



## North Bay Village

Administrative Offices

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### OFFICIAL MINUTES

#### REGULAR VILLAGE COMMISSION MEETING

**NORTH BAY VILLAGE  
1666 KENNEDY CAUSEWAY, #101  
NORTH BAY VILLAGE, FL 33141**

**JUNE 10, 2014**

**7:30 P.M.**

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#### 1. CALL TO ORDER.

The meeting was called to order by Vice Mayor Eddie Lim at 7:30 p.m.

#### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

#### ROLL CALL

Present were the following:

Commissioner Richard Chervony  
Vice Mayor Eddie Lim  
Commissioner Jorge Gonzalez  
Commissioner Wendy Duvall

Mayor Connie Leon-Kreps and Deputy Village Clerk Jenorgen were absent.

Village Manager Frank K. Rollason  
Deputy Village Manager/HR Director Jenice Rosado  
Village Attorney Robert L. Switkes  
Finance Director Bert Wrains  
Public Works Director Rodney Carrero-Santana  
Police Chief Robert Daniels

Village Planner Ben Smith, LaRue Planning & Management Co., Inc.  
Village Clerk Yvonne P. Hamilton

**2. A. PROCLAMATIONS AND AWARDS**

**1. AWARD OF NORTH BAY VILLAGE SCHOLARSHIPS**

The scholarship recipients read their winning essay and were presented with a trophy and a check from the Village:

Andrew Canfield – First Place winner-\$2,500

Mercedes Leguizamon-Second Place winner-\$2,000

Sena Kashiwagi-Third Place winner-\$1,500

Samir Izadi-Fourth Place winner \$1,400.00 (His mother Olga Zambrano was present on his behalf.)

**B. SPECIAL PRESENTATIONS**

**1. Barbara Alfonso, Chairperson  
Continuing Education and Professional Development,  
North Campus, Miami Dade College**

Ms. Alfonso did not attend the meeting.

**2. Water Company of America/Audit Report**

Ms. Ada Izquierdo, Contract Manager, made a presentation on the findings of the audit of the Village's water, sewer, stormwater, and sanitation utility accounts.

The Vice Mayor opened the floor to public comments.

Mario Garcia, of 7540 Cutlass Avenue, addressed the Commission.

**C. ADDITIONS AND DELETIONS**

No items were added to or deleted from the agenda.

**3. GOOD & WELFARE**

Al Coletta, of 7904 West Drive, Kevin Vericker, of 7520 Hispanola Avenue, Linda Granada, of 1625 Kennedy Causeway, and Mike Schnaeder, of 7509 Cutlass Avenue, addressed the Commission.

**4. BOARD REPORTS**

**A. CITIZENS BUDGET & OVERSIGHT BOARD**

A report was not provided.

**B. COMMUNITY ENHANCEMENT BOARD**

A report was not provided.

**C. PLANNING & ZONING BOARD**

A report was not provided.

**5. PUBLIC SAFETY DISCUSSION**

Chief Daniels discussed public safety issues.

**6. COMMISSIONERS' REPORTS**

Commissioner Richard Cherovny, Commissioner Jorge Gonzalez, Commissioner Wendy Duvall, and Vice Mayor Eddie Lim all presented verbal reports.

**7. VILLAGE ATTORNEY'S REPORT**

The Village Attorney presented a verbal report.

## 8. **VILLAGE MANAGER'S REPORT**

**Grant Writer's Report** – A written report on the status of grants was included as part of the agenda package.

Commissioner Jorge Gonzalez made a motion to hold a Budget Workshop on July 17, 2014 at 7:30 p.m. Commissioner Wendy Duvall seconded the motion, which was adopted by a 4-0 roll call vote. The vote was as follows: Vice Mayor Eddie Lim, Commissioner Richard Chervony, Commissioner Wendy Duvall, and Commissioner Jorge Gonzalez all voting Yes.

Commissioner Richard Chervony made a motion to hold a Special Commission Meeting on July 29, 2014 at 7:30 p.m. for presentation of the FY 2015 Budget, to adopt a proposed millage rate, and to set the Budget Public Hearings. Commissioner Wendy Duvall seconded the motion, which was adopted by a 4-0 roll call vote. The vote was as follows: Commissioner Wendy Duvall, Commissioner Jorge Gonzalez, Vice Mayor Eddie Lim, and Commissioner Chervony all voting Yes.

Village Manager Frank K. Rollason discussed his written report that was included as part of the package.

## 9. **FINANCE REPORT**

Finance Director Bert Wrains made a presentation on the financial report for the period ending April 31, 2014.

