



**ISLAMORADA, VILLAGE OF ISLANDS
REGULAR VILLAGE COUNCIL MEETING**

**Founders Park Community Center
87000 Overseas Hwy
Islamorada, FL 33036
November 29, 2012
5:30 PM**

I. CALL TO ORDER\ROLL CALL

Mayor Philipson called the meeting to order at 5:30 p.m. and requested Acting Village Clerk Mary Swaney to call the roll. The following Council members were present on roll call: Councilman Dave Purdo, Vice Mayor Ted Blackburn and Mayor Ken Philipson. Also in attendance were Village Manager Ed Koconis, Village Attorneys Nina Boniske and James White, and all other appropriate personnel.

II. PLEDGE OF ALLEGIANCE

Mayor Philipson asked Chris Morton to lead the Pledge of Allegiance

III. SWEARING IN OF NEWLY ELECTED OFFICIALS

Mayor Philipson announced that the Honorable Judge Luis Garcia would swear in all elected officials beginning with Seat 1. Judge Garcia swore in the Village Council Members in the following order: Seat 1 Deb Gillis, Seat 2 Dave Purdo, Seat 3 Ken Philipson, Seat 4 Ted Blackburn, and Seat 5 Mike Forster.

IV. ROLL CALL

Mayor Philipson requested Mary Swaney to call the roll. The following Council members were present on roll call: Councilman Mike Forster, Councilwoman Deb Gillis, Councilman Dave Purdo, Vice Mayor Ted Blackburn and Mayor Ken Philipson

V. ELECTION OF MAYOR AND VICE MAYOR

Mayor Philipson requested a motion for the position of Mayor. A motion to elect Ken Philipson Mayor was made by Councilwoman Gillis. Councilwoman Gillis commented that she looks forward to Council working together as a group. The motion received a second from Vice Mayor Blackburn.

Mayor Philipson called for the vote and the motion passed 5-0.

Mayor Philipson requested a motion for the position of Vice Mayor. A motion to nominate Ted Blackburn was made by Councilman Forster. The motion received a second from Councilwoman Gillis.

Mayor Philipson called for the vote and the motion passed 5-0.

VI. PRESENTATIONS

A. Acknowledgement of Deb Gillis' Service on the Local Planning Agency

Mayor Philipson asked Vice Mayor Blackburn to present Deb Gillis with the certificate for her service on the Local Planning Agency. Vice Mayor Blackburn presented the certificate and expressed appreciation for her service.

B. Acknowledgement of Chris Morton's Service on the Local Planning Agency

Mayor Philipson asked Vice Mayor Blackburn to present Chris Morton with the certificate for his service on the Local Planning Agency. Vice Mayor Blackburn presented the certificate and expressed appreciation for his service.

Councilman Forster announced the following appointments to the Local Planning Agency and Citizens' Advisory Committees: Jim Mooney to the Local Planning Agency; Andy Putetti to the Near Shore Water Regulation Citizens' Advisory Committee and Bob Mitchell to retain his seat on that committee; Lee Gannaway to the Parks and Recreation Citizens' Advisory Committee and Carolyn Wightman to retain her seat on that committee; and Todd Chandler and Nick Kimball to the Workforce / Affordable Housing Citizens' Advisory Committee.

Councilman Purdo appointed Kathy Ward to the Water Quality Improvement Citizens' Advisory Committee

Councilman Purdo expressed his appreciation to the Reverend Tony Hammond for performing the blessing during the dedication of the Whale Harbor Joe Roth Jr. Bridge.

Councilman Purdo expressed his appreciation to the Rotary Club for its assistance with the auction during Island Christian Holiday Festival.

VII. PUBLIC COMMENT

Mayor Philipson commented that the previous Council was liberal in allowing public comment and that he plans to continue that practice. Mayor Philipson opened Public Comment.

Jim Bellizzi, Islamorada, handed a copy of an email to each Councilmember. Mr. Bellizzi read the email that he had drafted. In his e-mail Mr. Bellizzi explained that he had applied for a fence permit and provided the Village building department with a copy of a plat that included the preparer's certification that the plat could be substituted for a survey. Mr. Bellizzi explained that the Village's response was that a permit for a fence requires a survey and that the plat would not be accepted by the Village in lieu of a survey. Mr. Bellizzi requested Council to direct staff to accept the plat and issue the fence permit.

In response to Mr. Bellizzi's public comment, Councilman Forster asked Village Manager Edward Koconis the status of Mr. Bellizzi's fence permit. Mr. Koconis responded that the Chief

Building Official requires survey to determine property lines for permitting a fence. Mr. Koconis said he would discuss the issue again with the Chief Building Official and respond to Mr. Bellizzi. Mr. Koconis stressed, however, that it would be inappropriate for him to direct the Chief Building Official to issue a permit.

