

ISLAMORADA VILLAGE COUNCIL

**Special Call Village Council Meeting
Founders Park Community Center
87000 Overseas Hwy
Islamorada, Florida 33036**

**Tuesday, August 7, 2012
3 PM**

I. CALL TO ORDER/ROLL CALL

Mayor Reckwerdt called the meeting to order at 3:26 p.m. and requested Village Clerk Debra Eastman call the roll. The following Council members were present on roll call: Councilman Don Achenberg, Councilman Ted Blackburn, Councilman Dave Purdo, Vice Mayor Ken Philipson and Mayor Michael Reckwerdt.

II. PLEDGE OF ALLEGIANCE

Mayor Reckwerdt invited Don Smith to lead the Pledge of Allegiance.

III. PUBLIC COMMENTS

Mayor Reckwerdt invited public comment and there was none.

IV. RESOLUTIONS

A. Resolution Approving Cheeca Settlement Agreement

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING A SETTLEMENT AGREEMENT BETWEEN CHEECA HOLDINGS, LLC AND CERTAIN AFFILIATED ENTITIES OF CHEECA HOLDINGS, LLC (INCLUDING NWLC, LLC), DANISE D. HENRIQUEZ (AS TAX COLLECTOR FOR MONROE COUNTY, FLORIDA) AND ISLAMORADA, VILLAGE OF ISLANDS IN THE CASE(S) STYLED CHEECA HOLDINGS, LLC, ET AL V. ISLAMORADA, VILLAGE OF ISLANDS AND DANISE D. HENRIQUEZ, TAX COLLECTOR, MONROE COUNTY, CASE NO. 08-CA-805-P, IN THE SIXTEENTH JUDICIAL CIRCUIT, TO SETTLE A CHALLENGE TO A 2008 WASTEWATER PLANNING SPECIAL ASSESSMENT AND THE CASE STYLED NWLC, LLC, ET AL V. ISLAMORADA, VILLAGE OF ISLANDS AND DANISE D. HENRIQUEZ, TAX COLLECTOR, MONROE COUNTY, CASE NO. 11-CA-816P (AS CONSOLIDATED INTO CASE NO. 11-CA-1077P), IN THE SIXTEENTH JUDICIAL CIRCUIT, TO SETTLE A LAWSUIT CHALLENGING A 2011 WASTEWATER CAPITAL SPECIAL ASSESSMENT; AND DISMISSING CHEECA'S OPPOSITION TO THE CASE STYLED ISLAMORADA, VILLAGE OF ISLANDS V. STATE OF FLORIDA, CASE NO. 11-CA-1077P, IN THE SIXTEENTH JUDICIAL CIRCUIT, A PENDING BOND VALIDATION PROCEEDING; AUTHORIZING THE APPROPRIATE VILLAGE OFFICIALS TO EXECUTE THE SETTLEMENT AGREEMENT AND ANY ADDITIONAL DOCUMENTS PERTAINING TO THE SETTLEMENT;

AUTHORIZING THE APPROPRIATE VILLAGE OFFICIALS TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT, TO EXECUTE AND FILE ANY REQUIRED DOCUMENTS WITH THE COURT TO CONCLUDE THE LITIGATION; AND PROVIDING FOR AN EFFECTIVE DATE

Village Attorney Nina Boniske read the title of the resolution. Ms. Boniske explained the history of the wastewater assessments and that settlement of the litigation will guarantee the revenue stream for funding of the wastewater project. Ms. Boniske reviewed the proposed settlement agreement summary as follows:

1. Cheeca will be barred from challenging the 2008 Wastewater Planning Special Assessment.
2. Cheeca will be barred from challenging the 2011 Wastewater Capital Special Assessment.
3. Cheeca will withdraw its opposition to the Village's Bond Validation Proceeding.
4. Cheeca would remain a customer of the Village's wastewater utility subject to the 2011 Wastewater Capital Special Assessment at the EDU's and Prepayment Amounts set forth in the 2011 Assessment.
5. At the time of connection to the Village's Wastewater System, Cheeca would be allowed to maintain a state permitted wastewater treatment plant used solely for irrigation (reuse) on the Cheeca property (subject to FDEP permitting).
6. Cheeca would cap the injection wells on the Cheeca property.
7. Cheeca would deliver to the Village's collection system any untreated or treated wastewater not used on the property for irrigation.
8. The Village will make available to Cheeca untreated wastewater for Cheeca's use for treatment and irrigation.
9. Cheeca will be charged for the Village's delivery of wastewater to the Cheeca property at the Village rates established and adopted by the Village Council when the Village adopts its utility rates (competitive with rates charged by similarly situated utilities for reuse in Monroe County).
10. Cheeca will pay the Village for flow of wastewater that enters the Village's collection system at the Village's adopted utility rates.
11. The Village will provide at its expense a valve(s) to the Cheeca property that allows for the Village's wastewater to be delivered to the Cheeca.
12. Cheeca will provide and maintain meter(s) as required by the Village's engineers to calculate the wastewater flows from either direction.
13. All parties pay their own fees and costs, the prevailing party in any future action to enforce the settlement would be entitled to attorney's fees.

A motion to adopt the resolution was made by Councilman Blackburn. The motion received a second from Councilman Purdo. Mayor Reckwerdt invited public comment and there was none. Mayor Reckwerdt invited Village Clerk Debra Eastman to call the roll. The motion passed 5-0.

V. MOTIONS

There were no motions.

VI. MAYOR/COUNCIL COMMUNICATIONS

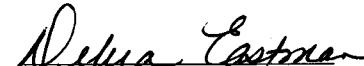
There were no Mayor or Council communications.

VII. VILLAGE ATTORNEY/VILLAGE MANAGER COMMUNICATIONS

There were no Village Attorney or Village Manager communications.

VIII. ADJOURNMENT

A motion was made by Councilman Achenberg to adjourn. The motion received a second from Councilman Purdo. The meeting adjourned at 3:46 p.m.


Debra E. Eastman, MMC
Village Clerk

Approved by the Village Council this 21st day of August, 2012.