPLEXES - >1200 SQFT/BLD	Front Fl.	100.00	\$187,165

BUILDING INFORMATION

Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	1	1936		733		\$41,891

EXTRA FEATURES

Description	Year Built	Units	Calc Value
-------------	------------	-------	------------

ADDITIONAL INFORMATION

* The information listed below is not derived from the Property Appraiser's Office records. It is provided for convenience and is derived from other government agencies.

LAND USE AND RESTRICTIONS			
Community Development District:	NONE	Community Redevelopment Area:	NONE
Empowerment Zone:	NONE	Enterprise Zone:	NONE
Urban Development:	INSIDE URBAN DEVELOPMENT BOUNDARY	Zoning Code:	R-2 -
Existing Land Use:	10 - SINGLE-FAMILY, MED.-DENSITY (2-6 DU/GROSS ACRE).	Government Agencies and Community Services	
OTHER GOVERNMENTAL JURISDICTIONS			
Business Incentives	Childrens Trust	City of Biscayne Park	Environmental Considerations
Florida Inland Navigation District	PA Bulletin Board	Special Taxing District and Other Non-Ad valorem Assessment	School Board
Tax Collector			South Florida Water Mgmt District

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 For inquiries and suggestions email us at <http://www.miamidade.gov/PAPortal/ContactForm/ContactFormMain.aspx>.
 Version: 2.0.3

EXEMPTIONS & BENEFITS	REAL ESTATE	TANGIBLE PERSONAL PROPERTY	PUBLIC RECORDS	ONLINE TOOLS	TAX ROLL ADMINISTRATION
Deployed Military	40 Yr Building Re-Certification	Appealing your Assessment	Address Blocking	Property Search	Appealing your Assessment
Disability Exemptions	Appealing Your Assessment	Assessment Information Search	Change of Name	Property Sales	Reports
Homestead	Defective Drywall	Exemptions	Change of Address	Tax Estimator	
Institutional	Folio Numbers	Extension Requests	Change of Ownership & Title	Tax Comparison	
Senior Citizens	Mortgage Fraud	Filing Returns	Declaration of Condominium	Homestead Exemption and Portability	
More >	More >	More >	More >	More >	More >

From: Kate Eaton kate@mishkhah.com
Subject: Foundation board
Date: November 20, 2019 at 10:25 PM
To: Kate Eaton kateeaton@mac.com

KE

https://www.biscayneparkfl.gov/vertical/sites/%7BD1E17BCD-1E01-4F7D-84CD-7CACF5F8DDEE%7D/uploads/BP_Foundation_Board_Member_Application.pdf



Village of Biscayne Park
BISCAYNE PARK FOUNDATION

A 501 (c) (3) Charitable Foundation
600 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000 Fax: 305 891 7241

Dear Village of Biscayne Park Residents:

We are seeking Village residents to serve on the board of the **Biscayne Park Foundation**. This 501 (c) (3) charitable foundation is a not for profit organization that is the Village's fundraising arm. The Biscayne Park Foundation with a solid team of committed individuals will enhance our opportunities to raise monies through special events, sponsorships, donations and grants for the Village of Biscayne Park. As we strive to be a model for small towns, the Foundation can provide key support.

Our volunteer residents that serve in our Boards and Committees are vital to our Village, and we are so grateful to the dedicated individuals that are truly making a difference in our community. If you can dedicate some time, and you have the experience and the interest to be part of the Biscayne Park Foundation, please fill out the attached application and fax, email or drop off at Village Hall.

If you have any questions and/or inquiries call us at 305-899-8000. We look forward to hearing from you.

Submit completed application form
either by fax, mail or in person:
By fax: 305 891 7241
By e-mail: villageclerk@biscayneparkfl.gov
In person: Village Hall, 640 NE 114th Street
(Mon-Fri 9AM - 5PM)

BISCAYNE PARK FOUNDATION BOARD MEMBER APPLICATION

Yes, I am interested in serving as a board member for the Biscayne Park Foundation.

Resident Name: KATE EATON (Please print)

Address: 11535 NE 8th Avenue

City: Biscayne Park, FL 33161

Telephone: (720) 280-3165 Best time of day to reach you: Between 11-3 pm

E-Mail Address: KATEEATON@MAC.COM

Do you have fund raising experience? Yes () No If yes, please describe: ASKING INDIVIDUALS FOR MAJOR GIFTS

Do you have grant writing experience? Yes () No If yes, please describe: SOME GRANT WRITING EXPERIENCE

Please describe your participation in community service: Through my church affiliations

Other information related to your field expertise or pertinent experience: _____

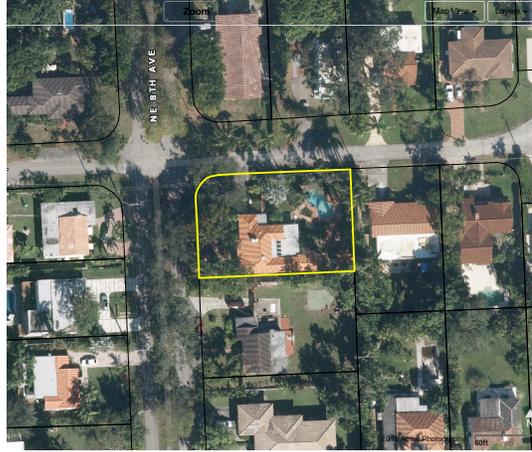


Address Owner Name Subdivision Name Folio

SEARCH: 11535 NE 8th Ave Suite [Back to Search Results](#)

PROPERTY INFORMATION

Folio: 17-2231-007-0170
 Sub-Division: GRIFFING BISCAIYNE PARK ESTS RESUB
 Property Address: 11535 NE 8 AVE
 Owner: PETER DAVID EATON, KATHERINE EATON
 Mailing Address: 11535 NE 8 AVE, BISCAIYNE PARK, FL 33161
 PA Primary Zone: 0100 SINGLE FAMILY - GENERAL
 Primary Land Use: 0101 RESIDENTIAL - SINGLE FAMILY : 1 UNIT
 Beds / Baths / Half: 3 / 2 / 0
 Floors: 1
 Living Units: 1
 Actual Area: 3,095 Sq Ft
 Living Area: 2,651 Sq Ft
 Adjusted Area: 2,672 Sq Ft
 Lot Size: 15,000 Sq Ft
 Year Built: Multiple (See Building Info.)



