



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

**Founders Park Community Center
87000 Overseas Hwy
Islamorada, FL 33036
January 24, 2013
5:30 PM**

I. CALL TO ORDER\ROLL CALL

Mayor Ken Philipson called the meeting to order at 5:33 p.m. The following Council members were present on roll call: Mayor Ken Philipson, Vice Mayor Ted Blackburn, Councilman Mike Forster, Councilwoman Deb Gillis, and Councilman Dave Purdo. Also in attendance were Village Manager Ed Koconis, Village Clerk Ariana Lawson, Village Attorneys Nina Boniske and James White, and all other appropriate personnel.

II. PLEDGE OF ALLEGIANCE

Mayor Philipson invited Stan Margulies to lead the Pledge of Allegiance.

III. PRESENTATIONS AND ANNOUNCEMENTS

A. Presentation of Refund by the Monroe County Sheriff's Office for FY 11-12 Law Enforcement Services

Monroe County Sheriff Rick Ramsay presented a check in the amount of \$90,543.38 to Mayor Ken Philipson reimbursing the Village for payment exceeding actual costs incurred by the Monroe County Sheriff's Office (MCSO) for law enforcement services, equipment and supplies provided during FY 11-12. Mayor Philipson transferred the check to Finance Director Maria Aguilar for deposit into the Village's operating bank account.

IV. PUBLIC COMMENT

Mayor Philipson called for public comment. Stan Margulies, Islamorada, encouraged Council to address Wastewater Matters at the beginning of Regular Village Council Meetings rather than toward the end. Ronald Levy, Islamorada, expressed concern regarding the request by Don Horton, No Stress Property Management, at the January 10, 2013 Regular Village Council Meeting for installation by the Village of a gate at Gimpy Gulch. Mayor Philipson closed public comment.

V. AGENDA: Request for Deletion / Emergency Additions

Mayor Philipson inquired whether Council or staff had any other deletions or emergency additions; there were none. Councilman Purdo wished his daughter a happy birthday.

VI. CITIZENS' ADVISORY COMMITTEE UPDATES

A. Local Planning Agency

Chairman John Fernandez, 135 Pearl Avenue, presented an update on behalf of the Local Planning Agency (LPA). Mr. Fernandez reported that the LPA voted unanimously against exempting commercial square footage from going through BPAS at this time, and also against the proposed changes to land development regulations. Mr. Fernandez also discussed the LPA's review of the proposed transportation concurrency; of off-street parking, loading and driveway standards; and of sea turtle nesting protection regulations ordinances on the current agenda.

B. Near Shore Water Regulation Citizens' Advisory Committee

Chairman Bob Mitchell presented an update on behalf of the Near Shore Water Regulation Citizens' Advisory Committee. Mr. Mitchell welcomed new member Andy Putetti. Mr. Mitchell encouraged community participation in the Monroe County Sheriff's Office's on-water crime watch program and requested direction from Council to develop a prop scar and seagrass restoration project. He stated that Monroe County has agreed to pumpout liveaboard boats in the Village within 1200' offshore and not moored in a marina. Mr. Mitchell stated that whereas the County had previously estimated the cost of the Village's participation to be approximately \$35,000, the County had recently advised the Committee that the Village could soon participate at no cost. Mr. Mitchell reported that a lack of Clean Vessel Act (CVA) grant funding has resulted in the County's inability to replace missing buoys at Whale Harbor and other locations outside 1200', and noted that the Village was preparing to enter into a contract with a marine contractor to replace 30+ missing regulatory buoys within 1200' offshore. He also stated that the Committee is updating the existing Teall's Guide and designating areas for kite boarding and personal watercraft usage. Mr. Mitchell opined that existing regulations would prohibit making Tavernier Creek Bridge an idle speed zone and recommended increased signage in the area instead. Mr. Mitchell stated that the FWC Regional Director will be in attendance at the next Near Shore Water Regulation Citizens' Advisory Committee meeting to provide guidance regarding potential project funding.

Councilman Forster commended the Committee for their efforts and requested the Committee evaluate additional signage/regulation in several locations within the Village.

C. Solid Waste Services Citizens' Advisory Committee

Chairperson Dave Boerner presented an update on behalf of the Solid Waste Services Citizens' Advisory Committee and distributed copies of the Committee's January 17, 2013 Meeting Recap. Mr. Boerner reported that although the cost of compressed natural gas (CNG) is half that of diesel fuel, the initial implementation of CNG is too expensive in the Committee's view to make it worthwhile. The Committee recommended adding a bid alternative option to the Invitation to Bid in the event Council directs competitive bidding for solid waste services. Mr. Boerner also summarized the Committee's discussions regarding licensing of all companies providing recycling services in the Village; developing a public education program; utilizing automated

container pickups; maintaining the current collection schedule and limits on yard waste; reducing hazardous waste pickup from two times to once a year; and removing the limit on the number of residential recycling containers.