10. **CONSENT AGENDA: Matters on the Consent Agenda are self-explanatory and are not expected to require discussion or review. Items will be enacted by one motion. If discussion is desired by any member of the Commission, that item must be removed from the Consent Agenda and will be considered separately.**

- A. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, TERMINATING A LEASE AGREEMENT WITH NEXTEL SOUTH CORP. FOR REMOVAL OF NEXTEL/SPRINT EQUIPMENT AT 1851 GALLEON STREET; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE LEASE TERMINATION AGREEMENT AND GENERAL RELEASE; AND PROVIDING FOR AN EFFECTIVE DATE.
- B. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, PROVIDING FOR RATIFICATION OF A MEMORANDUM OF UNDERSTANDING BETWEEN NORTH BAY VILLAGE AND THE FRATERNAL ORDER OF POLICE; AUTHORIZING THE VILLAGE MANAGER TO SIGN THE MEMORANDUM OF UNDERSTANDING ON BEHALF OF THE VILLAGE; AUTHORIZING THE VILLAGE MANAGER TO TAKE ALL STEPS NECESSARY TO IMPLEMENT THE MEMORANDUM OF UNDERSTANDING; AND PROVIDING FOR AN EFFECTIVE DATE. (*INTRODUCED BY VILLAGE MANAGER FRANK K. ROLLASON*)
- C. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA URGING MIAMI-DADE COUNTY BOARD OF COMMISSIONERS TO RESTORE FULL FUNDING TO THE ENTIRE MIAMI-DADE LIBRARY SYSTEM; SETTING AN EFFECTIVE DATE. (*INTRODUCED BY MAYOR CONNIE LEON-KREPS AND COMMISSIONER RICHARD CHERVONY*)

Commissioner Richard Chervony made a motion to approve the Consent Agenda Items. Commissioner Wendy Duvall seconded the motion, which was adopted by a 4-0 roll call vote. The vote was as follows: Commissioner Wendy Duvall, Commissioner Jorge Gonzalez, Vice Mayor Eddie Lim, and Commissioner Richard Chervony all voting Yes.

## 11. PLANNING & ZONING CONSENT AGENDA

**No Items.**

## **12. ORDINANCES FOR FIRST READING AND RESOLUTIONS**

- A. AN ORDINANCE OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 32, DEPARTMENTS AND BOARDS, BY CREATING SUBSECTIONS 32.78 THROUGH 32.85 OF THE VILLAGE CODE RELATING TO THE “BUSINESS DEVELOPMENT ADVISORY BOARD”; PROVIDING FOR RESOLUTIONS OR ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVING FOR REPEAL; AND PROVIDING AN EFFECTIVE DATE. (INTRODUCED BY VICE MAYOR EDDIE LIM)**

The Village Clerk read the Ordinance by title.

Commissioner Richard Chervony made a motion to approve the ordinance on first reading, and Commissioner Jorge Gonzalez seconded the motion.

The Vice Mayor opened the floor to public comments, and there were no speakers.

The motion was adopted by a 4-0 roll call vote. The vote was as follows: Commissioner Wendy Duvall, Commissioner Jorge Gonzalez, Vice Mayor Eddie Lim, and Commissioner Richard Chervony all voting Yes.

- B. AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 151 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED, “BUILDINGS” TO UPDATE BUILDING PERMIT FEES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; AND PROVIDING AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE MANAGER FRANK K. ROLLASON)**

The Village Clerk read the Ordinance by title.

Finance Director Bert Wrains pointed out an amendment to the Ordinance to adjust the proposed rate for calculation of the related permit fees to be 5% of the value of those jobs without a master Building Permit and 3% for the sub permits, as well as a \$125 minimum fee on all Building Permits.

The Vice Mayor opened the floor to public comments, and there were no speakers.

Commissioner Richard Chervony made a motion to approve the ordinance as amended. Commissioner Jorge Gonzalez seconded the motion, which was adopted by a 4-0 roll call vote. The vote was as follows: Commissioner Wendy Duvall, Commissioner Jorge Gonzalez, Vice Mayor Eddie Lim, and Commissioner Richard Chervony all voting Yes.

**C. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE EXPENDITURE OF POLICE IMPACT FEES; MAKING APPROPRIATIONS IN THE FY 2013 BUDGET; AND SETTING AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE MANAGER FRANK K. ROLLASON)**

The Village Clerk read the Resolution by title.

The Mayor opened the floor to public comments, and there were no speakers.

Commissioner Richard Chervony stated for the record that \$6,000 would be to construct the holding cell. However, the full price of the project which would include the bench, shackles, camera, and computer was required.

Chief Daniels responded that the department already has the shackles, and the camera and the bench would cost \$200.

