



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

**Founders Park Community Center
87000 Overseas Hwy
Islamorada, FL 33036
Thursday, March 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 Jim Mooney, Councilman Chris Sante and Councilman Dennis Ward. 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

Frank Greenman led the Pledge of Allegiance

III. PRESENTATIONS AND ANNOUNCEMENTS

Director of Parks & Recreation and Marine Resources John Sutter invited everyone to attend the Relay for Life event that would occur on April 12, 2015 from 12:00 pm until 12:00 am at Founders Park.

IV. PUBLIC COMMENT

Mayor Mike Forster opened public comment.

Frank Derfler, Secretary of the Upper Keys Rotary Club, reported on the success of the recent Nautical Flea Market.

Rosa Mercedes expressed concern over the fairness of code enforcement notifications to commercial businesses regarding outdoor displays and eye catching merchandise.

Village Manager Maria Aguilar explained that commercial businesses that existed prior to the Village's incorporation are grandfathered in and are considered non-compliant and that this was the situation with many of Ms. Mercedes' competitors. Ms. Aguilar stated that code enforcement had communicated with Ocean Gardens and the Rain Barrel.

Dave Purdo expressed concern over heavy traffic on US 1 when accidents occur. He thanked Council and staff for their efforts on the Snake Creek Drawbridge schedule project.

Vice Mayor Deb Gillis announced that the change to the Snake Creek Drawbridge schedule would begin on March 16, 2015.

V. AGENDA: Request for Deletion / Emergency Additions

Councilman Dennis Ward added discussion regarding the Florida Retirement System to XIV. Mayor / Council Communications.

Mayor Mike Forster added discussion regarding the 10,000 square foot referendum to XIV. Mayor / Council Communications.

VI. CITIZENS' ADVISORY COMMITTEE UPDATES

A. Local Planning Agency Committee Update

Pete Bacheler, Chair of the Local Planning Agency (LPA), reported that the committee voted 7-0 in favor of the cost recovery ordinance that would soon be before Council for approval. He stated that the other items brought up for discussion pertaining to highway commercial property, outside storage and fence heights would be discussed at the next LPA meeting.

VII. VILLAGE MANAGER REPORTS AND UPDATES

A. Snake Creek Drawbridge Opening Schedule Update

Village Manager Maria Aguilar reported that the Snake Creek Drawbridge 120-day trial period would begin on March 16th. She stated that during this period the bridge would open at the top of the hour from 8AM to 6PM and would continue to open on demand. Ms. Aguilar reported the 120-day trial period would be followed by a 60-day comment period. She stated that if the trial period was successful the Coast Guard would determine if and how a permanent schedule change would be implemented.

B. Monte Green's Request for Consideration Regarding Fire Hydrant Installation Update

Village Manager Maria Aguilar stated staff was working closely with Mr. Green and his agents. She stated that since the last meeting, staff had emphasized to Mr. Green that he needed to submit his permit application for a fire hydrant to the Florida Keys Aqueduct Authority (FKAA). Ms. Aguilar stated once FKAA had made a determination, which could take six months, staff would know the best way to proceed. Ms. Aguilar stated Wade Trim is assisting the Village in determining the cost associated with installing the hydrant at the proposed location. Ms. Aguilar reported the option of a second well was being researched to determine if it was feasible and whether or not it would be more costly. She stated that there are other outstanding issues and at this time a temporary certificate of occupancy could not be issued.

C. Vacation Rental Code Enforcement Procedures Update

Village Manager Maria Aguilar reported staff had communicated with the one Code Enforcement Officer with the City of Sanibel. Ms. Aguilar stated that the process used by the City of Sanibel was very similar to the Village's process. She explained that Sanibel's current code officer stated that she did not use a credit card in the vacation rental code enforcement process and that she was unaware as to whether the city had ever done so in the past. Ms. Aguilar reported on the vacation rentals the code enforcement department had brought into compliance over the last fiscal year.