Featured Online Tools

- Comparable Sales
- Report Discrepancies
- Value Adjustment Board
- Glossary
- Report Homestead Fraud
- PA Additional Online Tools
- Special Taxing Districts and Other Non-Ad valorem Assessments
- Property Record Cards
- Tax Comparison
- Property Search Help
- Tax Estimator
- Property Taxes
- TRIM Notice

ASSESSMENT INFORMATION

Year	2019	2018	2017
Land Value	\$336,919	\$336,919	\$269,535
Building Value	\$256,700	\$258,732	\$169,899
Extra Feature Value	\$38,518	\$38,838	\$35,889
Market Value	\$632,137	\$634,489	\$475,323
Assessed Value	\$555,103	\$544,753	\$470,889

BENEFITS INFORMATION

Benefit	Type	2019	2018	2017
Save Our Homes Cap	Assessment Reduction	\$77,034	\$86,736	\$4,434
Homestead	Exemption	\$25,000	\$25,000	\$25,000
Second Homestead	Exemption	\$25,000	\$25,000	\$25,000

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

TAXABLE VALUE INFORMATION

	2019	2018	2017
COUNTY			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$505,103	\$494,753	\$420,889
SCHOOL BOARD			
Exemption Value	\$25,000	\$25,000	\$25,000
Taxable Value	\$530,103	\$519,753	\$445,889
CITY			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$505,103	\$494,753	\$420,889
REGIONAL			
Exemption Value	\$50,000	\$50,000	\$50,000
Taxable Value	\$505,103	\$494,753	\$420,889

FULL LEGAL DESCRIPTION

GRIFFING BISCAIYNE PK ESTS RE-SUB
 OF BLKS 25-26 PB 10-80
 LOT 18 & NSOFT LOT 19 BLK 25
 LOT SIZE 100.000 X 150
 OR 20487-4351 05 2002 5

SALES INFORMATION

Previous Sale	Price	QR Book-Page	Qualification Description	Previous Owner 1	Previous Owner 2
09/09/2015	\$550,000	29801-1535	Quit by exam of deed	MYRA E MOROSCO (TRUST)	
09/09/2015	\$100	29801-1533	Corrective, tax or QCD; min consideration	MYRA ELLIOT MOROSCO TRS	THE MYRA E MOROSCO LIVING TR
09/09/2015	\$100	29801-1531	Corrective, tax or QCD; min consideration	MYRA ELLIOT MOROSCO	ANTHONY MOROSCO
05/01/2002	\$0	20487-4351	Sales which are disqualified as a result of examination of the deed		
08/01/1995	\$0	00000-00000	Sales which are disqualified as a result of examination of the deed		
10/01/1981	\$96,000	11246-0141	Sales which are qualified		
05/01/1976	\$48,500	00000-00000	Sales which are qualified		

For more information about the Department of Revenue's Sales Qualification Codes.

2019 2018 2017

LAND INFORMATION

Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	1-R1	0100 - SINGLE FAMILY - GENERAL	Front Fl.	100.00	\$336,919

BUILDING INFORMATION

Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	1	1940	1,723	1,687	1,582	\$146,295
1	2	1976	462	462	462	\$42,723
1	3	1985	180	180	120	\$11,097
1	4	2017	510	322	304	\$40,630
2	1	2017	220	0	204	\$15,955

Current Building Sketches Available!

EXTRA FEATURES

Description	Year Built	Units	Calc Value
Patio - Brick, Tile, Flagstone	2017	700	\$7,623

Patio - Concrete Slab w/Roof Aluminum or Fiber	1994	100	\$684
Pool 6' w/ BETTER 3/8" depth, tile 250-649 sq'	1985	1	\$20,550
Whirlpool - Attached to Pool (whirlpool area only)	1985	30	\$2,877
Wood Fence	1976	120	\$1,152
Patio - Brick, Tile, Flagstone	1976	800	\$5,632

ADDITIONAL INFORMATION

* The information listed below is not derived from the Property Appraiser's Office records. It is provided for convenience and is derived from other government agencies.

LAND USE AND RESTRICTIONS

Community Development District: NONE	Community Redevelopment Area: NONE
Empowerment Zone: NONE	Enterprise Zone: NONE
Urban Development: INSIDE URBAN DEVELOPMENT BOUNDARY	Zoning Code: R-1 -
Existing Land Use: 10 - SINGLE-FAMILY, MED.-DENSITY (2-5 DU/GROSS ACRE).	Government Agencies and Community Services

OTHER GOVERNMENTAL JURISDICTIONS

Business Incentives	Childrens Trust	City of Biscayne Park	Environmental Considerations
Florida Inland Navigation District	PA Bulletin Board	Special Taxing District and Other Non-Ad valorem Assessment	School Board
Tax Collector			South Florida Water Mgmt District

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 For inquiries and suggestions email us at <http://www.miamidade.gov/PAPortal/ContactForm/ContactFormMain.aspx>.
 Version: 2.0.3