Commissioner Jorge Gonzalez made a motion to approve the Resolution. Vice Mayor Eddie Lim seconded the motion, which was adopted by a 3-1 roll call vote. The vote was as follows: Vice Mayor Eddie Lim, Commissioner Wendy Duvall, and Commissioner Jorge Gonzalez all voting Yes. Commissioner Richard Chervony voted No.

**13. PUBLIC HEARINGS INCLUDING ORDINANCES FOR SECOND READING:**

**A. A REQUEST BY YEPARA, INC., PROPERTY OWNER OF THE BUSINESS ESTABLISHMENT LOCATED AT 1884 KENNEDY CAUSEWAY, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA FOR THE FOLLOWING:**

- 1. A VARIANCE PURSUANT TO SECTION 111.03 OF THENORTH BAY VILLAGE CODE OF ORDINANCES FROM THE STRICT INTERPRETATION OF SECTION 111.12(A)(1) AND 111.12 (B)(1) FOR THE ISSUANCE OF A BUSINESS TAX RECEIPT TO PERMIT THE SALE AND ON PREMISES CONSUMPTION OF BEER AND WINE WITHIN 300 FEET OF AN EXISTING RESTAURANT HOLDING A 4COP LICENSE AND WITHIN 500 FEET OF A PUBLIC SCHOOL.**

The Village Clerk read the request into the record.

Village Attorney Robert Switkes swore in those individuals who indicated that they would testify during the public hearing items. He further advised the Commission on the procedures for this quasi-judicial proceeding pursuant to Section 29 of the Village Code. Commissioner Richard Chervony disclosed a visit to the site at 7501 Adventure Avenue. There were no other disclosures.

Ben Smith, of LaRue Planning & Management Services, Inc., Village Planner, made a brief presentation on the item recommending approval with the following conditions:

1. There are no objections from owners or occupants of neighboring residential properties.
2. Cost Recovery changes must be paid pursuant to Section 152.110. Specifically, no license or permit shall be issued for the property until all application fees, cost recovery deposits and outstanding fees and fines related to the property (including fees related to any previous development proposal applications on the property), have been paid in full.
3. Authorization or issue of a variance by the Village does not in any way create a right on the part of the applicant to obtain a permit from a state or federal agency, and does not create liability on the part of the Village for issuance of a variance or a building permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes action that result in a violation of federal or state law.

The applicant Rocio Soto addressed the Commission.

The Vice Mayor opened the public hearing.

Ann Bakst, of 1865 Kennedy Causeway and Al Coletta, of 7904 West Drive addressed the Commission in favor of the request.

The Vice Mayor closed the public hearing.

Commissioner Richard Chervony made a motion to approve the request for the issuance of a business tax receipt to permit the sale and on premises consumption of beer and wine within 300 feet of an existing restaurant holding a 4cop license and within 500 feet of a public school subject to the conditions outlined by the Village Planner as set forth herein. Commissioner Jorge Gonzalez seconded the motion, which was adopted by a 4-0 roll call vote. The vote was as follows: Commissioner Wendy Duvall, Commissioner Jorge Gonzalez, Vice Mayor Eddie Lim, and Commissioner Richard Chervony all voting Yes.

**B. AN APPLICATION BY SILVIA OBERSTEIN CONCERNING PROPERTY LOCATED AT 7501 ADVENTURE AVENUE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**

- 1. A VARIANCE PURSUANT TO SECTION 152.097 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FROM THE STRICT APPLICATION OF SECTION 152.027(C)(2) TO PERMIT AN ADDITION TO A SINGLE-FAMILY RESIDENCE TO FURTHER ENCROACH INTO THE REQUIRED SIDE YARD SETBACK, ALLOWING A SIDE YARD SETBACK OF 7.5 FEET WHERE THE CODE REQUIRES 15 FEET.**

The Village Clerk read the request into the record.

Ben Smith, of LaRue Planning & Management Services, Inc., Village Planner, made a brief presentation on the item stating that a hardship criteria for the granting of the variance was not present. He noted for the record that the Planning & Zoning Board had recommended approval of the request.

The applicant Silvia Oberstein addressed the Commission.

The Vice Mayor opened the floor to public comments and there were no speakers.

Vice Mayor Eddie Lim made a motion to approve the request. Commissioner Richard Chervony seconded the motion, which was adopted by a 4-0 roll call vote. The vote was as follows: Commissioner Richard Chervony, Commissioner Wendy Duvall, Commissioner Jorge Gonzalez and Vice Mayor Eddie Lim all voting Yes.

Commissioner Richard Chervony left the meeting at 10:05 p.m.