Councilman Purdo asked Village Attorney Nina Boniske if the Village would be liable if a person were injured on a property if the property is not fenced. Ms. Boniske answered that the Village would not be liable.

John Fernandez, Islamorada, acknowledged Deb Gillis' contributions to the LPA. He commented that the Village should establish a law requiring connection to sewer before a property may be sold. He again requested that the Village address foreclosed properties that are not being maintained, and he suggested that the Village Council should establish another Charter Review Committee to consider making the Village Clerk position a Charter position that reports to the Village Council instead of to the Village Manager.

VIII. AGENDA: Request for Deletion / Emergency Additions

IX. CITIZENS' ADVISORY COMMITTEE UPDATES

A. Historic Preservation Commission (HPC) – Commissioner Buddy Pinder

Mayor Philipson invited Buddy Pinder to provide his report. Mr. Pinder reported that the HPC met on November 14, 2012 and the commission is primarily working on an open house scheduled for Tuesday January 29, 2012 at Islamorada Library.

B. Workforce / Affordable Housing Citizens' Advisory Committee – Vice Chair Keith Douglass

Mayor Philipson invited Keith Douglass to provide his report. Mr. Douglass reported that the Wet Net property has closed, that the builder is now working on building permits and that the affordable housing project is scheduled to be completed early next fall. Mr. Douglass reported that the committee is working on language concerning sewer connection subsidies to come out of the Workforce Housing Trust Fund and that the group will be working on goals and objectives. Councilman Purdo inquired about the Wet Net affordable housing project with regard to the wastewater connection.

(XVIII.) MAYOR / COUNCIL COMMUNICATIONS

B. Discussion Regarding the Planning Department (Councilman Forster)

Councilman Forster requested Item B in Council Communications be moved up on the agenda due to a number of the audience members in attendance for this discussion item. Councilman Forster acknowledged that the Planning Department had been an issue raised during the campaign process for the November election. Councilman Forster expressed that, in his opinion, the Planning Department is not user-friendly and tends to make decisions based on the most restrictive side of the law which results resulting in unnecessary costs to applicants. He provided information on staffing levels in planning departments of other municipalities in the Florida Keys and suggested that those municipalities provide services to the public with less staff. Councilman Forster reported that he met with the Village Manager who suggested appointing a task force of contractors to identify whether the Village's building and planning codes are the

restrictive element in the development and construction processes that makes the Planning Department appear not “user friendly.” Councilman Forster requested a Council workshop be scheduled to address the topic.

Council discussion ensued regarding clarification of Building and Planning Departments’ activities and authorities. Councilwoman Gillis acknowledged the differences in planning department staffing levels among communities may be due to the amount of land available for development and growth. Councilmembers agreed to schedule a workshop in January on a date to be identified during the December 13, 2012 Regular Village Council Meeting. Village Manager Edward Koconis expressed his appreciation for the constructive criticism and commented that the LDRs (Land Development Regulations) were written when the community’s attitude toward growth was more restrictive.

Mayor Philipson invited Public comment.

Don Horton, Islamorada, expressed that he looks forward to working with everyone to make improvements.

X. VILLAGE MANAGER REPORTS AND UPDATES

A. Report Regarding Administrative Rule 28-19.310 Compliance

Village Manager Edward Koconis reported that he received the DEO (Department of Economic Opportunity) annual report yesterday which includes a report of the Village’s progress. Mr. Koconis reported that in past, the Village had been behind on wastewater compliance but that during the past year progress has occurred. He added that the Village has also been compliant with land acquisition requirements and hurricane evacuation and other items. Mr. Koconis stated that the Village may be eligible for de-designated as an Area of Critical State Concern in 2016.

B. Status update on Noise Ordinance Amendments

Village Manager Koconis reported that staff is looking at regulations in other cities addressing noise and staff has identified two options for measuring noise levels. Information on the options, decibel and plainly audible, and how they might be incorporated into a noise ordinance will be presented to Council for consideration at a future meeting. Discussion ensued regarding the effectiveness of the existing noise ordinance in most situations, not spending too much time completely rewriting the ordinance, the option of soundproof curtains around outdoor areas to keep noise contained, the cost of decibel meters including training and calibration, and policy issues regarding daytime noise.

Don Horton, Islamorada, showed computer-based application for a decibel meter. He commented that regulations need to be definitive, not subjective.

