



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

**Founders Park Community Center
87000 Overseas Hwy
Islamorada, FL 33036
Thursday, February 12, 2015
5:30 PM**

I. CALL TO ORDER / ROLL CALL

Mayor Mike Forster called the meeting to order at 5:31 P.M. The following Council members were present on roll call: Mayor Mike Forster, Vice Mayor Deb Gillis, Councilman Chris Sante and Councilman Dennis Ward. Councilman Jim Mooney was absent. Also in attendance were Village Manager Maria Aguilar, Village Attorney Roget Bryan, Village Clerk Kelly Toth, Director of Planning Cheryl Cioffari and all other appropriate personnel.

II. PLEDGE OF ALLEGIANCE

Van Cadenhead led the Pledge of Allegiance.

III. PRESENTATIONS AND ANNOUNCEMENTS

Councilman Dennis Ward appointed Sandi Williams to the Landscape Advisory Committee.

IV. PUBLIC COMMENT

Mayor Mike Forster opened public comment.

Dave Purdo thanked Emergency Medical Services for their assistance with Mrs. Irving Eyster.

Van Cadenhead expressed concern about the Village not providing complimentary copies of the agenda to the public; and the limited availability of the Islamorada government channel; the horizontal wastewater drilling near Venetian Shores; and the Parks and Recreation budget overage.

Wade Trim Executive Vice President Tom Brzezinski stated horizontal drilling was conducted in front of Venetian Shores to avoid damage to recent paving and the vast amount of public utilities in the area. He stated the Village did not incur additional costs to directional drill.

Jim Bellizzi commented on Florida Attorney General Opinion 96-79 pertaining to homestead exemptions for lots that are separated by a road.

Agnes Rishell spoke on behalf of the Venetian Shores Homeowners Association and requested the Council consider installing irrigation sleeves along the Venetian Boulevard right-of-way, between each of

the thirteen islands. She stated the HOA has maintained, at their cost, the foliage down Venetian Boulevard for many years and that irrigation is problematic.

Donna Proskine stated Venetian Boulevard will be paved in the next couple months and urged Council to come to a decision quickly regarding the installation of irrigation sleeves.

Councilman Chris Sante added discussion regarding the irrigation sleeve during the wastewater update.

V. AGENDA: Request for Deletion / Emergency Additions

Councilman Chris Sante deferred the discussion item “Non-payment of Fees by Vacation Rental Property Owners” to a future meeting.

Vice Mayor Deb Gillis requested to pull TAB 2 from the consent agenda to allow for discussion.

Mayor Mike Forster added discussion regarding the Mayors Fly-in and discussion regarding Snake Creek Bridge to the XIV. Mayor/Council Communications portion of the agenda.

VI. CITIZENS’ ADVISORY COMMITTEE UPDATES

A. Local Planning Agency Committee Update

Pete Bacheler, Chair of the Local Planning Agency, stated at the last LPA meeting the committee discussed the Proenza re-zoning item that will soon come before Council and that the committee voted 6-0 in favor of this item. Mr. Bacheler reported the committee voted 6-0 in favor of the ordinance pertaining to notification time on quasi-judicial items; and 6-0 in favor of the ordinance allowing for an additional 100 square feet of non-residential parcels, both of which were now before Council.

B. Workforce Affordable Housing Citizens’ Advisory Committee Update

Janet Wood, Chair of the Workforce Affordable Housing Citizens’ Advisory Committee, thanked staff and Councilmembers and reported that at the last meeting elections were held and she was now the chairwoman of the committee.

VII. VILLAGE MANAGER REPORTS AND UPDATES

Village Manager Maria Aguilar reported on the Community Development Block Grant (CDBG) program. She stated that an environmental review was required and was currently underway; the Villages’ grant administrator, Government Services Group (GSG), is publishing an advertisement for plumbing contractors; GSG is sending letters to Islamorada residents that applied with Monroe County for the CDBG assistance, but were denied, encouraging them to apply with Islamorada; and that GSG is sending letters to plumbing contractors that are registered with the Village encouraging them to become designated contractors with the CDBG program.

