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

Islamorada, FL 33036
Thursday, August 20, 2020
5:30 PM

MEETING TO OCCUR VIA COMMUNICATIONS MEDIA TECHNOLOGY (CMT)

Pursuant to Executive Order No. 20-69 and the Centers for Disease Control (CDC) social distancing guidelines established to contain the spread of the COVID-19 virus, the August 20, 2020 Regular Village Council Meeting was conducted utilizing Communication Media Technology (CMT) via a Zoom video conferencing application. Information regarding options for viewing the meeting and participation through public comment were provided in the agenda.

CALL TO ORDER / ROLL CALL

Mayor Mike Forster called the virtual meeting to order at 5:30 p.m. Village Clerk Kelly Toth called the role and the following Councilmembers, appearing virtually, responded on roll call: Mayor Mike Forster, Vice Mayor Ken Davis, Councilwoman Deb Gillis, Councilman Jim Mooney, and Councilman Chris Sante. Also, appearing virtually were Acting Village Manager & Finance Director Maria Bassett, Village Attorney Roget Bryan, Village Clerk Kelly Toth and other relevant personnel.

PLEDGE OF ALLEGIANCE

Vice Mayor Ken Davis led the Pledge of Allegiance.

REPORTS, PRESENTATIONS AND ANNOUNCEMENTS

Virtual Meeting Procedures- Village Attorney

Village Attorney Roget Bryan provided the virtual meeting procedures.

Update: College of the Florida Keys- Dr. Jonathan Gueverra

Dr. Jonathan Gueverra, President and CEO of the College of the Florida Keys provided an update on the construction of the new college facility that is located at Mile Marker 106 Key Largo and is expected to open August 2021. He reported the facility was Category 5 rated and could be used as a small Emergency Operations Center (EOC) by Monroe County should the need arise. He reported that the college plans to expand their apprenticeship programs to include electrical, carpentry, plumbing and HVAC. The first electrical apprenticeship program/ class in the Upper Keys is expected to begin in October 2020. Dr. Gueverra stated he needed classroom instructors in electrical, carpentry, plumbing and HVAC and noted that the positions were a paid position. He stated individuals could apply at www.CFK.edu. He stated that he also needed employer sponsors and that individuals wishing to become an employer sponsor should contact Megan Perez, Director of Workforce Development, Community Engagement and Testing at 305-809-3238 or megan.perez@fkcc.edu. Dr. Gueverra reported the number of apprentice applications that had been received; noted that apprentices were paid a minimum of $10 per hour while they go to school; and noted that students enrolled in the apprenticeship program were not charged tuition and the school covered the costs of the text books.

Fire Chief Terry Abel provided an update regarding the possibility of a storm. He reported the possibility of a Category 1 possibly turning into a Category 2. He stated Monday morning the Village should start feeling the effects of the storm. Mayor Forster requested staff open the boat ramps to allow for vessels to be removed Saturday and Sunday. Acting Village Manager Maria Bassett stated she would participate in another Emergency Management call with Monroe County on Friday and expected more accurate information regarding the storm's progression. Once this information was received, she would meet with department heads to discuss additional preparations and confirmed a press release would be disseminated.

PUBLIC COMMENT

Mayor Mike Forster opened general public comment.

Robert Moser congratulated Jim Mooney, Mike Forster and Dennis Ward on their recent wins in the Primary Election.

Larry Barr congratulated Mayor Forster and Councilman Mooney; opined about storm preparations.

Mayor Forster closed public comment.

AGENDA: Requests for Deletion / Emergency Additions

Mayor Forster added a discussion to Mayor/ Council Communications section of the agenda regarding the Deputy Village Manager.

CONSENT AGENDA

TAB 1: Minutes July 16, 2020 Virtual Regular Village Council Meeting

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

Mayor Forster opened public comment on the consent agenda; no comment was offered.

Councilwoman Deb Gillis made a motion to approve. Councilman Chris Sante seconded the motion. Council voted and the motion passed 5-0.

QUASI-JUDICIAL

Village Attorney Roget Bryan provided the quasi-judicial procedures explaining that the meeting was conducted virtually and that anyone giving testimony had to be sworn in by the Village Clerk, if a person was not sworn in their statement would be considered public comment. Village Clerk Kelly Toth stated she had sworn in the following individuals that would be providing testimony prior to the meeting: Pete Bacheler, Ernesto Machado, Robert Moser, Susan Raffanello, Tom Raffanello, Paul Savage, Bill Gautier Sr. and Bill Gautier Jr. The Village Clerk proceeded to swear in the witnesses.

