

**Summary Minutes of the:
ISLAMORADA, VILLAGE OF ISLANDS
REGULAR VILLAGE COUNCIL MEETING**

Founders Park Community Center

87000 Overseas Highway

Islamorada, FL 33036

Thursday, September 2, 2021

5:30 PM

CALL TO ORDER / ROLL CALL

Mayor Buddy Pinder called the meeting to order at 5:33 p.m. Village Clerk Kelly Toth called the roll with the following Councilmembers being present on roll call: Mayor Buddy Pinder, Vice Mayor Pete Bacheler, Councilman Mark Gregg, Councilman Henry Rosenthal and Councilman David Webb. Also present were Village Manager Greg Oravec, Village Attorney Roget Bryan, Village Clerk Kelly Toth and other pertinent staff.

PLEDGE OF ALLEGIANCE AND INVOCATION

Councilman David Webb led the Pledge of Allegiance. Mayor Buddy Pinder provided the prayer.

REPORTS, PRESENTATIONS AND ANNOUNCEMENTS

Acknowledgement of Brad Bertelli's Service on the Historic Preservation Commission

Councilman Mark Gregg acknowledged Brad Bertelli's prior service on the Historic Preservation Commission and thanked him for his contributions.

Presentation: Lower Matecumbe Culverts- Canal Restoration Project by Greg Corning

At 5:37 p.m. Environmental Resources Manager Peter Frezza introduced Greg Corning, Senior Engineer with Wood Environment and Infrastructure, Inc. Mr. Frezza commented that Mr. Corning would be presenting on a culvert project the Village was considering on Lower Matecumbe the purpose of which was to connect dead end canals to increase waterflow and improve water quality. Mr. Frezza addressed any potential public concerns noting that the project was in the "feasibility and public outreach" stage and noted the project would take years to complete.

Mr. Corning reported the culvert technology had been vetted through other projects in the Florida Keys; two projects on Geiger Key and Big Pine Key showed an almost immediate transformation in the water quality after installation with increased dissolved water oxygen and fish life; construction could be done quickly with minimal impacts in terms of road closures; and identified the project tasks and timeline noting community outreach was part of each task. He reported the first location on Palm Drive, identified as canals 153 and 155, had two proposed culverts and noted options to minimize impacts such as culvert realignment. The second location was on White Marlin Boulevard, identified as canals 152 and 153, which has an existing culvert, noting the possibility of adding a culvert or replacement with a larger culvert to handle the tidal exchange. The third location was on Gulfview Drive and Lakeview Drive and was identified as canals 150 and 152. The fourth location was

on Sandy Cove Avenue, identified as canals 150 and 151, was a straightforward connection. He explained that the methodology behind the culverts was to have them submerged to maximize tidal fluctuations. The fifth location was located under US-1, identified as canals 155 and 157, and would most likely include directional drilling under US-1, which was a proven technology in the Florida Keys. Mr. Corning noted the public outreach efforts to affected property owners that had occurred and reported the next step was requesting approval of Task Two which was the data collection, processing and continued community outreach which involved environmental surveys to understand potential impacts, engineering assessments of seawalls, and conducting bathometric and topographic surveys to understand the grade to enable proper design of the culvert. He explained that the next steps after data collection were:

1. Obtain Council approval to move forward with the design and permitting for the projects.
2. Work on the access and easement agreements with the private property(s).
3. After design and permitting was completed, funding for the construction would be identified.
4. Prepare and solicit requests for proposals to construct the project.
5. Obtain Council approval to move forward with construction.

Environmental Resources Manager Peter Frezza noted that the data processing and collection was included in the fiscal year 2021-2022 budget and that he understood the approval for that item would take place with the approval of the budget.

Councilman David Webb inquired about long-term maintenance and safety. Mr. Frezza reported that culverts required very little maintenance; noted the Village recently blew out two culverts in the Village; that he understood culverts over 24 inches were required to have a grading over them to prevent wildlife from entering the culvert. Vice Mayor Pete Bacheler asked about plans for the Mangroves. Mr. Frezza reported that Mangrove trimming and excavating would be required noting these types of environmental impacts would be evaluated in the next task; noted that it was not desirable to have the Mangroves grow into the canal noting staff was working on a project to clear out some of the mangroves in Plantation Key Colony; and suggested some of the routine maintenance might be ensuring the Mangroves do not fill back in.

Mayor Buddy Pinder opened public comment.

Robert Moser inquired as to whether the silt and organic material would be evaluated with the topographic and bathometric surveys and wondered whether the technology would move the silt or organic material. He noted that when the seawall evaluation occurred that they may actually need to build a seawall where one did not currently exist. He asked what the maximum diameter was for a culvert that required directional drilling under US-1 noting a larger size may be needed. Mr. Moser asked with regard to costs and functionality why were culverts being used instead of injection wells. Mr. Frezza reported that a bathometric survey would be conducted followed by modeling that would hopefully answer the questions about silt, sediment and waterflow through the culverts; that it was understood that there may be a need for construction and manipulation to existing seawalls and bulkheads; and explained that the injection well was an untested technology and that staff was planning of installing an injection well on Plantation Key; and noted the science and modelling

indicated it would work very well in certain cases. He explained the reason they believed the culverts would work well on the Lower Matecumbe projects was due to the configuration of the canals and their close proximity; and noted culverts were relatively less expensive than the injection well technology, noting that injection wells were not ruled out. Councilman Henry Rosenthal asked Mr. Frezza to explain how an injection well worked. Mr. Frezza stated that an injection well was basically a vertical culvert and explained that it was meant to utilize the hydrologic head of the surface water on an incoming tide to use gravity to feed the water into the pipe to move down into the groundwater to setup a circulation; and that the flow induced by the gravity well would actually pull water, increase circulation and hopefully increase dissolved oxygen. Mr. Woods stated that 24 to 36 inches was the range for directional drilling which was provided by the companies they had spoken with in the past; noted there were different methodologies; that in most cases 24-to 36 inch pipe may be sufficient especially when considering the different tidal fluctuations between the Ocean and Gulf side canal noting a higher flow capacity that could be accounted for with the smaller culvert and that this was something they would be looking at.