Ms. Aguilar stated she received a letter from the National Flood Insurance Program stating the Village was now eligible to participate in the Community Ratings System which allows for reductions in flood insurance premiums.

Councilman Dennis Ward asked when residents would be able to apply to the CDBG loan program. Village Manager Maria Aguilar stated staff anticipates that they will be able to accept applications when the Middle Plantation Key connection letters are sent out in March.

VIII. CONSENT AGENDA

A. Minutes:

January 8, 2015 Regular Village Council Meeting
January 22, 2015 Regular Village Council Meeting
February 5, 2015 Special Call Executive Session Case No. 4:13-CV-10121
February 5, 2015 Special Call Executive Session Case No. 07-CA-582-P

B. Proposed Resolution to Revise Islamorada, Village of Islands' Emergency Medical Services Fee

Village Attorney Roget Bryan read the title of the resolution. Chief Terry Abel provided the staff report.

Vice Mayor Deb Gillis spoke against the additional fee for non-residents. Councilman Chris Sante spoke in support of the additional fee.

Chief Abel stated the billing rates were comparable to the rest of Monroe County, but that the Village would be the first to apply a surcharge or fee to non-residents.

Mayor Mike Forster opened public comment.

Van Cadenhead suggested Council adjust the fee from one hundred dollars to fifty dollars.

Mayor Mike Forster closed public comment.

Councilman Chris Sante made a motion to approve. Councilman Dennis Ward seconded the motion. Council voted and the motion passed 3-1 with Vice Mayor Deb Gillis opposing.

C. Approval of Appointment to the Islamorada Youth Council

Councilman Dennis Ward made a motion to approve TABS 1 & 3 (items A and C) of the consent agenda. Councilman Chris Sante seconded the motion. Council voted all in favor.

IX. WASTEWATER MATTERS

A. Wastewater Project Update

Wastewater Program Manager Greg Tindle provided an update on sewer fill. Mr. Tindle recommended the surplus fill be taken from the trenches directly to receiver sites, as this was the best method from a financial standpoint. He stated they could not guarantee the composition of the fill and that the purchaser would not be able to return the fill. Mr. Tindle provided an explanation of a fair distribution system. He clarified that Reynolds Water Islamorada would only relinquish fill that was declared surplus.

Mayor Mike Forster opened public comment.

Jim Bellizzi spoke in support of the Village selling the fill. He suggested the Village store the fill on FDOT property across from Horizon Trucking that is currently leased by the Village.

Village Manager Maria Aguilar stated that generating revenue on fill stored on leased FDOT property would change the nature of the lease.

Agnes Rishell stated the Venetian Shores HOA and the Village have had a partnership for many years and that the HOA has maintained the landscaping within the center islands along Venetian Boulevard. She asked that the Village install irrigation sleeves for the HOA so that the HOA could install irrigation pipes at a future date.

Councilman Chris Sante stated that a couple of estimates had been obtained by the HOA. He stated the first question that needed to be answered was who would pay for the installation: the Village or the HOA; second, after the sleeves were installed who would install the irrigation pipes; and third who would maintain the right-of-way and would there be a partnership.

Councilman Dennis Ward requested an update regarding the litigation in Venetian Shores. Village Attorney Roget Bryan stated that the lower court's ruling had been affirmed by the Third DCA and that the petitioner was attempting to get the Supreme Court to take jurisdiction of the item. Councilman Ward stated that if the Village went through with this project he would want to be sure the roadways belonged to the Village. He stated the Village litigated for the roadways and therefore have a responsibility to maintain them.

Agnes Rishell stated the first three islands had irrigation and that the HOA had been maintaining the landscaping since the creation of Venetian Shores.