EXEMPTIONS & BENEFITS	REAL ESTATE	TANGIBLE PERSONAL PROPERTY	PUBLIC RECORDS	ONLINE TOOLS	TAX ROLL ADMINISTRATION
Deployed Military	40 Yr Building Re-Certification	Appealing your Assessment	Address Blocking	Property Search	Appealing your Assessment
Disability Exemptions	Appealing Your Assessment	Assessment Information Search	Change of Name	Property Sales	Reports
Homestead	Defective Drywall	Exemptions	Change of Address	Tax Estimator	
Institutional	Folio Numbers	Extension Requests	Change of Ownership & Title	Tax Comparison	
Senior Citizens	Mortgage Fraud	Filing Returns	Declaration of Condominium	Homestead Exemption and Portability	
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VILLAGE OF BISCAYNE PARK
Village Commission Agenda Report
REGULAR MEETING

Item # 11.a

TO: Honorable Mayor & Members of the
Biscayne Park Village Commission

FROM Dan Samaria

DATE:

TITLE: Whistle Blower Protection for Village of Biscayne Park Employees

Recommendation: In order to better protect their employees Miami-Dade County passed a Whistle Blower Protection ordinance on September 4, 2019. I believe we owe it to our employees to protect them in the same way.

Background: Currently we do not have a Biscayne Park ordinance to protect our very dedicated employees. I believe this is extremely unfair and discourages employees from reporting serious issues.

Resource Impact: Preparation of ordinance and advertising. Less attorney time will be needed if we use Miami-Dade County ordinance and change only necessary wording for Biscayne Park.

Attachment: Copy of Miami-Dade County ordinance passed on September 4, 2019

Prepared by: Dan Samaria

MEMORANDUM

Agenda Item No. 7(F)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: September 4, 2019

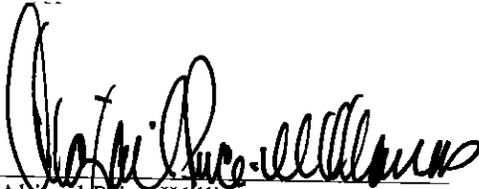
FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to Municipal Whistleblowers; amending article LXXI of chapter 2 of the Code; requiring municipalities to adopt ordinances by a certain date to protect municipal employees who disclose specified information; setting minimum standards for municipalities to enact such ordinances; requiring municipalities to submit annual reports; providing for Inspector General oversight; providing that Board may take certain actions in the event municipalities are not in compliance with minimum standards

A substitute was presented and forward to the BCC with a favorable recommendation at the 7-17-19 Heath Care and County Operations Committee. This substitute differs from the original version in that it: 1) replaces mandatory language with language making it optional for municipalities to adopt Whistleblower Ordinances in compliance with the minimum standards of this Ordinance; 2) requires only those municipalities that opt-in to the minimum standards of this Ordinance to submit annual reports; 3) modifies the scope of Inspector General oversight; and 4) removes the penalty provision for municipalities that are not in compliance with minimum standards.

Rule 5.06(i) of the Board's Rules of Procedure provides that differences between an original item and a substitute item should be uniquely identified in the substitute by double underlining and double strike-through, or where such approach would not clearly show the difference or are not practical, by providing footnotes or comments on the item. Based on Rule 5.06(i), the preceding comprehensive description of the differences between the original item and substitute is provided in lieu of double underlining and double strike through.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman and Co-Sponsor Commissioner Esteban L. Bovo, Jr.


Abigail Price-Williams
County Attorney

APW/lmp

Memorandum



Date: September 4, 2019

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez". The signature is written in a cursive style and is positioned to the right of the "From:" field.

Subject: Fiscal Impact Statement for Ordinance Relating to Municipal Whistleblowers - Substitute

The substitute item amends the legislation to allow municipalities to opt-in rather than mandating the adoption of Whistleblower Ordinance and its compliance. Therefore, if the demand is minimal, then the Commission on Ethics and the Office of the Inspector General (OIG) will be able to perform these tasks using existing resources. However, if a substantial number of the municipalities adopt conforming ordinances, then the OIG may have to reassess the impact on their existing resources.

A handwritten signature in black ink, appearing to read "Edward Marquez". The signature is written in a cursive style and is positioned above the printed name.

Edward Marquez
Deputy Mayor

FIS05019 191806

A small, handwritten mark or signature at the bottom center of the page, possibly a stylized letter or initials.

Memorandum



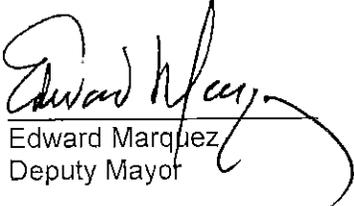
Date: September 4, 2019

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez 
Mayor

Subject: Social Equity Statement for Ordinance Relating to Municipal Whistleblowers

The implementation of this ordinance could have a positive social benefit for the employees of municipalities who are whistleblowers. This benefit would be based on the uniform standards and confidentiality provisions of the ordinance, as well as employee protection from retaliation by a municipality or independent contractor against whom the employee has filed a complaint.


Edward Marquez
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: September 4, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(F)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(F)
9-4-19

ORDINANCE NO. _____

ORDINANCE RELATING TO MUNICIPAL WHISTLEBLOWERS; AMENDING ARTICLE LXXI OF CHAPTER 2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING MUNICIPALITIES TO ADOPT ORDINANCES BY A CERTAIN DATE TO PROTECT MUNICIPAL EMPLOYEES WHO DISCLOSE SPECIFIED INFORMATION; SETTING MINIMUM STANDARDS FOR MUNICIPALITIES TO ENACT SUCH ORDINANCES; REQUIRING MUNICIPALITIES TO SUBMIT ANNUAL REPORTS; PROVIDING FOR INSPECTOR GENERAL OVERSIGHT; PROVIDING THAT BOARD MAY TAKE CERTAIN ACTIONS IN THE EVENT MUNICIPALITIES ARE NOT IN COMPLIANCE WITH MINIMUM STANDARDS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, in 1994, the Board of County Commissioners adopted Ordinance No. 94-107 known as the Employee Protection Ordinance consistent with section 112.3187 *et seq.*, Florida Statutes, now codified as chapter 2, article IV, division 6 of the Code of Miami-Dade County, which prohibits the County from retaliating against County employees for disclosing specified information concerning unlawful activity, misfeasance or malfeasance by the County or independent contractors; and