Jason Lewis asked about development limitations after the installation of the culvert at location five. Mr. Frezza noted it was the most complicated culvert and did not anticipate any impacts on the property. Mr. Corning stated in most cases they would try to avoid building a structure over the top of the culvert which would be the limitation; that if the property were developed, they would have to look at where it would be aligned; in most cases they tried placing the culvert in the setback as construction was not permitted in the setback. Mr. Lewis stated it would prohibit development on top of the culvert and within the setbacks.

Keith Douglas opined that culvert 1-A at Palm Drive may be a bit of a challenge; culverting at 1-B would restore what had historically been there; noted Monroe County was supportive of a project in that area in the early 1990s but did not have the funding; that Monroe County noted the depth of the water on either side of the culvert and possibilities for impediments.

Mayor Pinder closed public comment.

Presentation: Rentalscape- A Complete short-term platform for local governments- by Deckard Technologies

At 6:06 p.m. Dustin Reilich with Deckard Technologies began his presentation by providing background information about the company. He provided a demonstration of the software that identified local vacation rental properties; the software "scrapes" the calendars of properties found on Airbnb, Vacation Rental by Owner (VRBO), Home Away and other locations on a daily basis which provides intel; identified several of the software's filtering options; and noted that some properties advertise as long-term rentals, but their calendars reflected occasional short-term rentals. Mr. Reilich explained that the software could provide historical stays at a property, the nightly rate at the time of the booking, the date of the booking and the length of stay; it could gather the contact information for the party responsible for the property; it provides monthly property revenues, average daily rates, and occupancy tax; it would track revenue for all vacation rentals in Islamorada; GIS shape files could be created for neighborhoods to look at density; it identifies how

many ads a property has and where those ads are; whether the property has their license displayed on the advertisements; and it provides historical data on the property.

Mayor Buddy Pinder opened public comment.

Steven Holmes asked how Rentalscape determined that it was a guest staying at the property versus the owner or friends et cetera. Mr. Reilich explained that they used an algorithm with a high-level of accuracy that could determine a stay from blocking the calendar.

Sean Mirmelli commented about his methodology for blocking the calendars for his rental properties and opined that the methodology used by the software was arbitrary. He asked how the software knew the rates the property owner actually received noting he was currently negotiating a Labor Day weekend stay that he had advertised at a very high rate but did not expect to receive. Mr. Mirmelli asked how the software was able to tell when a property was taken offline for an emergency repair. Mr. Reilich responded explaining that the software estimates the nightly rate based on the calendar information and stated it was a guidance tool for the Village.

James Bray inquired about the purpose of the presentation and asked if the Council was considering purchasing the software. Village Manager Greg Oravec explained the presentation was for informational purposes noting the discussion item that would occur later on the agenda regarding vacation rentals. He explained that it was a follow-up on a prior conversation by Council to discuss whether the Council should take up the Achievable Housing Committee recommendation regarding higher licensing fees; and to determine the enforcement posture of the Village regarding illegal vacation rentals. He noted the current code enforcement effort that involved manually scanning vacation rental website; and suggested the Council may want to consider a more cost-effective approach. He explained that the Village's vacation rental ordinance regulated rentals that were 28 days or less and noted that the vacations rentals could not be done for less than seven days.

Robert Moser commented the software could be very beneficial; expressed support for increasing the vacation rental fees, enforcement and purchasing the software. He asked the price of the software. Mr. Reilich stated the software was about \$25,000 for a city the size of Islamorada noting the rate would go down in the future and the first time set up fee.

Councilman David Webb noted the tax value of illegal vacation rentals. Councilman Mark Gregg noted the erosion on resident's quality of life by illegal vacation rentals; the economic analysis made sense; and it was the right thing to do; and expressed appreciation for the presentation noting it would take a burden off of code enforcement.

Deb Gillis commented that vacation rentals did not affect her small hotel business as the clientele were different; noted that there was a place for vacation rentals in Islamorada; and noted the illegal vacation rentals needed to go away.

Van Cadenhead commented about the number of vacation rentals licenses, the revenue generated from the licenses and the importance of monitoring the vacation rentals.

PUBLIC COMMENT

Mayor Buddy Pinder opened general public comment at 6:43 p.m.

Elizabeth Jolin asked the Council to draft a statement or resolution in support of the Monroe County Independent School District (MCISD) adopting a mandatory masking policy with a medical opt-out for the schools. She urged the Council to discuss the item that evening.

Ani Fernandez commented about the lack of pedestrian crossings and traffic lights in Islamorada; noted the traffic, lack of respect for speed limits, the associated fatalities, the fear associated with crossing the highway and asked if the Council had plans to implement crossings or traffic lights.

Van Cadenhead expressed support for Elizabeth's Jolin's request. He commented about the original proposed location of the dog park, the value of the real estate, and suggested that there was a better use for the \$197,000 TDC grant funds. He opined regarding the possibility that fecal residue from the dog park washed into the beach area after a large rain event due to its higher elevation; noted the beach had been closed numerous times for fecal coliform; and that he supports having a dog park just not the current location.

Mayor Pinder closed public comment.

AGENDA: Requests for Deletion / Emergency Additions

- Councilman Mark Gregg added a discussion about the MCISD masking policy.
- Mayor Buddy Pinder added a discussion regarding virtual meetings; and to express gratitude for the arrangements made for his attendance at the Florida League of Cities annual conference.
- Councilman Henry Rosenthal added a discussion item regarding "2023".

Council discussion ensued regarding when a request is made during public comment for the Council to discuss a particular topic; opinions about when the appropriate time was to have that discussion; and that public comment should be a one-way communication from the speaker as it was the Council's opportunity to hear from the public.