Council discussion ensued with regard to the timing of the installation and the litigation being settled. Councilman Dennis Ward suggested drafting a memorandum of understanding to allow for reimbursement of project costs.

Village Attorney Roget Bryan suggested staff would follow up with the Venetian Shores HOA to find out what they were specifically requesting and come back to Council with recommendations. He stated staff would be working under the assumption this is public right-of-way and that a formal agreement with the HOA would be needed.

Councilman Sante stated the Village needed to make a decision regarding authorizing the HOA to install the sleeves because of the current wastewater construction schedule in that area.

Mayor Forster closed public comment.

Wade Trim Executive Vice President Tom Brzezinski reported there have been improved salinity levels. He stated eight of the vacuum pits rated a three or four remain to be replaced in North Plantation Key. He stated testing would be conducted on the Middle Plantation Key vacuum pump station on February 23rd and that Notice to Connect letters for Middle Plantation Key are tentatively scheduled to be sent out on March 9th. Mr. Brzezinski stated the public workshops to discuss wastewater connections for Middle Plantation Key was scheduled for February 17th and would occur at three different times. He reported the grinder pump installation would begin the week of March 9th.

Vice Mayor Deb Gillis reported on the recent Key Largo Wastewater Treatment District (KLWTD) meeting she attended in which they discussed Islamorada's salinity issue. She stated KLWTD was not going to waive the fees but that they would calculate the fees per the agreement. Vice Mayor Gillis stated that KLWTD acknowledged that the salinity had not damaged the plant.

X. ORDINANCES

- A.** Second Reading - Ordinance Amending Chapter 30 "Land Development Regulations," Article VI "Specific Use Restrictions," Division 11 "Alcoholic Beverage Use Permit," of the Village Code

Village Attorney Roget Bryan read the title of the ordinance and announced this is second reading and a public hearing. Director of Planning Cheryl Cioffari presented the staff report recommending approval.

Mayor Mike Forster opened public comment; seeing none public comment was closed. Mayor Forster asked if there was Council discussion; there was none.

Councilman Chris Sante made a motion to approve. Vice Mayor Deb Gillis seconded the motion. The motion passed 3-1 with Mayor Mike Forster opposing.

- B.** First Reading- Ordinance Amending Chapter 30 “Land Development Regulations,” Article IV “Administrative Procedures,” Division 11 “Building Permit Allocation System,” Section 30-473(A)(C)(4) of the Village Code to Provide for up to 100 Square Feet of Enclosed Additions on Legally Established Nonresidential Parcels

Village Attorney Roget Bryan read the title of the ordinance and announced this is first reading. Director of Planning Cheryl Cioffari presented the staff report recommending approval.

Mayor Mike Forster asked if there was Council discussion; there was none.

Mayor Forster opened public comment; seeing none, public comment was closed.

Mayor Forster clarified that the additional square footage was allowed as long as it did not exceed the allowable limits within the zoning area.

Councilman Chris Sante made a motion to approve. Vice Mayor Deb Gillis seconded the motion. The Council voted all in favor. The motion passed 4-0.

- C.** First Reading- Ordinance Amending Chapter 30 “Land Development Regulations,” Article IV “Administrative Procedures,” Division 3 ‘Quasi-judicial Procedures,’ of the Village Code

Village Attorney Roget Bryan read the title of the ordinance and announced this is first reading. Director of Planning Cheryl Cioffari presented the staff report recommending approval.

Vice Mayor Deb Gillis asked if staff could notify permit contractors, expeditors, lawyers and other appropriate individuals of the change. Council discussion ensued. Staff suggested retrieving names from CityView and providing notification via email. Council agreed to this method.

Mayor Mike Forster opened public comment; seeing none; public comment was closed.

Councilman Dennis Ward made a motion to approve. Councilman Chris Sante seconded the motion. The Council voted all in favor. The motion passed 4-0.