Village Attorney Roget Bryan read the titles of Tabs 3 and 4 so they could be discussed simultaneously and requested the Council disclose ex parte communications. Vice Mayor Ken Davis stated he had spoken with Pete Bacheler and Susan and Tom Raffanello. Councilwoman Deb Gillis, Councilman Jim Mooney, Councilman Chris Sante and Mayor Mike Forster each disclosed that they had spoken with Pete Bacheler.

TAB 3: First Reading: An Ordinance of Islamorada, Village of Islands, Florida Considering the Request of PDB Enterprises, Inc. and Overseas Center LLC., to Amend the Village's Future Land Use Map from Residential Medium (RM) to Mixed Use (MU) for Property with Real Estate Number 00418050-000000

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF PDB ENTERPRISES, INC. AND OVERSEAS CENTER LLC., TO AMEND THE VILLAGE'S FUTURE LAND USE MAP FROM RESIDENTIAL MEDIUM (RM) TO MIXED USE (MU) FOR PROPERTY WITH REAL ESTATE NUMBER 00418050-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY

Councilman Chris Sante made a motion to approve the FLUM amendment with the Declaration of Restrictive Covenants and the one (1) residential unit that was proffered. Councilwoman Deb Gillis seconded the motion. Council voted and the motion passed 5-0.

TAB 4: First Reading: An Ordinance of Islamorada, Village of Islands, Florida Considering the Request of PDB Enterprises, Inc. and Overseas Center LLC., to Amend the Village's Zoning Map from Residential Single-Family District (R-1) to Highway Commercial District (HC) for Property with Real Estate Number 00418050-000000

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF PDB ENTERPRISES, INC. AND OVERSEAS CENTER LLC., TO AMEND THE VILLAGE'S ZONING MAP FROM RESIDENTIAL SINGLE-FAMILY DISTRICT (R-1) TO HIGHWAY COMMERCIAL DISTRICT (HC) FOR PROPERTY WITH REAL ESTATE NUMBER 00418050-000000, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY

At 5:57 p.m. Senior Planner Craig Southern presented the staff report for the Tab 3 FLUM Amendment noting the two tabs were continued from the February 13th Village Council meeting; that the FLUM amendment could not be approved without approval of the companion zoning map amendment; and that the Local Planning Agency had recommended approval of the item at their December 9, 2019 meeting. Mr. Southern reviewed sections of the staff report and provided the analysis for the proposed FLUM amendment. He noted the applicant had proposed, through a proffer letter, to reduce the permissible multiple residential dwelling unit density to one. He referenced the portion of the staff report that addressed the criteria for the DEO State Coordinated Review Submittal Guidelines for submittal of the FLUM amendment and Compatibility with the

Principles for Guiding Development in the Comprehensive Plan noting the responses provided by the applicant and staff.

Councilman Chris Sante asked in reference to the FAR, how much of the parcels would be conservation. Mr. Southern explained that pursuant to the zoning district once it became Highway Commercial staff would review the applicant's vegetation survey and habitat analysis, which staff did not yet have, during the site plan and conditional use stage of development. He said roughly the density requirement for Highway Commercial (HC) would be a maximum of 25% which was dependent upon what the habitat was designated as officially. The majority would have to be placed in a conservation easement.

Mayor Forster invited the applicant to speak.

Pete Bacheler, applicant for Ernesto Machado, stated he had emailed a Declaration of Restrictive Covenants to the Council to consider that identified all the uses he had removed that would otherwise be allowed with Highway Commercial (HC) zoning; that the subject property was HC before being changed to residential; and described the location of the property on US-1 and noted the surrounding businesses.

At 6:12 p.m., Senior Planner Craig Southern presented the staff report for the Tab 4 zoning amendment noting the current zoning and zoning of surrounding properties.

Mayor Forster opened public comment.

Linda Giordano Bailey, speaking in opposition, expressed concern for the wildlife in the canal and the beauty of the canal located at the back of the subject property. She noted that she did not see the property posting that provided the meeting details. Mayor Forster stated he was very aware of the canal and had been in the canal at least 75 times.