Village Manager Greg Oravec commented that public comment was an opportunity for the public to speak and not necessarily a time for a back-and-forth between Council unless it was during a quasi-judicial hearing where cross examination occurred; noted it was unusual for a city to answer every question posed to them by the public during a meeting; that it was more customary to take the questions and follow up later allowing time for research. He commented regarding the determining which requests should be followed up on noting some were just individual opinions; and the need for Council direction should the Council want staff to follow up on a comment or request made during public comment.

CITIZENS' ADVISORY COMMITTEE UPDATES

Local Planning Agency Update

At 7:00 p.m. Chairwoman Deb Gillis provided a Local Planning Agency (LPA) update. She reported at the last meeting they elected a new chairperson and vice chairperson; discussed the definition of beach berm and tabled the item to allow staff more time to work on the item; noted the September 13, 2021 LPA meeting was cancelled and the next meeting would occur on October 11, 2021.

Achievable Housing Committee Update

This item was heard at 7:02 p.m. Achievable Housing Committee Chairwoman Donna Wheeler reported the committee reviewed two proposals submitted in response to RFQ 21-08 for Affordable/Workforce Housing Development Services. She reported Habitat for Humanity of the Upper Keys and Gorman & Company submitted proposals; noted the categories used to rank the proposals; noted committee member Lindsay Fast recused herself but was available to answer questions in her capacity as Executive Director of Habitat for Humanity of the Upper Keys; noted Joel Reed, Southeast Market President for Gorman and Company was also available during the meeting to answer questions. Ms. Wheeler stated during the scoring process a discrepancy occurred when it was discovered that some committee members awarded points in the category of "not for profit status" and "local vendor" when the organization was not eligible; noting Habitat for Humanity of the Upper Keys qualified for both categories; Gorman & Company did not qualify for either. She explained that the scoring results of one member attending virtually were inadvertently left out; and that the scores were recalculated by staff in consultation with the Village Attorney resulting in Habitat for Humanity of the Upper Keys having the highest score and the majority of voting members; and noted Habitat for Humanity of the Upper Keys was the recommendation of the Achievable Housing Committee.

Ms. Wheeler commented that she was aware of the Village Manager and staff's variation of the recommendation and noted her support for recommendation number one and two. She reported the committee was in the beginning stages of reviewing the Monroe County Code of Ordinances pertaining to affordable and workforce housing to draft a more thorough ordinance for the Village; and noted Village consultant Rebecca Jetton led discussion about areas of the Code that could be tailored to the Village. She expressed gratitude to staff members Maria Bassett, Hank Flores and Anita Muxo for their efforts and responsiveness.

CONSENT AGENDA

TAB 1: Minutes: August 4, 2021 Budget Workshop

TAB 2: Resolution Approving Letter of Engagement for Code Compliance Hearing Officer

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE LETTER OF ENGAGEMENT BETWEEN MICHAEL J. PAWELCZYK AND ISLAMORADA, VILLAGE OF ISLANDS TO PROVIDE SERVICES OF CODE COMPLIANCE HEARING OFFICER; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE ENGAGEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE LETTER OF ENGAGEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

TAB 3: Resolution Approving the Purchase of a New 2022 Freightliner M2 Medium Duty Dump Truck for the Public Works Department

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE PURCHASE OF A 2022 FREIGHTLINER M2 DUMP TRUCK FOR THE VILLAGE PUBLIC WORKS DEPARTMENT FROM SBL BROWARD FREIGHTLINER BY PIGGYBACKING THE FLORIDA SHERIFF'S ASSOCIATION CONTRACT NO. FSA20-VEH18.0; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE NECESSARY DOCUMENTS; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

TAB 4: Resolution Approving Renewal of Property, Casualty and Workers' Compensation Insurance Policies through Public Risk Management of Florida Effective October 1, 2021

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING RENEWAL OF PROPERTY, CASUALTY AND WORKER'S COMPENSATION POLICIES AND COVERAGE FROM WORLD RISK MANAGEMENT THROUGH PUBLIC RISK MANAGEMENT OF FLORIDA EFFECTIVE OCTOBER 1, 2021; AUTHORIZING PAYMENT OF THE ASSOCIATED RENEWAL PREMIUM TO PRM FOR FISCAL YEAR 2021-2022; AUTHORIZING VILLAGE OFFICIALS TO EXECUTE REQUIRED DOCUMENTS; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Buddy Pinder opened public comment; no comment was offered.

Vice Mayor Pete Bacheler made a motion to approved seconded by Councilman Mark Gregg. Council voted and the motion passed 5-0.

RESOLUTIONS

TAB 5: Resolution Approving Selection of Habitat for Humanity of the Upper Keys, Inc. for Affordable / Workforce Housing Development Services in Response to RFQ 21-08

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING THE SELECTION OF HABITAT FOR HUMANITY OF THE UPPER KEYS, INC., IN RESPONSE TO RFQ 21-08 FOR AFFORDABLE/WORKFORCE HOUSING DEVELOPMENT SERVICES; AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO NEGOTIATE A 99-YEAR LEASE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

This item was heard at 7:10 p.m. Village Attorney Roget Bryan read the title of the resolution. Village Manager Greg Oravec presented the staff report; noted Habitat for Humanity of the Upper Keys had the highest-ranking proposal; the selection committee thought highly of both Habitat for Humanity of the Upper Keys and Gorman & Company; one specializes in home ownership while the other specializes in rentals; and both were proven developers in the community. He reported that the Council could either approve the selection of Habitat for Humanity of the Upper Keys as the developer of the project or could approve selection of Habitat for Humanity of the Upper Keys as

the developer for the southern property for home ownership and approve Gorman & Company for the northern property for rental units.