WHEREAS, in 1996, the Board of County Commissioners adopted Ordinance No. 96-41 known as the Whistleblower Ordinance, now codified as chapter 2, article LXXI of the Code, which currently prohibits the County from retaliating against any person for disclosing specified information concerning unlawful activity, misfeasance or malfeasance by the County or independent contractors; and

WHEREAS, in 2015, the Board of County Commissioners adopted Ordinance No. 15-120, which expanded the means for employees to provide protected disclosures, to empower employees to take responsibility for an efficient and effective government, and to empower them to safely and securely disclose specified information to authorized local officials; and

WHEREAS, on October 3, 2017, the Board of County Commissioners adopted Ordinance No. 17-74, to prohibit any employer with 10 or more employees that enters into a contract with the County, from retaliating against any employee or other person for disclosing specified information concerning unlawful activity, misfeasance or malfeasance by employees, agents or independent contractors of County departments; and

WHEREAS, some of the municipalities within Miami-Dade County may not have adequate employee protection ordinances; and

WHEREAS, it is the intent of this ordinance, consistent with section 112.3187 *et seq.*, Florida Statutes, the State Whistleblower's Act, to set minimum standards for municipalities to enact employee protection ordinances, and to ensure that municipal employees who disclose violations of law or wrongdoing by a municipality or independent contractors have effective protections, including confidentiality and protection from retaliation,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Article LXXI of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

**ARTICLE LXXI. – PROTECTION OF PERSONS
DISCLOSING SPECIFIED INFORMATION.**

**>>DIVISION I. COUNTY EMPLOYEES AND
CONTRACTORS.<<**

* * *

**>>DIVISION II. MUNICIPAL EMPLOYEES AND
CONTRACTORS.**

Sec. 2-967.10.2 - Declaration of legislative intent.

The intent of this division is to provide optional minimum standards for municipalities to prevent municipalities or independent contractors from taking retaliatory action against an employee or person who reports a violation of law on the part of a municipality, municipal officer, or independent contractor relating to a substantial and specific danger to the public's health, safety, or welfare; or who reports unlawful activity, misfeasance, malfeasance, gross waste of funds, or any other abuse or gross neglect of duty on the part of a municipality, municipal officer, or independent contractor.

Recognizing that the State of Florida has adopted its own Whistle-blower's Act, section 112.3187 et. seq., Florida Statutes, and that the state act provides for the adoption of local procedures for administrative enforcement, the Board intends this ordinance to be interpreted consistently with the state act, as it may be amended from time to time.

Sec. 2-967.10.3 - Jurisdiction and area of application.

- (1) The provisions of this division shall not apply to any complaint naming the county, the state, the federal government, or any of their agencies, employees, or independent contractors as a respondent.
- (2) This division shall be an optional minimum standard to be enacted and enforced by the municipalities; provided, any municipality may establish and enforce more stringent regulations as such municipality may deem necessary.
- (3) The provisions of this division shall be cumulative and in addition to and not in derogation of any and all other existing provisions or laws.

Sec. 2-967.10.4 - Definitions. As used in this Article:

- (1) “Municipality” means a municipality within Miami-Dade County created pursuant to general or special law authorized or recognized pursuant to section 2 or section 6, article VIII of the State Constitution or pursuant to article 6 of the Miami-Dade County Home Rule Charter.
- (2) “Employee” means a person who performs services for, and under the control and direction of, or contracts with, a municipality or independent contractor for wages or other remuneration.
- (3) “Adverse personnel action” means the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse personnel action taken against an employee within the terms and conditions of employment by a municipality or independent contractor.
- (4) “Independent contractor” means a person, other than a federal, state, or local government entity, engaged in any business and who enters into a contract, including a provider agreement, with a municipality.
- (5) “Person” means any natural person, corporation, firm, joint venture or entity other than a federal, state or local government entity or any employee thereof.
- (6) “Technical support” means assistance intended to facilitate the development of processes and procedures and not assistance in conducting investigations.
- (7) “Ethics Commission” means the Miami-Dade Commission on Ethics and Public Trust.
- (8) “Inspector General” means the Miami-Dade County Office of the Inspector General.
- (9) All other words or terms used in this ordinance shall have the same meaning as such words and terms have under the State Whistleblower’s Act.

8

Sec. 2-967.10.5. - Municipal Employee Protection.

- (1) County Technical Support for Municipal Employee Protection.
 - (a) The Inspector General may provide a requesting municipality with technical support in developing the processes and procedures for receiving, documenting, and investigating disclosures of actual or suspected violations of law or prohibited acts committed by an employee or agent of the municipality or independent contractor.
 - (b) The Ethics Commission may provide a requesting municipality with technical support in developing the processes and procedures for receiving, documenting and investigating complaints of adverse personnel action taken in retaliation for disclosing information under this division.
 - (c) The technical support referenced in subsections (1)(a) and (b) above is not intended to replace the municipality's own commitment of resources to develop a system for the intake, processing, and documentation of disclosures of violations and adverse personnel actions, and the investigation of such complaints.
- (2) Opt-in Provision for Municipalities to Enact Employee Protection Ordinances.
 - (a) At its option, any municipality within Miami-Dade County may adopt Employee Protection Ordinances consistent with the State Whistleblower's Act and the minimum standards of this division. Within 30 days of the adoption of any such municipal ordinance, the municipality shall provide written notice and a copy of the municipal ordinance to: the Clerk of the Board of the Board of County Commissioners, the Inspector General, and the Ethics Commission.
 - (b) A current list of all municipalities that have adopted their own employee protection ordinances and programs shall be kept on file with the Inspector General and shall be available for inspection.