Councilman Purdo commended the Committee on their thoroughness and expressed concern over the cost of converting from oil/diesel to CNG, the volatility of CNG tanks, and the amount of time required to refuel vehicles using CNG. Mr. Boerner noted that the CNG may be more economical in the event that tax breaks are available to assist with the initial conversion. Councilwoman Gillis inquired whether limiting the amount of yard waste residential customers are allowed defeats the Village's goal of recycling. Mr. Boerner clarified that any waste deferred from the landfill is considered recycled material. While some of the Village's yard waste is mulched, the majority of the Village's yard waste consists of palm fronds that do not mulch well. It is instead burned in low-heat waste energy plants in Palm Beach County to fuel sugar mills, a process that leaves a heavy carbon footprint. He stated that an alternative to burning would be mix yard waste with sludge from the sewage plant at the Key Largo Wastewater Treatment District to then sell as fertilizer. Mr. Boerner stated that the Committee would present their official report to Council at the February 14, 2013 Regular Village Council Meeting.

VII. VILLAGE MANAGER REPORTS AND UPDATES

A. Proposed Gate at Gimpy Gulch

Village Manager Ed Koconis invited Don Horton to address the Council. Mr. Horton stated that the gate installation would prohibit individuals from attempting to access the private property by what is commonly mistaken for a Village access road but is actually a private drive. Mr. Horton provided a handout to Council and staff depicting a survey of the subject property and site plans for the proposed buildings. Mr. Horton provided clarification regarding use of the private property formerly known as "The Shores," stating that the current owners have revegetated and regarded the property for stormwater management and are willing to install, maintain and pay for electric operation of the proposed gate.

Mr. Koconis noted that the 35 x 700 foot easement is non-exclusive. Should Council agree to the gate installation, the Village would need to grant an exclusive easement to the property owners. Councilman Purdo stated that he was not averse to the proposed gate installation as it would alleviate traffic congestion, as long as the property owner pays to install and maintain it. Councilwoman Gillis noted the existing gate on the easement and suggested placing an alternative gate in a different location. Councilman Blackburn questioned the economic advantage of essentially giving away land currently in the public trust. Councilman Forster described his experience with the easement as an adjacent property owner, and he stated that he may not be able to vote on any future decision regarding the easement due to a conflict of interest.

Mayor Philipson opened up public comment. Ron Levy, Islamorada, urged Council not to give up public land for private use and stated that the gate installation would provide no public benefit. Jim Bellizzi, Islamorada, spoke in support of allowing the property owner to install a gate on the easement. Kenneth Tafoya, M.C.F. Construction, Roofing and Consultants, Inc., requested clarification of the impact of the proposed gate installation to adjacent property owner Boo Shaw with regard to wastewater access. Mr. Horton stated that the requested gate would only be on the easement, not the adjacent private property. Patty Silver, Islamorada, opined that the gate installation would provide no benefit to the Village and reiterated that the current easement is non-exclusive. Mayor Philipson closed public comment.

Council directed staff to provide Council with an updated survey map of the property as well as a proposed site plan that includes rendering of the proposed gate with electrical details and a depiction of the Village's planned wastewater pump station.

B. Vacation Rental Enforcement

Village Manager Ed Koconis reported that that heavy enforcement of vacation rentals would necessitate the Village employing another code enforcement officer. Councilman Forster stated that existing vacation rental fees should adequately cover the salary of an additional enforcement officer. Council concurred and agreed upon the need for increased enforcement. Council directed staff to hire additional code enforcement personnel and increase enforcement as necessary.

Mayor Philipson invited public comment. Larry Barr, North Plantation Key, spoke in support of hiring another code enforcement officer and suggested relaxing code enforcement restrictions. Jim Bellizzi, Islamorada, suggested reducing vacation rental fees to encourage more participation, and redefining vacation rentals to increase bed and sales tax revenues. Mayor Philipson closed public comment.

Councilwoman Gillis noted that Council's original intent in setting vacation rental fees was to reduce fees over time and that before Council considers amending the existing vacation rental ordinance, they support staff in exercising greater enforcement of the ordinance.

C. Direction Regarding Tax Exemption for Qualified Seniors / Constitutional Amendment Article VII, Section 6

Village Manager Ed Koconis delivered the staff report and described the exemption eligibility requirements. Staff projected a loss of up to \$7,435 (less than 1% of the total \$6 million tax and an amount that would change annually) in 2013 tax revenue, from the twenty-six (26) eligible properties in the Village.