Councilman Mark Gregg asked the Village Attorney for a status update on the 300 affordable units to be allocated by the State. Village Attorney Roget Bryan stated the matter was still pending in the Third District Court of Appeals and that oral argument was set for October 16, 2021. Councilman Gregg noted 17 BPAS affordable units were set aside by the previous Council for the project; noted that the remaining available BPAS affordable units were in the single digits; and suggested a discussion about the value and need of the BPAS allocations that allowed for home ownership. Village Manager Greg Oravec noted that there was enough time built in so that if the Council wanted to award the northern property to Gorman & Company that the Village would be able to see the disposition of the 300 units and get through the appeal; commented that Gorman & Company often did tax credit deals on their rentals and that their cycle was next spring; commented that there was a scenario where the Council did not have to effectuate the deal until the Village had the 300 units; and noted that the rental units could be used on the northern property allowing for the Village to reacquire the BPAS affordable units that allowed for home ownership.

Councilman David Webb asked if staff had reached out to Habitat for Humanity of the Upper Keys to see if they would be amenable to splitting the project allowing for them to build the homeownership units and the rental units going to a different developer. Mr. Oravec invited Lindsay Fast, Executive Director of Habitat for Humanity of the Upper Keys to speak. Ms. Fast stated that they were absolutely amenable to splitting the project allowing for Habitat for Humanity of the Upper Keys to develop the home ownership units and for Gorman & Company to develop the rental units; and noted her support for recommendations one or two. Councilman Webb commented about the negative impacts of 300 affordable units on the community and expressed that he would like to have a longer conversation about topic before deciding what to do, pending the outcome of the litigation. Vice Mayor Pete Bacheler expressed support for splitting the project as suggested.

Mayor Buddy Pinder opened public comment.

Van Cadenhead expressed support for giving the project to Habitat for Humanity of the Upper Keys and "going local"; and commented that the Wet-Net affordable rental units were not "affordable".

Deb Gillis commented that splitting the project would be excellent; noted businesses were cutting their hours due to lack of staff; noted the income restrictions and at one point in time the maximum income allowed on affordable housing excluded some law enforcement, fire fighters and teachers; and commented about how these restrictions affected the qualification process. Ms. Gillis noted that in her conversations with Joel Reed (Gorman & Company) that she was informed that one of their developments did not use the federal tax credits because the town did not want the restrictions associated with the tax credits; and noted that Gorman & Company had figured out how to develop affordable units without using the tax credits which allowed for the town to have their own restrictions.

Cheryl Meads expressed support for awarding the entire project to Habitat for Humanity of the Upper Keys; expressed agreement with Councilman Webb regarding the 300 units; and suggested some of the units could be given to Key Largo.

Mayor Buddy Pinder closed public comment.

Joel Reed with Gorman & Company, commented about the three projects they had built in the Florida Keys; and expressed that they would be glad to build on the northern parcel, to work with staff to find the right mix and income level of units. He commented that the maximum rents at the Wet-Net property for a three-bedroom unit was \$1571; they use local subcontractors whenever possible; and noted that they have a long history with Habitat for Humanity of the Upper Keys and are happy to work with them. Councilman Mark Gregg commented, based on a prior conversation with Mr. Reed, that he thought they would be content with developing the just northern property with rental units. Mr. Reed stated that was correct. Mr. Reed noted they had put forward two proposals one of which would be to develop the property within the affordable realm, but they would be at the 100 to 120 percent range without utilizing tax credits noting they had looked at a similar project with the school board; and noted that they would like to combine if there were other properties available and submit for tax credits like they did with Wet Net which brought \$12 million to the Florida Keys.

Councilman David Webb and Mayor Buddy Pinder spoke in support of splitting the projects. Village Manager Greg Oravec stated that there could be a motion to approve the award of the southern property to Habitat for Humanity of the Upper Keys and the northern property to Gorman & Company, and if for any reason a deal does not come back from Gorman & Company, that Habitat for Humanity of the Upper Keys be recognized as the backup winner for the northern property. He explained that a motion to this effect would not require staff to come back to Council with another RFQ process if it did not work out with Gorman & Company.

Deb Gillis stated all of the new affordable BPAS allocations were deed restricted in perpetuity and noted there were some older affordable BPAS awards that were not restricted in perpetuity.

Councilman Mark Gregg expressed support for splitting the project; agreed that just because there were 300 affordable units on the horizon did not mean the Village had to use 300; and wondered if there was a way to recapture the BPAS affordable units after-the-fact. Vice Mayor Pete Bacheler stated it was unknown if and when the Village would receive the 300 units.

Councilman David Webb made a motion to award the southern project to Habitat for Humanity of the Upper Keys and the northern project to Gorman & Company and if Gorman & Company could not complete the project that it would revert back to Habitat for Humanity of the Upper Keys. Councilman Henry Rosenthal seconded the motion. Council voted and the motion passed 5-0.

MOTIONS

TAB 6: Request for Sponsorship of the First Annual Marine Debris Cleanup Tournament produced by Shoreline Restoration Services

This item was heard at 7:41 p.m. Village Manager Greg Oravec presented the staff report noting the request from Shoreline Restoration Services (SRS), a not-for-profit, was not for financial support it was a request to publicize the event; provided details about the event; and recommended that the Village help publicize the event through the website, social media, Islamorada TV channel 77, and community speaking engagements. Mayor Buddy Pinder expressed support for doing more such as sponsoring the t-shirts for the event.

Councilman David Webb asked Audrina Ennis with Shoreline Restoration Services how closely the organization worked with FWC and DEP. Ms. Ennis stated they would be holding a Captain's meeting the day before the event to go over what could and could not be done. Councilman Mark Gregg, Vice Mayor Pete Bacheler and Councilman Mark Gregg expressed their gratitude to Ms. Ennis and SRS.

Mayor Buddy Pinder asked if the Council would be amendable to sponsoring the t-shirts. Councilman Rosenthal asked Ms. Ennis what would make her happy. Ms. Ennis stated it would be wonderful if the Village picked up the cost of the t-shirts. Councilman Mark Gregg asked who would pay for the disposal of the waste. Ms. Ennis commented that the disposal of the waste was unresolved. Councilman Gregg suggested the Village could probably help in this regard noting the Village's resources. Public Works Director A.J. Engelmeyer commented that the Village received requests almost monthly to assist with clean-ups; that the public works department provides supplies when needed and ask that when the event is finished that they leave the bags in a pile then public works crews collect the bags and dispose of them. Councilman Gregg asked Ms. Ennis if this would take care of her disposal problem and she nodded in the affirmative.