C. Status update on Foreclosed / Abandoned Properties Ordinance

Village Manager Koconis reported that staff and the attorneys have looked at several ordinances from other municipalities for maintenance of abandoned and foreclosed properties. He stated that most specify registration criteria. Currently, if properties in Islamorada do not meet maintenance requirements, Code Enforcement action may be taken. One of the problems, however, has been that property ownership changes before code enforcement hearings can occur.

Vice Mayor Blackburn commented that the Village must take action on unsightly abandoned properties and then recoup the related costs from the property owner through a lien process. Village Manager Koconis reported that the Village has cleaned up properties and passed along the cost. Councilwoman Gillis noted that this applies not only to foreclosed/abandoned properties but

also to those in limbo for future development. She suggested that reminder phone calls to cut grass or trim bushes may be needed.

John Fernandez, Islamorada, commented that banks that have repossessed a property do not care about maintaining them. He recommended that at least the front yard should be addressed.

Chris Sante, Islamorada, stated that ordinances are in place in other cities where the city goes in and takes care of the property right away. He recommended finding an existing ordinance that would allow the Village to perform yard maintenance and then put a lien on the property. Village Attorney Boniske stated that the Village adopted such regulations a year or two ago. Mayor Philipson invited additional public comment; there was none on this topic.

XI. WASTEWATER MATTERS

A. Wastewater Update

Tom Brzezinski, Wade Trim, reported that the North Plantation Key (NPK) improvements project and Middle Plantation Key (MPK) project are currently under construction. Mr. Brzezinski further reported that three design packages are expected by December: 30% design for the Key Largo transmission line, 30% for water crossings; and 30% for the MPK pump station. He further reported that the value engineering process is underway. In addition, Wade Trim and Weiler are evaluating the NPK design and they are looking at potential savings for the NPK improvements project. The pavement evaluation proposal is expected to be presented to Council at the December 13 meeting; communications between staff and Reynolds have been open and that Reynolds has been responsive; that they are working to improve communications between delivery teams on the job and residents with the use of additional informational A-frame signs in the neighborhoods undergoing construction; and that the Reynolds wastewater website that should be available soon. He announced that the hotline number for wastewater project questions and complaints is 305-414-8356.

Mayor Philipson reported on the water summit in Chicago he attended along with 400 international executives in wastewater field, including Wade Trim and Reynolds. Mayor Philipson noted that the Village needs to be concerned about sea level rise due to global warming and its effect on infrastructure including the wastewater system.

Councilman Purdo requested better communication regarding the wastewater project to assist him with answering resident questions. Tom Brzezinski, Wade Trim, advised that detailed monthly reports to Council will be provided beginning December 13, 2012. Councilman Blackburn commented that the sewer system involves a lot of unattractive construction through 2015 and acknowledged that there will be annoyances and some inconveniences. Councilwoman Gillis suggested the hotline number be posted so people can get answers quicker. Councilman Forster suggested that A-frames will be a big help with communication. Wes Self, Reynolds Islamorada, reported that there is a plan to create a market for temporary use of used package plants.

Jim Bellizzi, Islamorada, commented that he read about a funding assistance program for small counties with populations less than 75,000 for road resurfacing. He stated that he did not know if Islamorada would qualify for the program but suggested that the Village investigate this option for funding. Mr. Bellizzi made further comments about the height of fences along the highway.

Buddy Pinder, Islamorada, recommended that residents call the hotline number with questions or complaints.

XII. CONSENT AGENDA

(All items on the Consent Agenda are considered routine by the Village Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event, the item will be moved to the Main Agenda.)

- A. Minutes:
 - October 25, 2012 Regular Village Council Meeting
 - November 8, 2012 Regular Village Council Meeting
- B. Resolution Approving Third Amendment to Agreement for Professional State Lobbying Consulting Services

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING THE THIRD AMENDMENT TO PROFESSIONAL STATE LOBBYING CONSULTING SERVICES AGREEMENT BETWEEN WILLIAM J. PEEBLES, P.A. AND ISLAMORADA, VILLAGE OF ISLANDS TO PROVIDE PROFESSIONAL STATE LOBBYING SERVICES; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE THIRD AMENDMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE THIRD AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE

A motion to adopt the Consent Agenda was made by Councilwoman Gillis. The motion received a second from Vice Mayor Blackburn. Mayor Philipson called for the vote and all were in favor.