Senior Code Enforcement Officer Jerry Sanders explained the vacation rental code enforcement process. Councilman Chris Sante asked if a property owner would be in compliance if they rented a unit for a week, but only once during the month. Ms. Aguilar stated the property owner would be in compliance as long as they were only renting once during a 28-day period. She stated staff is communicating with the Monroe County Tax Collector on a monthly basis and is providing them with the properties that have been investigated. Ms. Aguilar stated that the tax collector follows up on this information provided to them with regard to the bed tax.

Ms. Aguilar reported on the Code Enforcement's activities relating to compliance with the Village's sign ordinance and briefly explained the information provided to Council detailing code actions.

VIII. CONSENT AGENDA

A. Minutes:

February 26, 2015 Regular Village Council Meeting

Mayor Mike Forster asked if Council had questions or comments regarding the consent agenda; there were none. Mayor 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. The Council voted all in favor. The motion passed 5-0.

IX. WASTEWATER MATTERS

A. Wastewater Project Update

Wastewater Program Manager Greg Tindle reported the Grinder Pump Program deadline is March 31, 2015 and that there are still over thirty property owners that have not submitted complete paperwork and /or payment. Mr. Tindle provided a salinity update for the last eleven days and stated all but one of the lateral repairs had been completed in the right-of-way. Discussion ensued between Council and staff regarding salinity testing, pit replacement, leak detection and budgeting for future maintenance.

Mr. Tindle reported that notice to connect letters had been sent out to Middle Plantation Key property owners on March 9th and that letters notifying South Plantation Key property owners of the residents meeting regarding wastewater connection had also been sent out. He stated the residents meeting would be held on March 18, 2015 at 4:30PM, 5:30PM and 6:30PM in the Founders Park Community Center.

Mayor Mike Forster opened public comment.

Stan Marguiles asked if any of the upcoming residents meetings were specifically scheduled for Venetian Shores property owners. Wastewater Program Manager Greg Tindle explained that the three meetings scheduled for March 18th were for South Plantation Key property owners and that there was not a specific meeting for the Venetian Shores property owners. Mr. Tindle stated notices were sent to all of the homeowners on South Plantation Key including Venetian Shores.

Larry Barr expressed concern for those individuals that did not respond timely by the Grinder Pump Program deadline.

Mayor Mike Forster closed public comment.

X. ORDINANCES

- A.** Second 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 stated this is second reading and a public hearing. Director of Planning Cheryl Cioffari provided the staff report recommending approval.

Mayor Mike Forster asked if Council had any questions or comments; there were 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 5-0.

- B.** Second 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 stated this is second reading and a public hearing. Director of Planning Cheryl Cioffari provided the staff report recommending approval.

Mayor Mike Forster opened public comment.

Patty Silver spoke against the proposed seven day notification period. She stated applicants need to have enough time to receive and review the staff report in order to make a decision as to whether or not a continuance is needed.

Frank Greenman suggested the deadline should be driven by the date the applicant receives the staff report.

Director of Planning Cheryl Cioffari stated quasi-judicial items are required to be made available ten days prior to the hearing. Discussion ensued among Council and staff regarding the appropriate amount of time for the applicant to provide notification.

Cheryl Culberson spoke against approval citing too short of a review time for the applicant and suggested Council table the item and send it back to the Local Planning Agency for review.

Mayor Mike Forster closed public comment.

Mayor Mike Forster explained the previous Council’s reason for modifying the current ordinance. Vice Mayor Deb Gillis asked if it would be possible to make the staff report available to the applicant 12 working days prior to the hearing. Director of Planning Cheryl Cioffari responded that another portion of the quasi-judicial procedures would need to be amended to make the change. Councilman Jim Mooney spoke against the ordinance going back before the Local Planning Agency for review.

Village Council agreed to table the item and provided direction to staff to amend the ordinance to reflect that the staff report would be provided to the applicant 12 working days prior to the hearing. Director of Planning Cheryl Cioffari stated staff would make the recommended changes and bring the ordinance back to Village Council for second reading on April 9, 2015.