(3) Minimum Standards for Municipal Ordinances. Pursuant to the authority granted in section 1.01(A)(18) of the Miami-Dade County Home Rule Charter, the County hereby adopts the provisions below as optional minimum standards for municipal ordinances.

(a) To comply with the optional minimum standards for employee protection ordinances, a municipal ordinance shall contain provisions:

(i) that designate the “actions prohibited” and

1. specify that the municipality shall not dismiss, discipline, take any other adverse personnel action or other adverse action that affects the rights or interests of an employee or person because the employee or person has disclosed or threatened to disclose information pursuant to this division; and

2. specify that the provisions shall not apply when an employee or person discloses information known by the employee or person to be false.

(ii) that designate the “nature of information disclosed” and specify that the information disclosed under the provision must include:

1. Any violation or suspected violation of any federal, state or local law, rule or regulation committed by an employee or agent of the municipality or independent contractor which creates and presents a substantial and specific danger to the public’s health, safety or welfare; or

2. Any act or suspected act of gross mismanagement, malfeasance, gross waste of public funds or gross neglect of duty committed by an employee or

agent of the municipality or an independent contractor.

- (iii) that designate “to whom information disclosed” and require that the information be disclosed to a chief executive officer of the municipality or such official or officials as the chief executive officer may designate to receive such information on his/her behalf, or other appropriate local official for the municipality as described in section 112.3187(6), Florida Statutes.
- (iv) that designate the “employees and persons protected” and
 - 1. require the protection of employees and persons who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by the municipality, any local, state or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act; who refuse to participate in any adverse personnel action prohibited by this division; who refuse to participate in any adverse action prohibited by this division; or who are otherwise protected by the State Whistleblower's Act.
 - 2. require that the provisions may not be used by persons while they are under care, custody, or control of the state or county correctional system or, after release from the care, custody, or control of the state or county correctional system, with respect to circumstances that occurred during any period of incarceration.

3. require that no remedy or other protection under the ordinance apply to any person who has committed or intentionally participated in committing a violation or suspected violation for which protection under the ordinance is being sought.
 4. require that an employee who provides false information pursuant to this ordinance may be investigated and prosecuted pursuant to Florida Statutes.
 5. require that it shall be an affirmative defense to any complaint brought pursuant to the ordinance that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's or person's exercise of rights protected by the ordinance.
- (v) that designate "remedies" and require the chief executive officer of the municipality to designate an appropriate executive-level municipal official or authority to receive written and signed complaints of prohibited actions as described in this division, and that establish an administrative procedure for handling such complaints. The administrative procedure created by municipal ordinance must provide for the complaint to be heard by a panel of impartial persons appointed by the appropriate executive-level municipal official or authority. Such panelists may be paid a fee for their services, but shall not be deemed municipal officials or employees. The panel shall conduct a hearing after notice to the complainant, the respondent, and the municipal department, division, bureau, commission, authority, or political subdivision, or independent contractor involved. Any interested party may procure

the attendance of witnesses and the production of records at such hearings. Upon hearing the complaint, the panel must make findings of fact and conclusions of law, and recommendations for a final decision by the chief executive officer or other appropriate executive-level municipal official or authority. Within 180 days after entry of a final decision by the municipal authority, the public employee who filed the complaint may bring a civil action in any court of competent jurisdiction;

(vi) that designate "relief" to employees or persons subjected to actions prohibited under this division and

1. require, in any case brought under this division in which the chief executive officer of the municipality or other appropriate executive-level municipal official or authority finds that the employee has been subjected to an adverse action in violation of this division, the chief executive officer or designee to:

a. reinstate the employee to the same position held before the adverse personnel action was commenced or to an equivalent position, or award reasonable front pay as alternative relief;

b. reinstate the employee's fringe benefits and seniority rights, as appropriate; and

c. compensate the employee, if appropriate, for lost wages, benefits or other lost remuneration caused by the adverse personnel action, or compensate the person, if

appropriate, for the lost income, benefits or other lost remuneration caused by the adverse action.

2. specify that the municipality may sanction an independent contractor for violations of this division in one or more of the following ways:
 - a. require the municipal independent contractor to compensate the person or reimburse the municipality for any amounts paid by the municipality to compensate the person, for the lost income, benefits or other lost remuneration caused by the adverse action of the municipal independent contractor;
 - b. debar the independent contractor pursuant to any existing municipal debarment procedures; or
 - c. suspend payment or terminate payment under the contract or terminate the contract with the municipal independent contractor.
3. require that if a municipal independent contractor fails to pay any sanctions assessed by the municipality under this division, the municipality provide for sanctions against the non-complying independent contractor similar to the sanctions delineated under section 2-967.8(4) – (8) of the Code.

- (vii) that designate “existing rights” and ensure that the rights, privileges or remedies of any employee under any other law or rule or under any collective bargaining agreement or employment contract are not diminished; and that the election of remedies provided by section 447.401, Florida Statutes, shall also apply to complaints under the municipal ordinance.

- (viii) that designate “confidentiality of individuals disclosing information” and guarantee the protections of state law be afforded to any individual who discloses information in compliance with this division to the municipal officials set forth in this division. For example, the identity of such individuals shall be confidential and exempt from the provisions of the public records laws to the fullest extent permitted by, and in accordance with the law including, but not limited to, the confidentiality requirements and exemptions set forth in sections 119.0713 and 112.3188, Florida Statutes.

- (ix) that require any employee found by the chief executive officer or other appropriate executive-level municipal official or authority to have retaliated against another municipal employee in violation of this division, shall be subject to disciplinary action up to and including dismissal from municipal employment.