XIII. ORDINANCES

- A. Second Reading– Dog Friendly Restaurants Ordinance

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS,” ARTICLE VI “SPECIFIC USE RESTRICTIONS,” ESTABLISHING DIVISION 5 “DOG FRIENDLY RESTAURANTS,” SECTION 30-1261 “AUTHORITY; INTENT AND PURPOSE,” SECTION 30-1262 “DEFINITIONS,” SECTION 30-1263, “APPLICATION REQUIREMENTS,” SECTION 30-1264, “REGULATIONS,” SECTION 30-1265, “PERMIT EXPIRATION, RENEWAL AND REVOCATION,” AND SECTION 30-1266, “COMPLAINTS, REPORTING AND ENFORCEMENT,” OF THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY

Village Attorney James White read the title of the ordinance. Mayor Philipson asked Planner Jay Berenzweig to provide the staff report. Mr. Berenzweig provided the report and stated the ordinance incorporates all requirements set forth in Florida Statutes and includes additional insurance and rabies certificate requirements. Mr. Berenzweig recommended adoption of the ordinance on second reading.

Councilman Forster commented about the proposed ordinance and questioned the need for the Village to be named as additional insured due to the costs to the applicant.

Dave Boerner, Islamorada, spoke in support of the ordinance.

Larry Barr, Islamorada, expressed that it should be business friendly and to keep it simple.

Dave Boerner, Islamorada, commented that restaurant employees shall be prohibited from touching or handling dogs, therefore, they cannot check for proper tags.

Council discussion ensued regarding whether to require the Village be named as an additional insured on the insurance policy of a restaurant applying to allow dogs and whether to require a license tag or rabies tag .

Following Council discussion, Village Manager Edward Koconis read amendments to the ordinance into the record: remove the sentence "The village shall be named as an additional insured on the required insurance." from Section 30-1263(f) and remove Section 30-1264(m) in its entirety.

A motion to adopt the ordinance as amended was made by Councilman Forster. The motion received a second from Councilman Purdo. Mayor Philipson requested Mary Swaney call the roll and the motion passed 5-0.

XIV. QUASI-JUDICIAL

There were no quasi-judicial items.

XV. RESOLUTIONS

- A. Resolution Amending the Schedule of Fees for Planning and Development Services Applications to Include Fees for Dog-Friendly Restaurants**

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA; AMENDING THE SCHEDULE OF FEES FOR PLANNING AND DEVELOPMENT SERVICES APPLICATIONS; AND PROVIDING FOR AN EFFECTIVE DATE

Village Attorney James White stated that this resolution is the companion to the dog-friendly restaurants ordinance to provide fees for the registration. Mr. White read the title of the resolution. Mayor Philipson asked Principal Planner Cheryl Cioffari to provide the staff report. Ms. Cioffari provided the report and recommended adoption of the resolution. Council briefly discussed the amount of the registration fees.

Mayor Philipson opened public comment and there was none.

A motion to adopt the resolution was made by Councilman Purdo. The motion received a second from Vice Mayor Blackburn.

Mayor Philipson called for the vote and the motion passed 5-0.

XVI. MOTIONS

A. Discussion and Direction regarding U.S. 1 Transportation Concurrency

Mayor Philipson asked Senior Planner Kevin Bond to provide the staff report. Mr. Bond provided the report regarding U.S. 1 transportation concurrency, its effect on new development and options regarding the Level of Service that are being addressed with Monroe County and municipalities within the County.

Council discussion ensued regarding new developments, lack of turn lanes and the current methodology to determine Level of Service. Following Council discussion, Mayor Philipson confirmed Council consensus to propose County-wide level of service methodology.

Jim Bellizzi, Islamorada, stated that Florida Statute 339.2816 says counties with populations under 75,000 would qualify for funds if there is a local option gas tax such as Monroe County, but the funds cannot be used for capacity improvements on county roads.

Dave Boerner, Islamorada, stated that concurrency on transportation is essential and that getting rid of segments and going with a county-wide method would be the best way to go.

Larry Barr, Islamorada, reported that Tavernier and Key Largo have A level of service and that Lower Matecumbe and Tea Table are rated D and E.

David deHaas, Islamorada, commented regarding the Florida Department of Transportation and the possible involvement of other state departments due to the political nature of the topic.

Village Manager Koconis stated that it is best if all municipalities in the County agree on the methodology and will provide an update at the December 13, 2012 Regular Village Council Meeting.

XVII. UNFINISHED BUSINESS

There were no unfinished business items on the agenda.