XI. QUASI-JUDICIAL

Village Attorney Roget Bryan read the quasi-judicial statement and requested that anyone not having been sworn in raise their hand. Village Clerk Kelly Toth swore in the witnesses.

A. First Reading- Future Land Use Map Amendment (FLRZ-14-02) Application for Property Located at Approximately MM 85.5 Overseas Highway

Village Attorney Roget Bryan read the title of the ordinance and stated this is first reading. He requested Council disclose any ex-parte communications. Councilman Chris Sante disclosed he had spoken with Don Horton and Andy Tobin. Vice Mayor Deb Gillis, Mayor Mike Forster and Councilman Jim Mooney disclosed they had spoken with Don Horton. Councilman Dennis Ward reported he did not have any ex-parte communications. Director of Planning Cheryl Cioffari provided the staff report.

Mayor Mike Forster invited the applicant to speak.

Don Horton, agent for the applicant referenced photos and the 2005 survey as evidence that the property has been used for a very long time and that it is mostly scarified. Mr. Horton stated that the conservation designation was an obvious mapping error.

Mayor Mike Forster opened public comment to those in favor of the item.

Frank Greenman, attorney for the applicant, pointed out the staff report remarks regarding the data error in mapping and proceeded to read page ten, item (3) of the Council Communication. He stated that if planning presents their determination, or evidence, that this is an approvable determination for Council to make, then the law states you must approve it unless opposition presents substantial and competent evidence that it is not in the public's best interest. Mr. Greenman stated that because staff had recommended approval, that it was Council's duty to approve the item unless competent evidence that it was not in the public's best interest was presented.

Pete Bacheler stated that thirty years ago the property was designated "General Use" and then Monroe County changed the designation to "Suburban Commercial" followed by the Village changing the designation. He stated the archived aerial photographs are further proof that the property was used for commercial purposes.

Dave Purdo spoke in support of the item and stated he recalled the property being used in a commercial capacity in the 1970's and 1980's.

Mayor Mike Forster opened public comment to those opposed.

Amy Knowles stated the Local Planning Agency recommended denial of the FLUM amendment by a 4-3 vote and expressed concern that a precedent would be set if Council approved the item. She spoke in support of protecting the conservation lands of Islamorada.

Cheryl Culberson stated Monroe County should not have rezoned the property to Suburban Commercial. She stated the property is located next to one of the largest coral reef parks. She stated this property is tidal

property and referenced the WATER Mitigation Assessment. Ms. Culberson expressed concern over potential traffic issues that could result from a change in designation and requested Council maintain the current designation of conservation land.

Stan Marguiles stated that he concurred with Amy Knowles and Cheryl Culberson and requested that Council not change the designation.

Eduardo Fernandez, owner of Smuggler's Cove, opposed the potential change in designation. He stated prior to purchasing Smuggler's Cove ten years ago they did their due diligence and met with the Village's Planning Department. Mr. Fernandez stated they inquired about the subject property and they were told that it was conservation land.

Andy Tobin distributed a WATER Mitigation Assessment Report to Council. Mr. Tobin called attention to the comments found on pages numbered 4 and 5 of the report. He stated the issue he identified was that it would be contrary to the Village's Comprehensive Plan to rezone a tidally influenced mangrove area that gets inundated with sea water with the fluctuation of the tides. Mr. Tobin suggested it would be inappropriate to rezone tidally influenced land from conservation.

Frank Greenman, attorney for the applicant, addressed the comments made by those opposed; pointed out that prior governmental entities that looked at this parcel and saw it as commercial scarified; and that approval for the driveway had been given by the Army Corp of Engineers and the Department of Environmental Protection. Mr. Greenman stated that staff had provided competent and substantial evidence that the zoning of this property should be changed.