XI. QUASI-JUDICIAL

XII. RESOLUTIONS

- A.** A Resolution Approving the Purchase and Acquisition of a Wastewater Utility Easement on Key Honey Lane **TAB 7**

Village Attorney Roget Bryan read the title of the resolution. Wastewater Program Manager Greg Tindle provided the staff report.

Councilman Chris Sante stated this resolution was the most cost effective way of providing wastewater services to the area. Vice Mayor Deb Gillis spoke in support of approving the resolution and spoke against a cold spot.

Mayor Mike Forster asked for the item to be tabled until TAB 8 could be heard. Council agreed to hear TAB 8 first.

Councilman Chris Sante stated that if the Village made the area around Key Honey Lane a cold spot, the property owners would have to install aerobic systems which would cost approximately \$30,000 dollars each. He stated he did not like the idea of purchasing the easement for \$46,000 dollars, but thought it was the most cost effective way to sewer the subdivision.

Mayor Mike Forster asked Council if they would be willing to discuss the value of the easement and then negotiate it with the owner. Vice Mayor Deb Gillis stated negotiations had been ongoing and that she was not in favor of a cold spot. Councilman Dennis Ward spoke in support of negotiating the cost with the owner.

Mayor Mike Forster opened public comment.

Dave Purdo spoke against the Village buying easements.

Jim Bellizzi spoke against the Village buying the Key Honey Lane easement.

Mayor Mike Forster closed public comment.

Mayor Forster stated he thought the value of the easement was set too high and that he was not for cold spots. Councilman Chris Sante stated that last week he was of the same mindset as Mayor Forster. Councilman Sante stated it would be a tremendous expense to the citizens if the Village elected to do a cold spot; and that staff had been negotiating a price with the owner. Vice Mayor Deb Gillis stated she was not happy about the price of the easement.

Mayor Forster stated he was against purchasing the easement for \$46,000 dollars. He stated that if the item was not passed tonight, the Village would incur additional costs associated with remobilizing the wastewater construction equipment.

Councilman Chris Sante made a motion to approve. Vice Mayor Deb Gillis seconded the motion. Council voted and the motion passed 3-1 with Councilman Dennis Ward opposing.

B. A Resolution Considering a Petition for Dedication/Conveyance of Private Roads San Marco Drive and Venetian Way to the Village

Village Attorney Roget Bryan read the title of the resolution and provided the staff report.

Mayor Mike Forster asked if there was Council discussion; there was none.

Mayor Mike Forster opened public comment.

Jim Bellizzi stated that, per the title work he obtained via a public records request, Frank Martin did not own San Marco Drive and Venetian Way. He stated that per the Final Declaratory Judgment against him upheld by the Third DCA and Judge Garcia's ruling, the Village owns these roads. He expressed concern that the Village was spending money to purchase roads they already owned.

Van Cadenhead suggested eminent domain if the owner was not willing to accept a lower purchase price.

Village Attorney Roget Bryan stated the title work that was performed reflected the Estate of Frank A. Martin was the owner of San Marco Drive and Venetian Way. He stated that, regarding the Attorney General Opinion (AGO) mentioned by Jim Bellizzi, it was his opinion that the legal conclusion and underlying facts were clearly distinguishable. Mr. Bryan stated that in the matter before Council, San Marco Drive and Venetian Way, the abutting property owners did not have ownership interests in the roadway and that the conveyance would not affect any homestead property rights that were enjoyed prior to conveyance.

Councilman Chris Sante inquired about the dedication of Sunset Drive and Iroquois Drive. He stated that these property owners enjoyed the homestead exemption because their property crossed the road to land which they owned and asked if the homeowners would lose the exemption because the Village was taking over ownership of the road. Village Attorney Roget Bryan stated not per the AGO that was referenced by Jim Bellizzi earlier, and that fee simple title to the roads was held by a third party, not the abutting property owners.

Councilman Chris Sante made a motion to approve. Vice Mayor Deb Gillis seconded the motion. Council voted all in favor. The motion passed 4-0.