Councilman David Webb inquired about the cost of the t-shirts. Ms. Ennis replied that the actual estimated cost of the t-shirts was \$928.00. Council agreed to purchasing the t-shirts.

Mayor Buddy Pinder opened public comment.

Robert Moser, President of the Lower Matecumbe Beach Property Owner's Association (LMBPOA), commented that the LMBPOA had donated to sponsor the event through their website; encouraged other Islamorada HOAs to do the same; and suggested including information in the Village's public outreach efforts regarding how to donate and sign up for the event.

Mayor Buddy Pinder closed public comment.

Vice Mayor Pete Bacheler made a motion to approve sponsorship of the event. Councilman Mark Gregg seconded the motion. Council voted and the motion passed 5-0.

At 7:52 p.m. Mayor Buddy Pinder called for a short recess. The meeting resumed at 8:14 p.m.

MAYOR / COUNCIL COMMUNICATIONS

TAB 7: Discussion Regarding Vacation Rentals -Village Manager/Councilman Gregg

This item was heard at 8:14 p.m. Village Manager Greg Oravec provided background information about the short-term vacation rental ordinance; noted the Council could potentially, by resolution, change the annual license fee; and provided the recommendation of the Achievable Housing Committee regarding an annual fee increase to \$2,500 per year plus an additional \$500 per bedroom in excess of two bedrooms. He noted another issue that had come up repeatedly was code compliance and the Village's enforcement posture; intent and purpose of the vacation rental Code was to protect single family homes in residential areas against the adverse impacts of vacation rental uses; to limit short-term vacation rental properties to certain areas; and to provide a reasonable period of time for the amortization of existing vacation rental uses within residential areas where the continuation of uses was not compatible with the character of the neighborhood and the quiet enjoyment of residential properties therein. Mr. Oravec provided Code definitions for "vacation rental unit" and "vacation rental use"; and asked for guidance as to whether the Council wanted a fee increase and for staff to bring back information regarding increasing the code enforcement effort.

Vice Mayor Pete Bacheler asked where the additional monies would go. Councilman Mark Gregg stated that he understood that the revenue collected from vacation rental licenses was to be used for the administration associated with the licensing, enforcement of the ordinance and any monies left over would go to the Affordable Housing Fund. He commented that the annual vacation rental license fee had not been increased since 2006 or 2007 and was currently \$1,000 per year; and suggested enforcement was not working, noting the overload on enforcement staff and that there would be more money going to the Affordable Housing Fund. Councilman Mark Gregg stated he would like the Council to determine a reasonable fee that would address those issues, helps to solve the problem of enforcement and leaves some money for affordable housing. He commented he would like some data to help determine a fair fee noting that there had been wastewater related problems and expenses caused by users of vacation rental properties.

Village Manager Greg Oravec stated that if there was a will of the Council to consider an increase, staff would bring back options and a rationale for those options no later than the October meeting. He commented the same applied to enforcement. Vice Mayor Pete Bacheler stated he would like both items to come back to Council for consideration. Councilman David Webb stated he would like information regarding the number of licenses that were grandfathered, an overall recommendation regarding how it was going to be managed and to make sure that for any rentals in Islamorada the appropriate taxes were being sent to Monroe County. The Village Manager stated staff would be meeting with the Monroe County Tax Collector and the State Attorney regarding enforcement and that he would like a comprehensive overview on all facets. He noted the Code only regulated 7 to 28- day rentals; transient rentals that occurred; and payment and non-payment of sales and bed tax. Councilman David Webb noted the requirements placed on hotels such as fire inspections and suggested evaluating the possibility of imposing the same requirements on rentals.

8:29 Councilman Henry Rosenthal asked what defined a vacation rental. Village Attorney Roget Bryan provided the definition of “vacation rental use” identified in Code Section 30-1292. Councilman Henry Rosenthal asked if a property owner could rent a portion of the dwelling. The Village Attorney responded that it was not permissible pursuant to the vacation rental license. Discussion ensued regarding multifamily dwelling units; rentals outside of the vacation rental time frame; Code regulations that address single family dwellings and multi-family dwellings; the need for a map with layers to identify properties using different categories. Mayor Buddy Pinder stated if the fees were going to be increased, he wanted to know the number of licensed rentals and illegal rentals, and other relevant information to make an informed decision. The Village Manager confirmed that he wanted recommendations on the fee structure, on enforcement, and staff would work on a comprehensive lay of the land.

Mayor Buddy Pinder opened public comment.

Van Cadenhead commented that the increase was overdue; expressed support for purchasing the Rentalscape product; suggested zero to twenty-eight days should be considered short term rental and a sliding fee schedule.

Steven Holmes asked why the legal vacation rental owners were being penalized when there were so many more illegal vacation rental properties. He suggested fines for illegal vacation rentals.

Cheryl Meads expressed gratitude to the Council for addressing the issue; noted there was a lot involved with getting a house into compliance for short term rental use; expressed support for Van Cadenhead’s comment regarding a sliding fee schedule; and noted the adverse impacts of vacation rental properties.

Mayor Buddy Pinder closed public comment. The mayor confirmed that staff would bring back solutions for the Council to consider.

TAB 8: Discussion Regarding the Noise Ordinance

This item was heard at 8:44 p.m. Village Manager Greg Oravec presented the staff report noting Council’s prior guidance; and noted the intent of the noise ordinance and some of the exemptions such as:

- lawful construction activities conducted on private property between the hours of 7:30 a.m. and sundown.
- Lawn mowing and operation of gasoline and electric powered lawn, garden and household maintenance tools and machinery between the hours of 7:00 a.m. and sundown.