Mayor Mike Forster asked Mr. Greenman what the zoning of the property was when his client purchased the land. Mr. Greenman replied "conservation". Mayor Forster asked if there was any commercial use of the property at the time it was purchased. Mr. Greenman replied: yes, parking for Smuggler's Cove which is a commercial use.

Councilman Dennis Ward read an email from Richard Baker, LPA member, into the record expressing opposition to the potential rezoning.

Councilman Chris Sante described several properties that were historically misclassified in Monroe County and pointed out properties that existed once as mangroves that were later filled in to create subdivisions for housing. He spoke in support of the Village creating a conservation fund that would allow for mitigation by the applicant and for the Village to purchase larger tracts of conservation land. He spoke in support of approving the item.

Vice Mayor Deb Gillis clarified that all that was before Council at that point in time was the changing of the FLUM.

Councilman Jim Mooney stated the property had always been scarified. Councilman Mooney recalled the property being used for camping in the 1960's and that historically it had been used for parking. He stated the size and shape of the property create development constraints for the property owner.

Councilman Dennis Ward asked what research had been done to determine the property had been mapped improperly. Director of Planning Cheryl Cioffari stated staff had reviewed Monroe County's Future Land Use Maps which were prior to the 2001 creation of the Village's Comprehensive Plan and stated that those maps designated the property as mixed use commercial.

Mayor Mike Forster recalled the property being used in a commercial capacity 27 years ago, but since then it had become passive.

Vice Mayor Deb Gillis made a motion to approve. Councilman Chris Sante seconded the motion. Council voted and the motion passed 3-2. Mayor Mike Forster and Councilman Dennis Ward opposed.

B. First Reading – Official Zoning Map Amendment (FLRZ-14-02) Application for Property Located at Approximately 85.5 Overseas Highway

Village Attorney Roget Bryan read the title of the ordinance and stated this is first reading. He requested Council disclose any ex-parte communications. Councilman Chris Sante disclosed he had spoken with Don Horton and Andy Tobin. Vice Mayor Deb Gillis, Mayor Mike Forster and Councilman Jim Mooney disclosed they had spoken with Don Horton. Councilman Dennis Ward reported he did not have any ex-parte communications. Director of Planning Cheryl Cioffari provided the staff report.

Mayor Mike Forster invited the applicant to speak.

Don Horton, agent for the applicant, requested that his comments and discussion from the previous FLUM item be maintained for the record for this item.

Mayor Mike Forster opened public comment to those in favor.

Dave Purdo thanked Council for their previous vote.

Mayor Mike Forster opened public comment for those opposed.

Amy Knowles recalled the many workshops that were held pertaining to land use when the Village first incorporated. She stated that she thought it was fair to assume that a mistake had not been made; rather the designation of this property was a result of what had been discussed in the workshops.

Cheryl Culberson spoke in support of maintaining the conservation designation and pointed out the sea level rise study being conducted by the Village.

Andy Tobin requested his comments from the prior FLUM item be made a part of the record for this item.

Councilman Jim Mooney stated the owner would have been prevented from using the property for parking had it been realized that the property was conservation. Councilman Chris Sante stressed the importance of due diligence when purchasing property. Councilman Dennis Ward stated he was not in agreement with the staff research that had been conducted and that he was not convinced that a mapping error had occurred. Mayor Mike Forster spoke in support of maintaining the conservation designation. Vice Mayor Deb Gillis stated that she believed that a mapping error had occurred and that the applicant had conducted due diligence regarding the properties designation.

Councilman Chris Sante made a motion to approve. Councilman Jim Mooney seconded the motion. Council voted and the motion passed 3-2. Mayor Mike Forster and Councilman Dennis Ward were in opposition.

C. First Reading- Future Land Use Map (FLUM) Amendment (FLRZ-14-06) For a Portion of a Property Located at 76180 Overseas Highway, At Approximately MM 76

Village Attorney Roget Bryan read the title of the ordinance and requested Council disclose any ex-parte communications. Councilman Jim Mooney disclosed he had spoken with Don Horton. Councilman Chris

Sante, Vice Mayor Deb Gillis, Mayor Mike Forster and Councilman Dennis Ward reported they had not had any ex-parte communications. Senior Planner Shane Laakso presented the staff report recommending approval.