- (x) that require the chief executive officer, or his/her designee, to provide training regarding this division to all current municipal employees, and to new municipal employees hired after the effective date of the municipal employee protection ordinance as part of the initial municipal employee orientation;

- (xi) that require the chief executive officer, or his/her designee to periodically provide information and publish instructions on this division including, but not limited to, the disclosure of information, the methods of disclosing information, and the protections afforded by this division, to all employees of the municipality and public officials.
 - (xii) that require the chief executive officer, or his/her designee to maintain an accurate and complete log of all complaints made by municipal employees pursuant to this Division, and to provide that report to the Inspector General on an annual basis;
- (b) *Optional Investigation by the Ethics Commission. In addition to the remedies set forth in this division, every municipal employee protection ordinance should also provide the following retaliation review process:*
- (i) Any employee protected under this division who alleges retaliation may, only after exhausting all available municipal administrative remedies provided for in this division, or an applicable collective bargaining agreement, file a written complaint with the Ethics Commission alleging a prohibited personnel action, no later than 60 days after a final written decision regarding an alleged prohibited personnel action has been rendered under the administrative or contractual procedures referenced above. The purpose of such complaint is to determine whether, in addition to any findings or determination made in any of the above-referenced administrative or contractual proceedings, there has been a violation of this division.
 - (ii) Within ten working days after receiving a complaint under this division, the Ethics Commission shall acknowledge receipt of the complaint and provide copies of the

complaint to the employee accused of retaliation and the Department Director of the department in which such employee is employed.

(iii) Upon the filing of a complaint with the Ethics Commission under this division, the Ethics Commission shall:

1. Conduct a preliminary investigation, to the extent necessary, to determine whether there is probable cause to believe that a prohibited personnel action under this division, has occurred.

2. Within 90 days after receiving the complaint, provide the accused employee, the Department Director of the department in which the accused employee is employed and the complainant with a copy of a probable cause memorandum and conduct a probable cause hearing before the Ethics Commission. Notwithstanding the procedures provided in chapter 2, article LXXVIII of the Code of Miami-Dade County, the Ethics Commission may use hearing examiners when a complaint is filed under this division, which shall make a determination as to whether there is probable cause to believe retaliation prohibited by this division has occurred. The probable cause memorandum and the final written decision and findings of the administrative or contractual proceedings shall be presumed admissible in any Ethics Commission hearing conducted under this division.

- (iv) The time limits regarding the actions to be taken by the Ethics Commission set forth in subsections (3)(b)(ii) and (iii) above may be extended by the Ethics Commission for good cause.
- (v) Based on its fact-finding report, the Ethics Commission may recommend to the municipalities' Mayor or chief executive officer, an appropriate course of action. The Mayor or chief executive officer may thereafter take appropriate relief in accordance with section 2-967.10.5.(a)(vi) of the Code.
- (c) Municipalities that have already enacted employee protection ordinances as of the effective date of this Ordinance shall have the option to bring their ordinances into compliance with these minimum standards.
- (4) *Municipality Shall File Annual Report.* Municipalities that have enacted employee protection ordinances pursuant to the optional provisions of this ordinance shall annually file a report detailing the number of Employee Protection Ordinance complaints received and the dispositions of those complaints with the Inspector General. Consistent with the confidentiality provisions in subsection (3)(a)(viii) above, the municipality's annual report should not contain the identity of any complainant.
- (5) *Oversight by the Inspector General.* In accordance with the Inspector General's functions, powers and authority, the Inspector General:
 - (a) shall have the power to audit, investigate, monitor, oversee, inspect and review the processes and procedures for the receipt, intake, and investigation of complaints that have been established in accordance with the optional minimum standards established by this division and a municipality's enacted ordinance.

- (b) shall have the power to obtain from municipalities any reports or information required by the Inspector General during the course of an audit, investigation, monitoring, oversight, inspection or review, conducted in accordance with this division.

- (c) Whenever the Inspector General concludes a report or recommendation regarding a municipality's compliance with the optional provisions of this division, the Inspector General shall provide a copy of the report or recommendation to the chief executive officer, or his/her designee, responsible for the enforcement of the municipality's employee protection ordinance. The Inspector General shall provide the chief executive officer, or his/her designee, with 10 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The Inspector General's final report will be submitted to the governing board of the municipality and to the Board of County Commissioners.<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Marlon D. Moffett

Prime Sponsor: Commissioner Sally A. Heyman
Co-Sponsor: Commissioner Esteban L. Bovo, Jr.

Item 14.a
December 03, 2019



Rebecca A. Rodriguez, Esq.
Of Counsel

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TAMPA
WASHINGTON, DC
WEST PALM BEACH

MEMORANDUM

TO: Village Commission, Village of Biscayne Park, Florida
FROM: Rebecca A. Rodriguez, Village Attorney
DATE: December 3, 2019
**SUBJECT: Legal Opinion Regarding Memorandum to Commission
Proposing Mayoral Removal and Vote of No Confidence**

During the October 2019 regular commission meeting, the Village Commission requested a legal memorandum on the following issue:

WHETHER THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, A CHARTER MUNICIPALITY, HAS THE AUTHORITY TO HOLD A VOTE OF NO CONFIDENCE TO INITIATE CHARGES OF REMOVAL OF MAYOR.

This memorandum serves as the formal response to the Commission's request, which answers the inquiry in the negative. The memorandum also discusses the legal concerns with the underlying memorandum which sought to call the Commission's vote (the "Memorandum").

I. Village Commission Lacks Express Legal Authority to Conduct Such a Vote.

a. Proposed Commission Action is Not Provided by State Law.