**C. AN APPLICATION BY NORTH BAY CAUSEWAY, LLC CONCERNING PROPERTY LOCATED AT 1555 KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING: (FIRST PUBLIC HEARING)**

- 1. A SPECIAL USE EXCEPTION PURSUANT TO SECTIONS 152.030(C)(3) AND 152.098 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR DEVELOPMENT OF A MIXED-USE COMMERCIAL STRUCTURE IN THE CG (GENERAL COMMERCIAL) ZONING DISTRICT.**
- 2. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FOR DEVELOPMENT OF A 127-UNIT, 22-STORY CONDOMINIUM STRUCTURE WITH A PARKING GARAGE.**
- 3. BONUS HEIGHT APPROVAL, PURSUANT TO SECTION 152.029(C)(8)A-F OF THE NORTH BAY VILLAGE CODE OF ORDINANCES.**
- 4. A VARIANCE PURSUANT TO SECTION 152.097 OF NORTH BAY VILLAGE CODE OF ORDINANCES TO ALLOW 5 STORIES OF PARKING, WHERE SECTION 152.029(C) ALLOWS A MAXIMUM OF FOUR STORIES OF PARKING.**

The Village Clerk read the requests into the record.

Ben Smith, of LaRue Planning & Management Services, Inc., Village Planner, made a brief presentation on the items recommending approval with the following conditions:

- 1) Prior to the issuance of a building permit, the public access easement and boardwalk must be dedicated and recorded. Applicant shall agree, in writing, that boardwalks shall be open to the public from sun-up until either 10:00 pm or at least until any businesses adjacent to the boardwalk remains open to the public, whichever is later; and boardwalk lighting shall remain on until boardwalk is closed to the public.
- 2) Site plan approval from Miami-Dade Shoreline Review Committee.
- 3) Meeting School Board Concurrency requirements as determined by School Board Staff.
- 4) Payment of any applicable impact fees.
- 5) Payment of bonus height fees, as required under Section 152.029(C)8.
- 6) Tie-in to Village's wastewater system at a Village designed proximate location (proposed connection point) and payment of pro-rata costs involved in tying into appropriate connection point.
- 7) Cost recovery charges must be paid pursuant to Section 152.110. Specifically, no new development application shall be accepted and no building permit or certificate of occupancy shall be issued for the property until all application fees, cost recovery deposits and outstanding fees and fines related to the property (including fees related to any previous development proposal applications), have been paid in full.
- 8) Building permits and related approvals must be obtained from the Building Official prior to commencement of construction.
- 9) Approval of this site plan does not in any way create a right on the part of the applicant to obtain a permit from a state or federal agency, and does not create liability on the part of the Village for approval if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes action that result in a violation of federal or state law.
- 10) All applicable state and federal permits must be obtained before commencement of construction.

Counsel for the applicant John Chibbaro, of Akerman LLP, the developer Miguel Barbagello, and Architects Tyler Wilson and Arturo Griego addressed the Commission on behalf of the requests.

The Vice Mayor opened the public hearing.

Ann Bakst, of 1865 Kennedy Causeway, Mario Garcia, of 7540 Cutlass Avenue, and Jorge Brito of 1865 Kennedy Causeway addressed the Commission in favor of the project.

The Vice Mayor closed the public hearing.

Discussion ensued regarding Condition No. 6, which was amended to read as follows: 6) Tie-in to Village's wastewater system at a Village designed proximate location to be determined by the Village (proposed connection point will be gravity system or force main) and payment of pro-rata costs involved in tying into appropriate connection point.

Legal Counsel for the applicant accepted the amended condition.

Commissioner Jorge Gonzalez made a motion to approve the request for a Special Use Exception for development of a mixed use commercial structure in the CG (General Commercial) Zoning District. Commissioner Wendy Duvall seconded the motion, which was adopted by a 3-0 roll call vote. The vote was as follows: Vice Mayor Eddie Lim, Commissioner Wendy Duvall, and Commissioner Jorge Gonzalez all voting Yes.

Vice Mayor Eddie Lim made a motion to approve the Site Plan for development of a 127 unit, 22-story condominium structure with a parking garage at 1555 Kennedy Causeway with the conditions outlined by the Village Planner as set forth herein. Commissioner Wendy Duvall seconded the motion, which was adopted by a 3-0 roll call vote. The vote was as follows: Commissioner Wendy Duvall, Commissioner Jorge Gonzalez, and Vice Mayor Eddie Lim all voting Yes.

Commissioner Jorge Gonzalez made a motion to approve the request for construction under the bonus height provisions. Commissioner Wendy Duvall seconded the motion, which was adopted by a 3-0 roll call vote. The vote was as follows: Vice Mayor Eddie Lim, Commissioner Wendy Duvall, and Commissioner Jorge Gonzalez all voting Yes.