Mayor Mike Forster invited the applicant to speak.

Don Horton, agent for the applicant, thanked staff and the Local Planning Agency. He stated the approval of this request would allow for the redevelopment of the existing lawfully established units on a larger parcel of land with the potential of decreasing another unit.

Councilman Jim Mooney asked if this was similar to what had occurred with Bonefish Bay. Mr. Horton responded that it was very similar and that the applicant was proffering that no additional units would be built other than what was already lawfully established.

Mayor Mike Forster opened public comment to those in favor; there were none.
Mayor Mike Forster opened public comment to those opposed; there were none.
Mayor Mike Forster closed public comment.

Vice Mayor Deb Gillis asked if what the applicant was proffering could be changed in the future. Village Attorney Roget Bryan stated that it could be changed, but would require Village Council approval.

Councilman Chris Sante made a motion to approve. Vice Mayor Deb Gillis seconded the motion. Council voted all in favor. The motion passed 5-0.

D. First Reading – Zoning Amendment (FLRZ-14-06) for a Portion of a Property Located at 76180 Overseas Highway, At Approximately MM 76

Village Attorney Roget Bryan read the title of the ordinance and requested Council disclose any ex-parte communications. Councilman Jim Mooney disclosed he had spoken with Don Horton. Councilman Chris Sante, Vice Mayor Deb Gillis, Mayor Mike Forster and Councilman Dennis Ward reported that they had not had any ex-parte communications. Senior Planner Shane Laakso presented the staff report recommending approval.

Mayor Mike Forster invited the applicant to speak.

Don Horton, agent for the applicant, requested his comments from the previous item be made a part of the record.

Mayor Mike Forster opened public comment to those in favor; there were none.
Mayor Mike Forster opened public comment to those opposed; there were none.
Mayor Mike Forster closed public comment.

Vice Mayor Deb Gillis made a motion to approve. Mayor Mike Forster seconded the motion. Council voted all in favor. The motion passed 5-0.

XII. RESOLUTIONS

A. Resolution Approving the 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 presented the staff report recommending approval.

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 5-0.

XIII. MOTIONS

A. Consideration and Approval of 2015 State Legislative Priorities Handout for Florida Keys Day

Village Manager Maria Aguilar stated Assistant Village Manager Mary Swaney prepared the attached handout to be distributed during Florida Keys Day to the various legislative representatives. Ms. Aguilar provided a brief summary of the handout. Council gave direction to staff to move forward with the item.

XIV. MAYOR / COUNCIL COMMUNICATIONS

A. Discussion Regarding Affordable Housing – Councilman Ward

Councilman Dennis Ward stated he received a phone call from a resident stating she did not qualify for affordable housing rentals because her income was too high. Director of Planning Cheryl Cioffari stated she had spoken with the resident regarding affordable rentals, but not about her income. Ms. Cioffari stated she had explained to the resident that the Village maintained a list of affordable rentals but did not know the availability of the rentals and stated that when a renter moves out, the new renter must qualify with the Village. Ms. Cioffari briefly explained the income criteria for affordable housing.

Ms. Cioffari explained the Gorman Group manages the Wet Net affordable housing property and that they have lower income requirements because tax credit financing was used. Discussion ensued regarding how a person locates affordable rentals, income limits, regulatory compliance and income certification.

Councilman Chris Sante suggested the Workforce Affordable Housing Committee consider the possibility of overseeing renters' qualifications for affordable housing. Councilman Sante explained various scenarios for qualifying and situations where income changes. Vice Mayor Deb Gillis stated that originally income verification was to be conducted on an annual basis. She stated the median income in Monroe County was \$63,500 dollars and that for a family of four the limit was \$65,900 dollars. Vice Mayor Gillis stated the only way to maintain affordable rent was to deed restrict the property. Discussion ensued among Council regarding housing shortages, income limitations, the constraints involved with utilizing federal funds, public private partnerships and perpetuity.