While Florida Statutes provide several avenues for suspension and/or removal of public officials, it is silent as to a charter municipality's commission authority to hold a vote of no confidence to initiate the removal of a sitting mayor. *See, e.g.*, Art. IV, § 7(a), Fla. Const. (authorizing the governor to suspend any state officer for malfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony); *accord* Fla. Stat. § 112.51 (providing for suspension of municipal officials by executive order of the Governor for malfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform official duties); *see also* Fla. Stat. § 112.52 (authorizing Governor to remove public official from office by executive order upon

Village of Biscayne Park
December 3, 2019
Page 2 of 8

felony conviction, or conviction of misdemeanor directly arising out of his or her official conduct or duties); *and* Fla. Stat. § 100.361 (providing for removal of elected officials by recall election).

b. Proposed Commission Action is Not Authorized in the Village Charter.

The proposed commission action is not authorized in the Village Charter. The Village Mayor is elected amongst the Commission members by vote pursuant to the following section of the Village Charter:

Section 2.01. - Village Commission.

There shall be a Village Commission (the "Commission") vested with all legislative powers of the Village, consisting of five members (hereinafter referred to as "Commissioners"). The Commission shall elect one of its members to the position of Mayor at the first meeting of each newly elected Commission.

While the Village Charter expressly provides for the Commission's election and appointment of the mayor, it is silent as to authority or procedure to remove a mayor, once elected, prior to the end of the mayoral term. The Village Charter provides the duties of the Mayor and Vice-Mayor are as follows:

Section 2.02. - Mayor and Vice-Mayor.

(A) *Mayor*. The Mayor shall preside at meetings of the Commission and be a voting member of the Commission. The Mayor shall be recognized as the head of Village government for all ceremonial purposes and for purposes of military law, for service of process, execution of duly authorized contracts, deeds and other documents, and as the Village official designated to represent the Village in all dealings with other governmental entities.

(B) *Vice-Mayor*. During the absence or incapacity of the Mayor, the Vice-Mayor shall have all the powers, authority, duties and responsibilities of the Mayor. Semi-annually at such times as established by ordinance of the Village, each member of the Commission shall serve for a period of six months as Vice-Mayor.

The Village Charter does not provide procedures for removal of mayor by the Commission. Similarly, the Village Charter does not provide for votes of no confidence.

The Village Charter provides a provision for removing an elected official by a recall election. Biscayne Park Charter, § 5.03. Section 2.05 of the Village Charter provides procedures for determining

Village of Biscayne Park
December 3, 2019
Page 3 of 8

the forfeiture of office by a commissioner. Biscayne Park Charter, § 2.05. The Village Charter also provides that commission members may be removed from office by an action brought by the State Attorney's Office. Biscayne Park Charter, § 4.02. The Village Charter provides a procedure for filling the mayoral position if it becomes vacant, but does not address removal of an elected mayor during his or her term by the Commission. Biscayne Park Charter, § 2.05(C)(2) ("If the position of Mayor becomes vacant, the Commission will elect a sitting Commissioner as Mayor who shall complete the term of the Mayor. The Commission vacancy shall then be filled in the manner described in this subsection (C).").

c. Because No Procedure is Provided in Village Code, Proceeding with Vote Would Be in Violation of the Village Charter.

Since the Village Charter is silent as to a procedure to remove a mayor, such a removal proceeding would have to be, at minimum, codified to comply with Section 4.03 of the Village Charter which states, in relevant part:

Section 4.03. - Action requiring an ordinance.

(A) In addition to other acts required by law or this Charter to be taken or effectuated by ordinance, the Commission shall act by ordinance in order to:

...

(2) Establish a rule or regulation the violation of which carries a penalty;

Biscayne Park Charter, § 4.03(A)(2)(emphasis supplied). Here, it is beyond dispute that the proposed action in the Removal Memorandum – a vote of no confidence by the Commission to remove the current mayor previously elected by the Commission – would be a punitive act¹ by the Village Commission. However, no such act or procedure has been codified in this jurisdiction. Accordingly,

¹ Notably, the position of mayor provides twice the annual compensation amount compared to a non-mayor commissioner for the current 2019 – 2020 fiscal year.

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December 3, 2019
Page 4 of 8

such action by the Village Commission would be in direct conflict with Section 4.03 of the Village Charter.

II. Discussion of Two Notable Cases.

a. *Johnson v. Johansen*, 338 So. 2d 1300 (Fla. 1st DCA 1976).

In October 2019, the Attorney General's Office declined the Village's request to issue a legal advisory opinion on this issue, but did direct the Village to that certain case styled *Johnson v. Johansen*, 338 So. 2d 1300 (Fla. 1st DCA 1976). While the opinion is four decades old and not legally binding in this jurisdiction² it is nonetheless persuasive as to what inherent authority a local governing body may have in certain instances, namely, with selecting its presiding officer.

In *Johnson*, the city council's charter provided authority for the council to appoint its "president" to serve as the presiding officer in city council proceedings. However, the city's charter failed to provide for removal procedures for the position of president. The presiding officer was not the mayor of the city.

It is my legal opinion that the *Johnson* case supports the proposition that a local governing body could – pursuant to express authority in its governing charter -- elect its presiding officer amongst its members for purposes of presiding over its proceedings. Under those circumstances, the local governing body would have the inherent authority to remove the presiding officer for proceedings by a vote.

Here, while the Village's Charter designates the Village Mayor as the presiding officer for Commission meetings, presiding officer is not the sole duty of the Village Mayor. Moreover, the position of Village Mayor provides an annual compensation twice that of any other commissioner.

² The Village is located in Florida's Third District Court of Appeal.

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- b. *Hughes v. The City of North Port, Florida*, Fla. 12th Cir. Case No., 97-6147-CA-01 (Feb. 9, 1998).

In *Hughes*, the Circuit Court granted a petition for writ of certiorari to review the action of the City of North Port's commission, wherein the commission voted to remove an elected member of the commission during a special meeting. Removal by vote was provided in the City's charter. The appellate court quashed the commission's action, finding the portion of North Port's charter authorizing the vote was preempted and superseded by Section 100.361, Florida Statutes. "[T]he subject of who can remove an elected public official and how such removal should occur has been preempted, either expressly or impliedly, by the municipal recall statute, and that the North Port charter directly conflicts with general state law." *Hughes*, p. 6.