Mr. Oravec reported that under the Noise Ordinance, noise was measured, and violations were determined, by whether or not an ordinary person could hear the noise 50 feet or more away, except in situations involving multifamily dwellings. He stated the Council had broad latitude in “right-sizing” the Village’s noise ordinance when determining what was appropriate for the community. He reported that staff had researched the noise regulations of several communities, including Key West, Jupiter Island, Marathon, Marco Island, Monroe County, New Smyrna Beach,

Boca Raton, Palm Beach, Key Colony Beach, Layton and Ocean Reef and provided some of the findings:

- Some communities regulate noise differently based upon local circumstances. Some are simple like the Village's while other are more complicated and regulate specific decibels for specific activities for specified durations at specific times.
- Some communities are more permissive than others, but most explicitly address noise associated with construction and/or lawn maintenance activities.
- Differences in relative permissiveness were found in common key areas, including:
 - Time of day—start and end times.
 - Time of the week—workweek vs. weekend, more restrictive Saturdays, no Sundays.
 - Time of the year—holidays and seasons.
 - Outright bans on certain equipment and activities, such as leaf blowers and other gas-powered lawn maintenance equipment.
- Ocean Reef restrictions included:
 - Construction activity—No Sundays, no holidays, more restrictive during Season.
 - Lawn maintenance—No Sundays ever. No Saturdays during Season. Trimmers may only be electric. Gas powered hedgers once per year for hard cutting.
 - Enforcement. \$100 fine after two warnings up to a \$20,000.
- The Town of Palm Beach does have a lawn maintenance carve out for residents: "Nothing in this section shall preclude the operation of lawn maintenance equipment by residents after 9:00 a.m. on Saturdays, Sundays or legal holidays, including the Friday immediately after Thanksgiving."

Mr. Oravec stated that Council could choose to move forward in several ways such as providing guidance to staff on key points. He explained that staff would draft the proposed Code amendment, present it to the Local Planning Agency for input, then the amendment could be brought back to Council for consideration. Mr. Oravec identified several key decision points including:

- Keeping the Noise Ordinance simple or making it more complicated? Staff suggests keeping it simple and straightforward.
- Was there a reason to have different parameters for landscaping maintenance than construction, or can a lawn mower be just as disturbing as a nail gun? The Noise Ordinance currently allows lawn maintenance to start at 7 a.m. as compared to 7:30 for construction.
- Did the Council want to make the allowable start time later in the morning or the end time earlier?
- Did the Council want to make the weekends more restrictive? Later start time, earlier end time and/or no work on Sundays?
- Did the Council want to make changes to the holidays?
- Did the Council want to make changes to the seasons?
- Did the Council want to specifically ban any types of equipment?
- Did the Council want to adopt an exclusion for homeowners similar to Palm Beach?
- Did the Council want any other changes?

Village Manager Greg Oravec provided the following example using key decision points for the revised Noise Ordinance:

- Keep the Noise Ordinance as simple and straight forward as possible.
- Adopt a carve out for homeowners: Nothing in this section shall preclude the operation of construction or lawn maintenance equipment by homeowners after 9:00 a.m. and before sundown on weekends and holidays.
- Make the start times for construction and landscaping the same so it is easier to enforce.
- Make the start times for construction and landscaping 7:30 a.m. (or alternately, 8:00 a.m. or other time) on weekdays and 9:00 a.m. on Saturdays. Make Sundays and defined holidays days of rest except for the aforementioned carve out.
- Do not move towards seasonal variations or prohibitions at this time. This could always be done as a future adjustment if the contemplated changes did not have the desired effect.
- Leave the rest of the code unchanged.

Councilman David Webb spoke in support of no activities on Sunday and having the same start time and end time for lawn maintenance and construction activities. He commented regarding having a carve out for homeowners; the end time could not be sundown due to daylight savings time; supports 8 a.m. start year-round with a definitive end time in the evening; suggested an end time of 5 p.m. for construction with an hour to clean up; and that he hoped in the future that the types of equipment used could be addressed. Mayor Buddy Pinder stated he would like to hear from the public before making a decision and suggested a workshop. Vice Mayor Pete Bacheler agreed with Councilman David Webb except for prohibitions on Sunday. He stated it would be nice to hear from the public but that he did not think a workshop was needed. Councilman Mark Gregg expressed agreement with Councilman David Webb; that people that made noise needed the opportunity to provide input; and that he would like to address the types of equipment. Councilman Henry Rosenthal spoke in favor of soliciting input from the contractors. Village Manager Greg Oravec explained that the ordinance amendment would go before the Local Planning Agency and would be required to have two readings before Council which would provide several opportunities for public input. Council discussion ensued regarding whether a workshop was needed, and it was decided that it was not necessary. The Village Attorney reviewed the example decision points for the revised ordinance and Council provided the following direction:

- A carve out for homeowners with weekend and holiday start times beginning at 8:00 a.m.
- Make the start times for construction and landscaping the same.
- Make the start times for construction and landscaping 8:00 a.m. and the end time of sundown or 7:00 p.m., whichever is earlier.
- No work on Sundays and holidays- does not apply to homeowners.
- Keep it uniform, no seasonal variations.

The mayor confirmed it would go before the Local Planning Agency at the October meeting.

Mayor Pinder opened public comment.

Van Cadenhead suggested a start and end time of 8 a.m. and 5 p.m. for power tools; noted certain

types of equipment made very little noise such as a rake or shears; and suggested a carve out was not needed for the residents.

Deb Gillis suggested notifying affected parties regarding the topic being discussed at the upcoming LPA meeting and a future Council meeting. Councilman Mark Gregg opined that the Village captures contractor contact information when they pull a permit.

Robert Moser, President of the Lower Matecumbe Beach Property Owner's Association (LMBPOA), commented that his subdivision would like to see the noise ordinance address music blaring from boats anchored less than 300-feet from their shoreline/homes on Sundays and holidays and after 6:00 p.m.

