



**ISLAMORADA, VILLAGE OF ISLANDS
SPECIAL CALL VILLAGE COUNCIL MEETING MINUTES**

**Founders Park Community Center
87000 Overseas Hwy
Islamorada, FL 33036
Thursday, November 12, 2015
4:00 PM**

I. CALL TO ORDER / ROLL CALL

Mayor Mike Forster called the meeting to order at 4:00 P.M. The following Councilmembers 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, and all other appropriate personnel.

II. PLEDGE OF ALLEGIANCE

Ann Haber led the Pledge of Allegiance

III. ITEMS FOR DISCUSSION

A. Discussion Regarding Conveyance of Sunset Drive and Iroquois Drive to the Village

Village Manager Maria Aguilar stated the purpose of the meeting was to address concerns raised by property owners on Sunset Drive and Iroquois Drive regarding the Village's intentions for those roadways. She explained the roadways were conveyed to the Village by the previous owner, Iroquois Builders of Lee County, Inc., in lieu of providing an easement, to facilitate construction of the Village's wastewater project.

IV. PUBLIC COMMENT

Mayor Mike Forster opened public comment at 4:04 PM.

Jim Bellizzi commented about Whispell Foreign Cars, Inc., Et Al. vs. The United States Case No. 09-315 L regarding a rails-to-trails takings claim and ownership of land underlying railroad easement. He read the conclusion of the courts which was in favor of the plaintiff.

Nick Mulick, Attorney representing several owners on Sunset Drive, stated his goal was to have the Village transfer ownership of the roads to the abutting owners and explained a possible legal strategy for accomplishing the goal. He explained the owners were concerned that they had bought into a private community and were now losing that private community.

Frank Greenman, Attorney representing owners on Sunset Drive, spoke in support of Mr. Mulick's idea. Mr. Greenman explained that the plat dedicated the exclusive use of the roads to the property owners. He explained that nothing the Village had done changed the fact that the road was still private. He further stated that now that the Village owned the road, the Village had to maintain the road and had assumed liability for the road.

Robert Moser, Sunset Drive, expressed concern regarding the Village's assertions regarding the roads and that those assertions could change with a future Council. Mr. Moser expressed concern regarding property values declining if the road was made public and the nuisances associated with a public street. He spoke in support of the road being private, having the ability to tell people they cannot be on their road and possibly putting up a gate in the future.

Tom Bluth spoke in support of transferring ownership of the roads to the property owners.

Brad Dougherty, Iroquois Drive, stated he was in favor of the Village taking over the roads. He explained that in the past not all homeowners had paid their share of maintaining the roads. Mr. Dougherty stated literature had been passed around to property owners that he thought was causing a lot of concern and that the literature referenced Village Codes pertaining to setbacks, turnarounds and development. He encouraged the Council to address some of these concerns. Mr. Dougherty stated some homeowners were also concerned about homesteading rights when they owned property on both sides of the road. Mr. Dougherty expressed concern regarding some aspects of the wastewater project.

Alfonso Fernando Fraga, Iroquois Drive, expressed concern regarding the elevation of the road; stormwater runoff and maintenance of the road.

Gary Nichols, Iroquois Drive, spoke in support of the Village taking over the roads. He expressed concern about flooding on Iroquois Drive.

Ritchie Hansen, Iroquois Drive, stated he did not want the road raised or widened and expressed concern regarding flooding and stormwater runoff. He stated he would like clarification regarding whether or not the road would remain the same now that the Village had ownership; and inquired as to whether or not law enforcement would be able to enforce parking laws and golf cart regulations.

Julie Baxter, Sunset Drive, referenced the Village's Mission Statement and requested the Village "undo" what had been done.

Bob Dickman, Sunset Drive, expressed concern regarding stormwater runoff, flooding, the possibility of the road being raised, and potential development issues.

Patricia Nassar, Iroquois Drive, stated the manner in which the Village acquired the roads was not fair.

George Nassar, Iroquois Drive, expressed concern that somewhere down the line a future agency may wish to make changes to the road and spoke in support of the road being private.

Mayor Forster closed public comment at 4:38 PM.

Village Attorney Roget Bryan explained the Village's goal was to obtain an easement for wastewater construction purposes. He stated it was determined that the developer maintained interest in the roadways and thus the property owners could not convey the needed easement. Mr. Bryan explained the Village accepted the substandard road for the benefit of the property owners to facilitate the mandated wastewater construction. He explained that in accordance with Resolution 14-08-55 the Village was not obligated to bring the substandard roads up to current standards. He stated the only improvements staff had intended

to make were those associated with the wastewater construction and referenced the Village Manager's letter to the property owners.

Mr. Bryan clarified the policy discussion for the Council was whether there was an interest in the abutting property owners acquiring the road(s) from the Village. He stated that he was not convinced it was as simple as vacating the conveyance of the roads, that a more formal process would be warranted to include obtaining the consent of the abutting property owners.

Councilman Chris Sante stated when wastewater repaving occurred, the average overlay would only be two to three inches; the repaving would occur only over the existing road; and the repaving would not increase the width of the road.

Councilman Jim Mooney, Councilman Dennis Ward, Vice Mayor Deb Gillis and Mayor Mike Forster stated that they would not be opposed to conveying the road(s) to the abutting property owners. Councilman Jim Mooney stated that if the road was conveyed to the property owners, he would request that the Village be held harmless in the event an emergency vehicle could not get down the road. Discussion ensued among Council regarding the voluntary homeowners association; the percentage of property owners needed to constitute a change and the need for an easement. Mayor Mike Forster addressed trespassing on the beach and specifically the areas on the beach that would not constitute trespassing. Council directed the Village Attorney to meet with the attorneys of the property owners to begin discussing the process for conveying the road(s) to the abutting property owners.

Mayor Mike Forster opened public comment.

Nick Mulich suggested there was a way to go about conveying the roads without having to litigate.

Jim Bellizzi clarified what he thought were misstatements of fact.

Robert Moser commented on the lack of notification to the abutting property owners regarding the conveyance of Sunset Drive and Iroquois Drive to the Village.

Brad Dougherty stated the voluntary homeowners association emailed information, pertaining to the possible conveyance of Sunset Drive and Iroquois Drive, to those property owners that had provided their email to the association. He commented on problems associated with debris removal from private roads, access to private roads by emergency vehicles and abandonment of easements referenced in the Village Code.

Louisa Black spoke about the damage done to the trees on her property.

Ritchie Hansen spoke regarding problems associated with hurricane debris removal on private roads and the overgrowth of vegetation on the private roads.

Julie Baxter spoke about the eroding beach.

Mayor Mike Forster closed public comment.

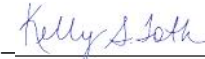
V. MOTIONS

VI. MAYOR / COUNCIL COMMUNICATIONS

VII. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

VIII. ADJOURNMENT

Vice Mayor Deb Gillis made a motion to adjourn. Councilman Dennis Ward seconded the motion. The meeting adjourned at 5:24 PM.



Kelly S. Toth
Village Clerk

Approved by the Village Council this 3rd day of December, 2015.