III. Due Process Concerns with Proposed Commission Action.

Even assuming, *arguendo*, that the Village Commission has the legal authority to hold a vote to remove the current Mayor – it currently does not for the reasons discussed above – the Memorandum submitted to the Commission that proposed such action was still legally insufficient.

The Fourteenth Amendment says that no state shall “deprive any person of life, liberty, or property without due process of law.” U.S. CONST. amend. XIV.

“The requirements of procedural due process apply only to the deprivations of interests encompassed by the [constitutional] protection of liberty and property.” *Board of Regents v. Roth*, 408 U.S. 564, 569 (1972). A constitutionally protected liberty or property interest may be a creation of federal law (including the Constitution itself—at least for liberty interests) or of state law. *See Wilkinson v. Austin*, 545 U.S. 209, 221 (2005) (“A liberty interest may arise from the Constitution itself, by reason of guarantees implicit in the word ‘liberty,’ . . . or it may arise from an expectation or interest created by state laws or policies”); *Roth*, 408 U.S. 577 (“Property interests . . . are created and their dimensions are defined by existing rules or understandings that stem from [a source

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independent of the Constitution] such as state law . . .”). Once a protected property or liberty interest is recognized, the Constitution may require certain procedures, such as a hearing, before depriving a person of that interest. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). “The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Id.* (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). “Due process does not mean no process. When it comes to key rights, government officials do not have the luxury of doing whatever they want.” *Snipes v. Scott*, Case No. 18-cv-00580, 2019 WL 163352 at *2 (N.D. Fla. Jan. 10, 2019).

However, *de minimis*, the annual compensation for the Village Mayor is currently twice that of the other members of the Village Commission. *See Reams v. Scott*, 2018 WL 5809967 (N.D. Fla. Nov. 6, 2018) (explaining that the “property issue may not matter anyway” in light of liberty interests at stake).

As discussed in detail above, a vote of no confidence is not expressly authorized, and the Commission currently lacks the inherent authority to take such action. A vote of no confidence during a regular commission meeting would run afoul of procedural due process requirements afforded under the Constitution. Moreover, the Memorandum lacked any specific factual allegations and only contained conclusory statements. Such a charging document – which was the intended purpose of the Memorandum – is legally and substantively insufficient because it failed to allege specific acts or occurrences for the respondent to admit or deny. When authorized, such quasi-judicial proceedings cannot be tantamount to a “trial by ambush.” The respondent must be provided reasonable notice of the allegations and a reasonable opportunity to be heard. Accordingly, it is my legal opinion that the Memorandum presented to the Commission presented legal due process concerns and was ultimately deficient notice.

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IV. Risk of Litigation and the Stigma-Plus Doctrine.

In the absence of both a legally-authorized process and proper notice, there is a significant risk for potential litigation should the Village Commission proceed with the proposed action contained in the Memorandum. Specifically, there is the threat of an injunction lawsuit and/or a procedural due process claim, citing to the stigma-plus doctrine.

The Eleventh Circuit has summarized what is required to satisfy the stigma-plus doctrine. “To establish a liberty interest sufficient to implicate the fourteenth amendment safeguards, the individual must not only be stigmatized but also stigmatized in connection with a denial of a right or status previously recognized under state law.” *Smith v. Siegelman*, 322 F.3d 1290, 1296 (11th Cir. 2003); *see also Cypress Ins. Co. v. Clark*, 144 F.3d 1435, 1436–37 (11th Cir. 1998) (“This rule, labeled the “stigma-plus” standard, requires a plaintiff to show that the government official’s conduct deprived the plaintiff of a previously recognized property or liberty interest in addition to damaging the plaintiff’s reputation.”). To aver such a claim arising from statements made by government officials, “a plaintiff must first allege a common-law defamation claim and then allege a constitutional injury flowing from the defamatory statement.” *Hamze v. Cummings*, 652 F. App’x 876, 881 (11th Cir. 2016) (citing *Rehberg v. Paulk*, 611 F.3d 828, 851–52 (11th Cir. 2010)).

“[R]eputation alone, apart from some more tangible interests such as employment, is either ‘liberty’ or ‘property’ by itself sufficient to invoke the procedural protection of the Due Process Clause.” *Paul v. Davis*, 424 U.S. 693, 701 (1976). What is needed in addition to stigma, according to the Supreme Court, is some change in legal status by showing that as a result of the defamation, “a right or status previously recognized by state law was distinctly altered or extinguished.” *Paul*, 424 U.S. at 711. If the plaintiff establishes that the alleged defamation would significantly change the plaintiff’s legal status, then the plaintiff is entitled to a name-clearing hearing to prove the falsity of

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the defamatory information. *See Codd v. Velger*, 429 U.S. 624, 627 (1977) (proper remedy is “an opportunity to refute the charge” (internal quotation marks omitted)).

Here, after researching the legal objections raised by the potential respondent, the Commission should seriously consider the risk of legal action. When an elected official publicly denounces another individual’s reputation from the dais and jeopardizes the individual’s tangible interests with such comments, without notice and an opportunity to be heard vis-à-vis a name clearing hearing, such conduct places the Village at risk for litigation. Coupled with the lack of express or inherent legal authority for such Commission action, these deficiencies should be seriously considered by the Commission when deciding whether to hold such a vote.

CONCLUSION

In sum, it is my legal recommendation that the Commission decline the Memorandum’s proposal to hold a vote of no confidence to remove the current Mayor. Moreover, if the Village Commission desires for the presiding officer of proceedings to be removable at any time, the Commission should first explore potential amendments to the Village Charter on these issues. If the positions of presiding officer and Mayor were treated separately in the Village Charter, or were at least *severable*, this analysis and recommendation may have been affected.