Steven Holmes commented that the Village had a history of no enforcement of existing rules; and asked that if there was no enforcement what would happen. The Village Manager stated that staff would do their best to enforce the rules; that if additional resources were needed, he would seek authorization from Council; and that staff would respond to complaints, investigate and carry out the Code. Councilman Henry Rosenthal commented about the enforcement success on Lower Matecumbe; that additional enforcement would be provided; and suggested the public would see the same type of enforcement with anything the current Council does.

Agenda Additions:

Discussion Regarding Monroe County Independent School District Mask Policy

This item was heard at 9:30 p.m. Councilman Mark Gregg summarized Elizabeth Jolin's earlier comments regarding concern about the school district's mask policy; and that the current position of the Monroe County Independent School District (MCISD) board was to require masks with an option for parents to exclude their child from the requirement. He stated Ms. Jolin was suggesting the Village support a policy that would require masks but allow a child to be opted out of the requirement with a doctor's permission / note. Councilman Mark Gregg commented about the COVID-19 exposures risks; that it was better to put the decision in the hands of the doctor rather than a parent for a situation like Covid-19 that was life threatening; and that he understood it was controversial and that he understood individual rights. He stated that he would like the Council's position to be unanimous otherwise there was an opportunity for each Councilmember to express their position individually. He commented that he thought it was appropriate as elected officials to express their support for a mask policy that is the healthiest and safest way for the children to attend school. Vice Mayor Pete Bacheler noted that young children could not be vaccinated and that their primary method of protection against the virus was to use a mask and expressed his support for making masks mandatory unless a doctor's excuse was provided. Councilman David Webb commented about MCISD being an independently elected body that makes their own decisions; his disagreement with their mask policy but defends their right to decide; noted his experience emailing MCISD regarding the policy and the responses he received; and suggested the Council consider how they would feel if an outside agency was telling them what to do. Councilman Henry Rosenthal expressed agreement with the comments made by other Councilmembers but questioned who was being represented and asked where the Council was going with the item.

Village Attorney Roget Bryan explained that the Village resolution would be a statement of purpose or intent of the Council; that the resolution has different weight than an ordinance or law; that the comments made by Council lends itself to the fact that there are other considerations; and that the resolution would be from one elected body to another and framed accordingly. Village Manager Greg Oravec commented about the appropriate “temperature” of the resolution and offered examples. Councilman Mark Gregg commented that a resolution could be drafted with language that expressed that the Council would support a position by the MCISD for a mask mandate with an opt-out for medical purposes by a physician. Vice Mayor Pete Bacheler noted that the Council would be offering their opinion as a body that represents Islamorada, Village of Islands, not telling the MCISD what they should do.

Van Cadenhead expressed his support for the recommendation.

Council expressed their support for drafting a resolution, respecting the authority of the MCISD, that the Council, on behalf of the citizens of Islamorada, would support a decision by the school board to mandate masks with the exception for medically excused students.

Discussion Regarding Virtual Meetings

This item was heard at 9:44 p.m. Mayor Buddy Pinder commented about the policy recently adopted that allowed for one Councilmember to participate at Council meetings remotely and stated he would like the policy to allow for two Councilmembers to participate remotely, noting the physical quorum requirement would be met. He commented that with the Covid situation, he would like to have the option that allowed for two Councilmembers to participate remotely. Mayor Pinder expressed his understanding of the quasi-judicial requirements and chairing the meeting. Councilman David Webb stated he was not happy the Council did not have the option to participate entirely remotely; and that if the concern was in-person meetings he would rather discuss that topic. Councilman Henry Rosenthal asked what difference it made as long as the quorum requirement was met; expressed that he did not understand why all the rules were needed; and that he was not concerned about another Councilmember’s reason for attending virtually. Councilman David Webb noted the time. Mayor Pinder tabled the discussion to the September 30, 2021 meeting.

Florida League of Cities Conference / Florida League of Mayors

This item was heard at 9:53 p.m. Mayor Pinder expressed his gratitude to staff for their efforts in handling his travel arrangements. He reported that he was nominated and elected to the Florida League of Mayor’s Board of Directors and commented that the event was like a family-event.

AT 9:55 p.m. Councilman David Webb made a motion to extend the meeting for 30 minutes. Councilman Henry Rosenthal seconded the motion.

Discussion Regarding 2023

This item was heard at 9:55 p.m. Councilman Henry Rosenthal commented that the current and previous Council had not spend any time on the 2023 issue, but that Monroe County had. He commented that he contacted Monroe County regarding their documentation pertaining to their

decision to extend the distribution of Rate of Growth Ordinance (ROGO) allocations through 2026; noted an additional two years could be critical to Islamorada as Islamorada was facing approximately \$170 million in obligations noting there were about 700 vacant lots in Islamorada; expressed an urgency for addressing the matter; and asked the Council for their support to suspend BPAS permit allocations and Transfers of Development Rights (TDRs) for 90 days to allow the Village Manager to draft a roadmap for 2023 and suggested implementing a zoning in progress. He stated his objective was to soften the financial burden in 2023. The mayor asked staff for input. Village Manager Greg Oravec commented that Councilman Henry Rosenthal was requesting a moratorium. Village Attorney Roget Bryan explained that a zoning in progress or a moratorium would require more than just a voice vote of the Council, it would require a resolution or ordinance outlining the justification in case it was challenged. He stated with regard to the broader policy considerations, he thought Councilman Rosenthal was suggesting a moratorium on the issuance of permits through the BPAS noting there was an annual allocation that was awarded quarterly; that he was not sure if it would be suspending a BPAS quarterly distribution or some other derivative; and stated that it was a very formal process with some significant considerations. Councilman David Webb asked what the objective was, noting there was a finite number of BPAS permits remaining; and that Monroe County pushed the “can” down the road for a couple of years which he was not in favor as nothing would change fundamentally. Councilman David Webb stated he would be in favor of discussing topics that had already been brought up by Council such as how the Village will defend itself from takings claims, how to make the State bear the financial burden and hiring a consultant. Vice Mayor Pete Bacheler noted that 2023 would be a permanent moratorium and that he was not in favor of any moratorium between now and 2023; he stated he wanted to see the material that Councilman Henry Rosenthal drew his conclusion from and develop his own position on the matter. Councilman Rosenthal explained that he made the suggestion to allow the Village Manager time to put something together. Councilman David Webb commented that Monroe County just pushed the can down the road; that he understood the Village Manager and Village Attorney were working on mapping out the Village’s exposure; and that if there was a material change in the Village’s circumstances he would be in favor, but that there would not be a material change because the Village was not “driving the ship”. He commented that the Village was going to argue whether the State would pay half and the Village pay half, what the value of the land was, or whether the State would change the rules on evacuation and allow for more building. Mayor Buddy Pinder asked Councilman Henry Rosenthal to give the Monroe County information to the Village Clerk and she would distribute it to Council. Councilman Mark Gregg stated that he and Vice Mayor Pete Bacheler had talked about the 2023 issue for years while serving on the Local Planning Agency (LPA); explained the difference between a zoning in progress and a moratorium, noting a moratorium could open the Village up to a firestorm of lawsuits, which he was uncomfortable with as people had been waiting to receive their BPAS permit allocation after having complied with all of the requirements and after having been accepted into BPAS. Councilman Mark Gregg was open to having a Council discussion about a zoning in progress and/or a moratorium that would be conducted in a measured, targeted way to allow time and breathing room to solve matters; and suggested that the Village may want to pause the issuance of building permits that create a need for affordable housing when the Village did not have any. Councilman Henry Rosenthal stated it was his hope the Village Manager would be able to develop a plan that provides direction for the future.