C. Approval of the Affordable Residential Building Permit Allocation System Ranking and Awards for Quarter 1 of 2015

Village Attorney Roget Bryan read the title of the resolution. Planner Thomas Skidmore provided the staff report recommending approval.

Mayor Mike Forster asked if there was Council discussion; there was none.

Mayor Mike Forster opened public comment; seeing none, public comment was closed.

Councilman Chris Sante made a motion to approve. Vice Mayor Deb Gillis seconded the motion. Council voted all in favor. The motion passed 4-0.

D. Resolution Approving Nonresidential Building Permit Allocation System Ranking and Awards for Quarter 1 of 2015

Village Attorney Roget Bryan read the title of the resolution. Planner Thomas Skidmore provided the staff report recommending approval.

Mayor Mike Forster asked if there was Council discussion; there was none.

Mayor Mike Forster opened public comment; seeing none, public comment was closed.

Vice Mayor Deb Gillis made a motion to approve. Councilman Dennis Ward seconded the motion. Council voted all in favor. The motion passed 4-0.

E. Resolution Approving Engagement with Mauldin & Jenkins, LLC, for Professional Services for the Fiscal Year Ending September 30, 2014

Village Attorney Roget Bryan read the title of the resolution. Finance Director Ian Proverbs provided the staff report recommending approval.

Mayor Mike Forster asked if there was Council discussion; there was none.

Mayor Mike Forster opened public comment; seeing none, public comment was closed.

Councilman Dennis Ward made a motion to approve. Councilman Chris Sante seconded the motion. Council voted all in favor. The motion passed 4-0.

XIII. MOTIONS

XIV. MAYOR / COUNCIL COMMUNICATIONS

A. Discussion Regarding Non-payment of Fees by Vacation Rental Property Owners – Councilman Sante (*This item was deferred to a future meeting.*)

B. Discussion Regarding Code Enforcement – Councilman Ward

Councilman Dennis Ward expressed concern over vacation rentals and that on www.airbnb.com it was blatant that some individuals were not complying with the vacation rental ordinance. Mayor Forster referenced Sanibel and Captiva's methods of enforcement for illegal vacation rentals and suggested this as an option for the Village. Discussion ensued regarding the need for vacation rentals, vacation rental fees and efforts taken to obtain vacation rental owner compliance.

Village Manager Maria Aguilar stated that she and code enforcement are proud of the strides they had made regarding vacation rental enforcement and that she had statistics showing how many vacation rental properties had come into compliance. She stated that staff could look into the Sanibel and Captiva enforcement methods. Mayor Forster stated the methods employed by Sanibel and Captiva were not entrapment, but were found to be a method of regulation. Vice Mayor Deb Gillis stated that Village staff had made tremendous strides in obtaining compliance. Vice Mayor Gillis commented that we are seeing more complaints now because of the season. Councilman Dennis Ward stated he wanted the discussion on record because efforts were being made to address the issues and gain compliance. Village Manager Maria Aguilar clarified that if an owner rents for more than 28 days it is legal.

Councilman Dennis Ward expressed concern about the property between Hog Heaven and the Ocean View Lounge. He stated that there was a storage vehicle, boat trailer and two tractor trailer rigs parked in this area and that it was an eye sore. Councilman Ward expressed concern over individuals building without a permit.

Mayor Mike Forster stated that it would not be a code enforcement issue if a regulation did not exist or if there was not signage. He stated that people had been parking in that area since the Village incorporated. Mayor Forster explained the area along Heritage Trail belongs to FDOT and that they are the enforcing agency.

Councilman Chris Sante stated that this issue was addressed when he served on Council previously and that the driver was allowed to park his vehicle there for up to three days.