Mayor Mike Forster opened public comment.

Dave Purdo spoke in support of deed restrictions and against restrictions in perpetuity.

Larry Barr suggested Council exercise caution when considering rent control.

Councilman Jim Mooney expressed concern over individuals qualifying and not working in Islamorada.

Cheryl Culberson stated a point system was utilized for the qualification process for the Woods Corner and Wet Net properties. She stated that when the applicant moved in they qualified and should be required to

qualify annually. Ms. Culberson stated she knew of 19 affordable units that were rented to individuals that worked in Islamorada. She suggested hiring a firm to handle the requalifying process; working closely with House Representative Holly Raschein; and using SHIP money to maintain housing and to help keep people in their homes.

B. Village Attorney Annual Evaluation

Village Attorney Roget Bryan recapped the portion of his contract pertaining to his evaluation.

Mayor Mike Forster stated that this was his seventh year on Council and that hiring an in-house attorney was one of the best decisions he had been part of. He stated Roget had done a great job and that the transition was better than he had expected.

Vice Mayor Deb Gillis stated that costs were being controlled and she was very pleased with the Village Attorney's performance.

Councilman Chris Sante stated it was difficult to provide an evaluation based on the short time he had been serving on this Council.

Councilman Jim Mooney agreed with Councilman Sante and stated overall the Village Attorney had done a good job.

Village Council provided their completed evaluations to the Village Clerk.

C. Discussion Regarding the Florida Retirement System

Councilman Dennis Ward spoke in support of Village employees becoming members of the Florida Retirement System (FRS). He said FRS is a recruiting tool for the Village that would aid in minimizing turnover. He stated that it would cost approximately \$100,000 to move to the FRS from the Village's current 401A.

Village Manager Maria Aguilar explained that it would be an increase of \$100,000 for the employees to be added to FRS and that this did not include the firefighters because they were already members of FRS. Ms. Aguilar stated that there was legislation proposed to limit new enrollees to the investment plan and change vesting requirements. She stated that if this was the direction Council wanted to go, a resolution would need to be passed sooner rather than later due to the proposed legislation.

Mayor Mike Forster spoke in support of the item. Vice Mayor Deb Gillis and Councilman Chris Sante stated they would consider it, but expressed concern over the associated costs.

Mayor Mike Forster stated that you either pay the money to retain people or you pay to train the new people when the existing staff member leaves.

Vice Mayor Deb Gillis stated that it would also make it easy for a person to transfer to another employer with FRS.

Council directed staff to bring back more information to Council.

D. 10,000 Square Foot Referendum Item

Mayor Mike Forster requested a time certain on the 10,000 square foot referendum discussion. Councilman Dennis Ward seconded the Mayor's request.

Village Attorney Roget Bryan stated the Village invoked a zoning in progress that would expire in December. He stated staff would like more direction from Council. Director of Planning Cheryl Cioffari stated staff would bring the item before Council at the May 14th Regular Village Council Meeting for discussion and then the item would be prepared for review by the Local Planning Agency.

XV. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

A. Discussion Regarding Village Manager Annual Evaluation

Village Manager Maria Aguilar recapped the portion of her contract that pertained to her evaluation. She asked the Council to consider the date they would like to provide the evaluation as well as the form of the evaluation.

Council agreed to the evaluation form that was provided to them with their agenda and to evaluate the Village Manager at the April 23, 2015 Regular Village Council Meeting.

XVI. ADJOURNMENT

Councilman Dennis Ward made a motion to adjourn. Mayor Mike Forster seconded the motion. The meeting adjourned at 8:37 P.M.



Kelly S. Toth
Village Clerk

Approved by the Village Council this 26th day of March, 2015.