Commissioner Wendy Duvall made a motion to approve the request to allow five stories of parking in the proposed development at 1555 Kennedy Causeway. Vice Mayor Eddie Lim seconded the motion, which was adopted by a 3-0 roll call vote. The vote was as follows: Commissioner Jorge Gonzalez, Vice Mayor Eddie Lim, and Commissioner Wendy Duvall all voting Yes.

**D. A REQUEST BY BAYVIEW CONDOMINIUM ASSOCIATION, AT 1625 KENNEDY CAUSEWAY, TREASURE ISLAND, WITHIN THE CG (GENERAL COMMERCIAL) ZONING DISTRICT, NORTH BAY VILLAGE, FLORIDA FOR A NON-USE VARIANCE PURSUANT TO SECTION 152.0971 OF THE NORTH BAY VILLAGE CODE OF ORDINANCES FROM THE STANDARDS OF SECTION 152.029(C)(2) TO ALLOW A NATURAL GAS GENERATOR TO BE SETBACK 8.5 FEET FROM THE SIDE PROPERTY LINE, WHERE A SETBACK OF 15 FEET IS REQUIRED.**

Ben Smith, of LaRue Planning & Management Services, Inc., Village Planner, made a brief presentation on the item recommending approval.

The Vice Mayor opened the public hearing.

Legal Counsel for the applicant, Janna Lhota, of Holland & Knight, addressed the Commission. Also present on behalf of the project were David Antoun with Tectonic Engineering and Chris Emerick with Zabatt Power Systems.

The Vice Mayor opened the public hearing.

Mario Garcia, of 7540 Hispanola Avenue, addressed the Commission in favor of the request.

The Vice Mayor closed the public hearing.

Discussion took place regarding the added condition for the generator operation not to exceed 75 decibels when measured from a distance of 23 feet from the generator.

Legal counsel for the applicant accepted the amended condition.

Commissioner Jorge Gonzalez made a motion to approve the request for installation of a natural gas generator in the east side-yard setback at 1625 Kennedy Causeway with the following conditions:

1. To comply with Section 151.25, screening must be provided which screens the entire height of the generator structure.
2. Generator testing times shall be restricted to between 10:00 a.m. and 2:00 p.m. on weekdays and non-holidays.
3. Generator operation may not exceed 75 decibels when measured from a distance of 23 feet from the generator
4. Bayview Condominium Association must either verify that a baywalk public easement has been dedicated and recorded along the waterfront or must ensure that a baywalk public easement is dedicated and recorded along the waterfront according to the Miami-Dade Biscayne Bay Management Plan.
5. Building permits and related approvals for generator installation must be obtained from the Building Official prior to commencement of construction.
6. All applicable state and federal permits must be obtained before commencement of construction.
7. Cost Recovery changes must be paid pursuant to Section 152.110. Specifically, no building permit shall be issued for the property until all application fees, cost recovery deposits and outstanding fees and fines related to the property (including fees related to any previous development proposal applications on the property), have been paid in full.
8. Authorization or issue of a variance or a building permit by the Village does not in any way create a right on the part of the applicant to obtain a permit from a state or federal agency, and does not create liability on the part of the Village for issuance of a variance or a building permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes action that result in a violation of federal or state law.

Commissioner Wendy Duvall seconded the motion, which was adopted by a 3-0 roll call vote. The vote was as follows: Vice Mayor Eddie Lim, Commissioner Wendy Duvall, and Commissioner Jorge Gonzalez all voting Yes.

**14. UNFINISHED BUSINESS**

There was no unfinished business.

**15. NEW BUSINESS**

There was no new business.

**16. APPROVAL OF MINUTES**

**A. REGULAR COMMISSION MEETING – MAY 13, 2014**

Commissioner Jorge Gonzalez made a motion to approve the Minutes as submitted. Vice Mayor Eddie Lim seconded the motion, which was adopted by a 3-0 roll call vote. The vote was as follows: Vice Mayor Eddie Lim, Commissioner Wendy Duvall, and Commissioner Jorge Gonzalez all voting Yes.

**17. ADJOURNMENT**

The meeting adjourned at 11:07 p.m.

*Prepared: Yvonne P. Hamilton, CMC*

Adopted by North Bay Village on

this 8th day of July, 2014.

***Eddie Lim, Vice Mayor***

(Note: The Minutes are not a verbatim record of the meeting. A copy of the audio recording is available at the Village Clerk's Office until the time for disposition in accordance with the Records Disposition and other Public Records Law.)