Village Attorney Nina Boniske advised Council that the Village would have to forward an approved ordinance to the Monroe County Tax Collector's Office by March 1, 2013 to facilitate inclusion in Monroe County property tax records.

Council directed staff to prepare an ordinance for approval at the February 14, 2014 Regular Village Council Meeting. Councilman Purdo offered a motion to approve; Councilwoman Gillis seconded the motion. Mayor Philipson requested all those in favor say "aye." The motion passed 5-0.

VIII. CONSENT AGENDA

There were no items on the Consent Agenda.

IX. ORDINANCES

- A. First Reading – Comprehensive Plan Text Amendment for U.S. 1 TAB 1**
Transportation Concurrency

Village Attorney James White read the title of the ordinance. Senior Planner Kevin Bond delivered the staff report.

Vice Mayor Blackburn spoke to the convoluted nature of the gradation system. Councilman Forster expressed disappointment that other government agencies were acquiescing and simply approving the amendment without question.

Mayor Philipson opened public comment. Ron Levy, 83257 Overseas Hwy, Islamorada, encouraged Council to reject the amendment and maintain the current local levels of service. Dave Boerner encouraged Council to approve the amendment, if only to prevent US 1 from becoming a four-lane highway. Jim Bellizzi, Islamorada, voiced preference for local control over levels of service as opposed to compliance with countywide levels. David de Haas, Tavernier, suggested the Village encourage the State to renew interagency meetings. Mayor Philipson closed public comment.

Councilman Forster inquired what the repercussions of not joining in the countywide levels of service would be. Mr. Bond responded that regardless of Council's decision, the Village suffers from poor levels of service afforded by other Florida Keys communities. He stated that participation in the countywide program would eliminate the individual segment requirements and steer the Village away from eventual commercial and residential development restrictions imposed by the State. Village Manager Ed Koconis stated that historically Islamorada, Big Pine Key and the US 1 stretch have scored lowest in the County with regard to levels of service and that recent improvements at Big Pine Key and to the stretch leave Islamorada as the lowest scoring locale in Monroe County.

Councilwoman Gillis offered a motion to approve; Councilman Forster seconded the motion. The motion passed 5-0.

**B. First Reading – Land Development Regulations Text Amendment for TAB 2
for U.S. 1 Transportation Concurrency**

Village Attorney James White read the title of the ordinance. Senior Planner Kevin Bond delivered the staff report. Mayor Philipson opened public comment; there was none. Councilwoman Gillis offered a motion to approve; Councilman Forster seconded the motion. The motion passed 5-0.

**C. First Reading – Land Development Regulations Text Amendment to TAB 3
Off-Street Parking, Loading and Driveways Standards**

Village Attorney James White read the title of the ordinance. Senior Planner Kevin Bond delivered the staff report.

Councilwoman Gillis requested that in the future staff pursue concerns voiced at LPA Meetings. Councilman Forster commended staff on their work with regard to this item. Mayor Philipson noted that the boat slip list provided by staff is meant as an example and is not all-inclusive. Council discussion ensued regarding square footage requirements for parking and loading zones and the designation of boat slips as parking. Council directed staff to consider additional revisions to square footage requirements and bring the ordinance back to Council as a second reading.

Mayor Philipson opened public comment. Jim Bellizzi, Islamorada, questioned the benefit of the amendment. Dave Boerner opined that designated commercial loading zones less than 5,000 square feet are impractical. Patty Silver, Islamorada, voiced general support for the amendment, but she criticized the absence of Coconut Cove Resort from the sample list of potentially eligible

properties. Council reminded the audience that the sample list is not all-inclusive and that the list itself was not being voted on.

Councilwoman Gillis offered a motion to approve; Councilman Purdo seconded the motion. The motion passed 5-0.

D. First Reading – Proposed Code Amendment to Update Sea Turtle Nesting Protection Regulations, Standards and Related Definitions **TAB 4**

Village Attorney James White read the title of the ordinance. Environmental Planner Susan Sprunt delivered the staff report.

Councilwoman Gillis suggested staff investigate in the near future, independent of this ordinance, whether the Village's turtle nesting maps need to be updated. Mayor Philipson questioned how staff would measure light fixture nanometers with regard to turtle protection. Ms. Sprunt described the Florida Fish and Wildlife Conservation Commission's role in evaluating particular light products for certification as turtle-friendly.

Mayor Philipson opened public comment. Dave Boerner referenced two opposing light types in use at Founders Park and agreed with Councilwoman Gillis that the Village's turtle nesting maps may be due for an update.