C. Discussion Regarding Reestablishing the Florida Keys League of Cities – Councilman Ward

Councilman Dennis Ward stated that Ken Philipson was very interested in reestablishing the Florida Keys League of Cities (FKLC) and asked if the Council had any interest in doing so. Mayor Mike Forster stated that if Ken Philipson could get Marathon and Key West to support the reestablishment then it would behoove Council to support it. Mayor Forster stated the Village did not want to bear the full expense of

reestablishing the FKLCC. Vice Mayor Deb Gillis stated the Florida League of Cities is a great resource and would support it if the remainder of Monroe County participated.

D. Update Regarding Mayor's Fly-in

Mayor Mike Forster reported that he had sat at the round table with approximately 30 mayors and was the only representative from Monroe County. He explained that Senators and Representatives were brought in and spoke about their hot topics. He stated that he had not realized beforehand how strong Amendment 1 was regarding the seven springs within the state of Florida. Mayor stated that there was a lot of support to obtain funding for these cities because of the large geographical area they cover, even though Monroe County supplies approximately \$200 million dollars in tax revenue to the State.

E. Update Regarding Snake Creek Bridge

Mayor Mike Forster reported that Lieutenant Kilgo stated the project was on track and that he was submitting his information to the person that would make the decision. Mayor Forster stated that Lieutenant Kilgo implied that he expected a decision would be rendered in the next 30 to 45 days and that he did not think it would be denied.

Mayor Mike Forster opened public comment.

Van Cadenhead stated that 180 days was a good length of time for the trial period. He asked if there could be an interim evaluation period during this time. Mayor Mike Forster stated the Village did not have that option.

Mayor Forster closed public comment.

F. Discussion Regarding the Florida Keys Federation of Chambers of Commerce

Vice Mayor Deb Gillis spoke in support of the Village creating a resolution opposing the expansion of ecological reserves and preservation areas by the National Marine Sanctuary. She requested that staff be permitted to put together a resolution supporting this endeavor. Council members spoke in support of the request.

XV. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

A. 2012 – 2013 CAFR Presentation

Village Manager Maria Aguilar provided details regarding the delay in the completion of the Comprehensive Annual Financial Report (CAFR).

Ms. Aguilar explained that the auditing firm of Mauldin & Jenkins reviewed the wastewater project and related non-ad valorem assessments. She reported that the firm restated the prior year's financial statement for changes they thought were needed for total net position in the wastewater fund. Ms. Aguilar stated the firm determined assessment revenue should have been recognized after the final wastewater assessment resolutions were passed. Ms. Aguilar stated the prior auditors recommendations were different in that they had advised that long-term assessment revenue should remain in deferred revenue until project completion.

Ms. Aguilar provided a brief explanation of the document labeled Annual Audit Agenda Presentation of Financial and Compliance. She stated this report summarizes the audit findings and explains the auditors'

responsibilities and those of management. Ms. Aguilar stated that pages 8 -12 identify areas the auditors deemed worthy of comment as well as management's response to those findings.

Councilman Chris Sante inquired as to why the Swerdlow settlement was listed in the audit adjustments. Ms. Aguilar explained that it was because the Village was still owed \$600,000 dollars.

Ms. Aguilar responded to Mr. Van Cadenhead's earlier inquiry regarding the overage in the Parks and Recreation budget. She explained the cause for the overage was the increase in Parks and Recreation revenues and stated the overage would not have been noticed had she submitted the year-end budget amendment. She stated that Florida Statutes allow, but do not require, a year-end budget amendment when revenues exceed expenditures.

Ms. Aguilar stated that the General Fund did very well with an addition to the General Fund fund balance of \$323,000 dollars.

Mayor Mike Forster opened public comment.

Van Cadenhead spoke in support of more accurate budget forecasting. Ms. Aguilar explained that this was the purpose for Florida Statutes allowing for year-end budget amendments.

Mayor Mike Forster closed public comment.

XVI. ADJOURNMENT

Councilman Dennis Ward made a motion to adjourn. Councilman Chris Sante seconded the motion. The meeting adjourned at 8:01 p.m.



Kelly S. Toth
Village Clerk

Approved by the Village Council this 12th day of February, 2015.