XVIII. MAYOR / COUNCIL COMMUNICATIONS

A. Discussion Regarding Adopting a Sister City Affected by Hurricane Sandy

Mayor Philipson expressed positive comments about the Village's hurricane preparedness program. He asked Fire Chief William Wagner to provide some information about establishing Sister City program with a city in the northeast United States that was affected by Hurricane Sandy. Chief Wagner confirmed that an incident command system to manage disasters is in place for emergency incident management in the Village. Chief Wagner stated that an offer to assist a Sister City with future hurricane preparedness efforts would not be appropriate coming from the Fire Chief and should be made by the Mayor to the potential city's mayor. Council discussion ensued and direction was given to move forward with identifying a city to assist. Suggestions were made to request the assistance of former Councilman Don Achenberg or the Florida League of Cities.

B. Discussion Regarding the Planning Department (Councilman Forster)

(Item addressed following Citizens' Advisory Committee Updates earlier in the meeting.)

C. Discussion Regarding Legal Services (Councilman Forster)

Councilman Forster requested a workshop be held in the near future to address the Village Attorney services. Councilman Forster stated he would like to have an in-house attorney and also keep the current firm on board for items that the in-house person could not handle. Councilman Forster stated this is a business decision to save money. Council members agreed they wish to schedule a workshop in January to address this topic. Council discussion ensued regarding the costs for attorney services and the accessibility of an in-house attorney.

Village Attorney Boniske explained that the Weiss, Serota firm worked with Council to establish an all-inclusive flat fee for daily services resulting in savings to the Village. Ms. Boniske further stated that last year the firm was tasked with drafting the Request for Proposals for the wastewater Design Build Operate agreement and provided contract / procurement services as well as legal services for this matter. Ms. Boniske stated that most of the litigation is related to land use resulting when the council denies development applications. Ms. Boniske stressed that whatever the Council's decision, she and the Weiss Serota firm would provide assistance with any transition.

Jim Bellizzi, Islamorada, commented regarding attorney services and how his own case against the Village could have been handled differently.

Additional discussion items:

Mayor Philipson asked Parks and Recreation / Public Works Director John Sutter to provide a report regarding the Florida Department of Transportation (FDOT) meeting conducted earlier this evening.

John Sutter reported that the only question asked at the meeting was with regard to sea level rise; the primary information discussed was the data contained in the five-year summary.

Mr. Sutter asked to report regarding the Florida Fish and Wildlife / Florida Department of Environmental Protection proposal for a boat ramp project at the fills from Tea Table to Lower Matecumbe Key and the need to control parking in that same area. Mr. Sutter reported he received an email from FDOT stating that FDOT will not make the changes to parking along the fill that were requested by the Village and that the ramp project, previously opposed by Islamorada, is still under consideration.

XIX. VILLAGE ATTORNEY COMMUNICATIONS

Mayor Philipson asked Village Attorney Nina Boniske if there were any Village Attorney communications.

Village Attorney Nina Boniske requested an Executive Session for the matter captioned William A. Wagner III 128015-12-FM.

Ms. Boniske confirmed that future wastewater needs were addressed in Gorman's plans for the Wet Net affordable housing project.

Ms. Boniske suggested Council assign a member to meet with the FDOT secretary to facilitate resolving issues between the Village and that department. Mayor Philipson added that at a future meeting Council address each member's areas of expertise and assign individual members various topics and activities.

Ms. Boniske referenced an email she sent to Council earlier this week containing the Monroe County agenda item to approve a firm to represent the County with respect to BP Claims. Ms. Boniske reported that the County selected a firm last week and requested direction to work with Campbell and Malafy and bring back a retainer agreement for Council consideration. Ms. Boniske further reported that the firm was selected to represent Monroe County because they had the lowest percentage for contingency fees and would absorb all their own costs. Councilmembers agreed that Ms. Boniske should request a retainer agreement from the firm to handle the Village's BP Claim.

Additional discussion items:

Councilman Purdo asked whether Gorman could use former Iguana Club package plant if the transmission line is not ready for use. Tom Brzezinski stated there may be permitting issues that would prevent this.

Councilman Blackburn stated that the solid waste contract term ends in nine months and the Village may want to change to natural gas trucks, a demand-based strategy, or other new services. Councilman Blackburn suggested a task force to look at the contract to provide suggestions for the data to be included in the RFP. Councilman Blackburn suggested former Mayor Boerner and former Mayor Achenberg serve on that committee and recommended the committee have six weeks or eight weeks to provide input. Councilman Forster suggested each Councilmember be prepared to appoint one member to a committee at the next meeting.

XX. ADJOURNMENT

A motion to adjourn was made by Councilman Purdo. The motion received a second from Councilman Forster. The meeting adjourned at 8:39 p.m.



Mary Swaney
Assistant to the Village Manager

Approved by the Village Council this 13th day of December, 2012