Councilman Purdo offered a motion to approve; Councilwoman Gillis seconded the motion. The motion passed 5-0.

E. First Reading – Ordinance Amending the Comprehensive Plan to Exempt Nonresidential Development from the BPAS **TAB 5**

At the request of the Village Manager, Council agreed to defer Tab 5 to a later meeting date.

F. First Reading – Ordinance Amending Chapter 30 "Land Development Regulations" of the Village Code to Exempt Nonresidential **TAB 6**

At the request of the Village Manager, Council agreed to defer Tab 6 to a later meeting date.

G. Second Reading – Future Land Use Map (FLUM) Amendment FLRZ-12-03 for 88041 Old Highway **TAB 7**

Village Attorney James White read the title of the ordinance. Principal Planner Cheryl Cioffari delivered the staff report. Vice Mayor Blackburn opened public comment; there was none. Councilman Forster offered a motion to approve; Councilwoman Gillis seconded the motion. The motion passed 5-0.

X. QUASI-JUDICIAL

A. Second Reading – Official Zoning Map Amendment FLRZ-12-03 for 88041 Old Highway **TAB 8**

Village Attorney James White read the quasi-judicial statement and Village Clerk Ariana Lawson swore in the witnesses. Mr. White read the title of the ordinance and each Council member confirmed that they had not been party to any ex parte communications regarding this item.

Principal Planner Cheryl Cioffari delivered the staff report. Mayor Philipson opened public comment; there was none. Councilman Forster offered a motion to approve; Councilman Purdo seconded the motion. The motion passed 5-0.

XI. RESOLUTIONS

A. Proposal for CityView 2012 Enterprise Application Upgrade TAB 9

Village Attorney Nina Boniske read the title of the ordinance. IT & Communications Director Stu Bautz delivered the staff report. Councilman Purdo noted his approval of a waiver of competitive bidding for the item. Council expressed their desire to see completion of the software upgrade implementation within the contract period. Mr. Bautz confirmed that the upgrade will support the future migration of the permitting application process online. Mayor Philipson opened public comment; there was none. Councilwoman Gillis offered a motion to approve; Councilman Forster seconded the motion. The motion passed 5-0.

XII. MOTIONS

No motions were made.

XIII. WASTEWATER MATTERS

A. Monthly Project Report for the Period 12/03/12 thru 12/31/12 TAB 10

Wade Trim Vice President Tom Brzezinski delivered the monthly project report.

Vice Mayor Blackburn encouraged Wade Trim to coordinate early outreach with homeowner's associations and inquired as to the progress of the easement acquisitions. Mr. Brzezinski stated that the Level 1 site assessments have been completed and that Wade Trim is now having appraisals conducted and preparing for a Level 2 site assessment of the Middle Plantation Key pump station site. Councilman Purdo and Councilwoman Gillis commended Wade Trim's recent communications and public outreach efforts.

Mayor Philipson opened public comment. Stan Margulies, Islamorada, expressed appreciation for the recent public meeting Reynolds Water Islamorada held in the Venetian Shores neighborhood. Dr. Margulies urged Council to address Wastewater Matters earlier in the course of Regular Village Council Meeting agendas, requested Council direct staff to investigate the Village's eligibility to receive Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant to bury power lines in Venetian Shores, and requested Wade Trim update the timeline on page 13 of the Monthly Project Report. Mayor Philipson advised Dr. Margulies that he is working with the Florida League of Cities to develop a way for particular neighborhoods and business districts to tax themselves to bond the money for neighborhood improvement programs.

Village Clerk Ariana Lawson summarized communications with the Local Mitigation Strategy Working Group and Florida Division of Emergency Management personnel, who advised that flow-through FEMA funding to bury power lines would only be approved if implemented Village-wide and that the City of Jacksonville, the only other Florida municipality who has approached the State with such a project, was unsuccessful in proving cost effectiveness and demonstrating repeated loss. Finance Director Maria Aguilar advised Council that if directed to pursue a FEMA Hazard Mitigation Grant to bury utility lines, the Finance Department would request funding to hire additional staff for the task. Jim Bellizzi, Islamorada, suggested the

Village utilize the contracted federal lobbyist to secure FEMA and roadway improvement grant funding that the Village would otherwise not be eligible for. Ms. Aguilar advised Council of the additional cost to individual property owners of an estimated \$10,000 – \$15,000 each for the underground connections on residential properties that the project would require. Ms. Aguilar also provided additional clarification regarding small county roadway improvement grant funding, advising Council that the Village is not eligible for funding based on population size and other restrictions and requirements. Mayor Philipson closed public comment.