Councilman Mark Gregg commented that it would take a team of people to develop a plan, noting the team would include the Council and possibly outside assistance. Councilman David Webb opined that the Village would be lucky to have it done by the time 2023 arrived. Village Manager Greg Oravec commented that the magnitude of the 2023 roadmap would take approximately six months noting there were competing priorities. Councilman Mark Gregg commented that in 2020 Council asked staff to create a map that inventoried all of the vacant land in Islamorada and to his knowledge it was not yet finalized. Councilman David Webb noted some of the items to be considered which included the date the land was purchased and the owner's expectation of value relevant to the expiration of BPAS. Councilman Henry Rosenthal conceded.

VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

Covid-19 Update

This item was heard at 10:15 p.m. Village Manager Greg Oravec provided a Covid-19 update reporting staff was communicating important public service announcements, Founders Park has been made available to Curative a Covid-19 testing provider, fire rescue responds to Covid-19 calls, and that virtual meetings have been made available to the extent allowed by law. He suggested that if the Council wanted to consider additional efforts, the Village could help produce public vaccination events but that he was not sure there would be significant demand due to the high vaccination rate and the availability of vaccination providers; the Council could elect to try to test Senate Bill 2006; the Council could augment Monroe County's efforts to offer targeted assistance through the CARES Act.

Mr. Oravec explained that staff had taken a science-based approach in correlating the response to the current threat level which was determined by the CDC Community Transmission Level Index. He reported employees were required to wear a mask when on duty during a high transmission level; guests are asked to wear masks and are not permitted past the lobby door if they choose not to wear a mask; depending on the threat level, the Village's response may be downgraded for those employees that are vaccinated can take different measures; additional sanitization measures are taken including ultraviolet treatment of the air in the Community Center which get recirculated about every four minutes; and noted the plexiglass was removed from the Community Center because updated information shows it is most effective when acting as a sneeze guard noting other measures were taken that were more effective.

Councilman David Webb asked if the Charter was in place prior to the vote to incorporate. Village Attorney Roget Bryan stated he believed a draft of the Charter existed at the time of incorporation and deferred to Councilman Mark Gregg. Councilman Mark Gregg commented that he believed it was approved prior to, that it was a special act of the Florida Legislature, noting that when the Village incorporated, they had a Charter on day one. Councilman David Webb asked if there was a legal process for amending the Charter. The Village Attorney stated all Charter amendments were done through referendum. Councilman Webb asked if the State had the authority to amend the Village's Charter. The Village Attorney stated no. Councilman Webb opined that the State's preemption moves, by de facto, amended the Village's Charter by removing the Council's authority that was outlined in the Charter. Village Attorney Roget Bryan explained that there were several

layers of government in the State; that municipal authority was defined in Florida Statute 166; that municipalities had certain powers including governmental, proprietary, and corporate that allowed for municipal government to be conducted; and that the municipal government could exercise any municipal power except and as otherwise provided by law. Mr. Bryan stated municipalities had broad home-rule powers to the extent that they conflicted with State law; and noted the authority to make certain home-rule decisions against the backdrop of an emergency that was recently removed with the passage of State legislation. Councilman David Webb commented that some way, some how the Village needed to formally and publicly start pushing back; noted Senate Bill 2006 preempted the Village from declaring a health emergency and develop protocols for how meetings would be conducted; noted the Village could not address plastic litter; and noted the challenges associated with State Legislature and vacation rental regulations. Councilman Mark Gregg suggested there were probably many other municipalities that had been affected and suggested asking the Village Attorney to get with his peers on the matter or hiring a law firm to produce a memorandum of law that will identify the Village's options. Village Attorney Roget Bryan noted that the Florida League of Cities conference was about collective consensus building and building coalitions on specific issues, learning from each other how to target and push back on issues against the State. Councilman David Webb asked if the Council was supportive of trying to find ways to push back. Councilman Mark Gregg stated he would like to investigate the Village's options.

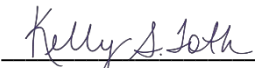
At 10:29 p.m. Mayor Buddy Pinder made a motion to extend the meeting for ten minutes. Councilman Mark Gregg seconded the motion.

Mayor Buddy Pinder opened public comment; not comment was offered.

ADJOURNMENT

Councilman David Webb made a motion to adjourn. Councilman Mark Gregg seconded the motion. The meeting adjourned at 10:32 p.m.

Approved by Council October 14, 2021.



Kelly S. Toth, CMC
Village Clerk