Vice Mayor Blackburn offered a motion to approve Wade Trim's report; Councilman Forster seconded the motion. The motion passed 5-0.

- B. Resolution Approving Change Order No. 1 to the Design Build and Operate (DBO) Agreement between Reynolds Water Islamorada, LLC and Islamorada, Village of Islands to Provide a Pavement Survey and Evaluation Program for North Plantation Key and Middle Plantation Key** **TAB 11**

Wastewater Program Manager Greg Tindle delivered the staff report.

Councilman Purdo questioned whether the Village could use any portion of the old pavement survey. Mr. Tindle stated that the evaluation and actual design needs to be updated. Councilman Forster stated his preference that the Village advertise a Request for Proposals (RFP) for the pavement survey and evaluation services. Mayor Philipson questioned whether the 60-day completion period would be sufficient. Councilman Forster inquired whether 'economy of scale' is a possibility. Wade Trim Vice President Tom Brzezinski provided clarification of the scope of work.

Mayor Philipson opened public comment. Jim Bellizzi, Islamorada, referenced asphalt overlay cost estimates from a 1998 report proffered by Calvin, Giordano & Associates, Inc. and urged Council to contract with Reynolds Water Islamorada to simply add-on the cost of road resurfacing without an updated survey and evaluation. Mayor Philipson closed public comment.

Council discussion ensued regarding the intentional exclusion of the pavement overlay from the DBO Agreement. Wes Self, Layne Heavy Civil, advised Council that his company is designing the road overlay as a construction document for Reynolds Water Islamorada and not as a bid package for completion by other contractors.

Councilwoman Gillis offered a motion to approve; Vice Mayor Blackburn seconded the motion. The motion passed 3-2, with Mayor Philipson and Councilman Forster voting in opposition.

XIV. MAYOR / COUNCIL COMMUNICATIONS

Mayor Philipson and Vice Mayor Blackburn reported on the recent trip that they and Village Manager Ed Koconis made to Washington, D.C. to meet with Congressmen and Senators regarding federal financial support for wastewater funding. Mayor Philipson reported that the Village's wastewater project is classified in Congress as a Section 219 Plan, fiscal year 2013 allocations for which may fund an estimated forty-one (41) out of 410 funding applicants. He also reported the possibility of receiving \$5-10 million of \$40 million in 2013 funding from the Army Corps of Engineers. Vice Mayor Blackburn stated that direction from the Office of Economic Development was to continue to broaden the Village's economic base to bring in new businesses.

Mayor Philipson also announced his plans to work with the Florida League of Cities to encourage Florida Mayors to write to President Obama in support of infrastructure project funding.

XV. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

Village Attorney James White requested executive sessions for the following cases pursuant to Chapter 286, Florida Statutes:

Islamorada Marina Asset Holding, LLC, a Florida Limited Liability Corporation, Petitioner, v Islamorada, Village of Islands, a Municipality, Respondent, Case No. 10-CA-427-P in the Circuit Court of the 16th Judicial Circuit in and for Monroe County, Florida.

Gary Zaret and Jeanne Zaret, Appellants, v Islamorada, Village of Islands, Florida, Appellee, Case No. 12-AP-8-P in the Circuit Court of the 16th Judicial Circuit in and for Monroe County, Florida.

Village Attorney Nina Boniske requested executive sessions for the following cases pursuant to Chapter 286, Florida Statutes:

Intercoastal Contracting Corporation v the Village of Islamorada, a Political Entity, Brown & Demandt, PA., a Florida Professional Association, Robert Brown, and Donald Hodgetts, Defendants, Case No. 2006-CA-43-P in the Circuit Court of the 16th Judicial Circuit in and for Monroe County, Florida.

James Bellizzi, Plaintiff, v Islamorada, Village of Islands, Florida, a Florida Municipal Corporation, Case No. 10-CA-334-P in the Circuit Court of the 16th Judicial Circuit in and for Monroe County, Florida.

There were no Village Manager Communications.

Councilman Purdo inquired of Ms. Boniske as to the status of questions he posed to her on December 2, 2012 regarding closed litigation with WPC Industrial Contractors. Ms. Boniske stated that she was reviewing executive session transcripts related to the cases and that she was awaiting a response from Councilman Purdo to her request to discuss sensitive settlement information in person.

XVI. ADJOURNMENT

A motion to adjourn was made by Councilman Forster and seconded by Councilman Purdo. The meeting adjourned at 9:13 pm.



Ariana S. Lawson
Village Clerk

Approved by the Village Council this 28th day of February, 2013.