Morgan Bailey, speaking in opposition, noted the negative environmental impacts development would have on the canal; the need for affordable housing; and expressed concern that the already high pH level of the canal would rise drastically with certain types of commercial development.

Paul Savage, attorney representing Keys Basin, LLC, commented in opposition. He formally requested that his two letters be incorporated into the project record file for both items. He objected to the handling of ex parte communications between Mr. Bacheler and Council stating they were presumptively prejudicial. He noted that under Florida Statutes the communications could be "sanitized" by disclosing what was discussed. He opined that the answers provided by Mr. Southern in his staff report did not constitute substantial competent evidence to support a finding by the Council, specifically noting the requirement of factor 2 pertaining to the compatibility of the site's physical and environmental features with the proposed uses, noting that Mr. Southern stated the Village had not received the environmental study for the property. Mr. Savage commented that due to the absence of this document there was no way there could be a finding of compatibility of all of the uses under the new zoning and the new FLUM that would not impact the environmental resources on the site. He commented that: there had been no discussion of the compatibility of all of the uses; that the approvals ran with the land and that there were no documents before the Council that stopped the applicant from constructing any of the uses that were permitted under Highway Commercial (HC) zoning; that there were discrepancies between the proffer and the application and staff report; and that he had not seen the text of the Declaration of Restrictive Covenants that was mentioned earlier in the meeting. Mr. Savage commented that any proffers made that aided in the approval process should be recorded and run with the land.

Sue Miller, speaking in opposition, opined that the changes did not meet the requirements of the Comprehensive Plan; that it was not fair to ask the public to comment on the item when they did not have access to all the information, specifically the Declaration of Restrictive Covenants (DRC) that was sent by the applicant the day of the meeting; and that she hoped the DRC would indicate the owner would not rent personal watercraft as indicated by the applicant. She noted the property was fined a few years ago for removing native trees and opined that this could be why the hammock was disturbed. She stated the environmental study was necessary for the application and that the Comprehensive Plan required a needs assessment to be provided by the applicant. She noted other vacant commercial properties along the US-1 Highway that would be suitable.

Susan Raffanello, speaking in opposition, stated that she thought Mr. Savage had been inadvertently cutoff as he was calling a witness. She commented regarding the creation and review of the Comprehensive Plan; the posting of the notice on the property that was difficult to see; that surrounding homeowners purchased their properties knowing the zoning was Mixed Use (MU); that they had not seen the studies and reports required by FS 163.3177 that must be evaluated before an amendment to a Comprehensive Plan; and that they had not seen a needs analysis required in Comprehensive Plan section 1.2.1.13 that would meet the statutory requirements; that a two-page analysis with generic studies was provided; the two-page analysis referenced that it was created in order “to allow for the creation of office space and airconditioned storage at this time”; staff’s review pertained solely to a recommendation and that the recommendation pertained solely to the presumption that the applicant would do what the applicant intends to do- construct a self-service storage facility; and that staff had analyzed those particular uses, but that was not what was being requested to be changed. She commented that: at the Local Planning Agency, with respect to the adjacent parcels, Planning Director Ty Harris recognized that staff looked at the applications and made their recommendations based solely on the uses identified in the applications; that Mr. Harris stated staff’s recommendation may change if the use changed; and that the proposed amendments did not prohibit any change to the use. She stated that she could support a site-specific land use change to the FLUM that would allow for what the applicant stated he wants to do which was indoor storage and office space. Ms. Raffanello expressed concern that the item was going to result in a bait-and-switch scenario. She asked that the Council condition their approval on a site-specific amendment to hold the applicant to his word and limit the uses in perpetuity.

Bill Gautier, speaking in opposition, expressed agreement with comments made by Susan Raffanello and Paul Savage. He opined that Mr. Bacheler had a conflict of interest because of his position on the Local Planning Agency and was representing the applicant. He opined that Mr. Bacheler was not in compliance with FS 112.3143; that what was occurring was greed and corruption and that staff was making a recommendation based on the word of the applicant.

William Gautier Sr., speaking in opposition, commented regarding: the numerous residential properties surrounding the subject property; the abundant sea life in the canal; Mr. Bacheler’s conflict of interest; and that a commercial boat business would destroy the canal.

Village Attorney Roget Bryan asked Paul Savage to clarify who he was representing. Mr. Savage stated he was only representing Keys Basin, LLC which was the abutting property owner to the north and that he was not representing anyone else regarding the matter.

Paul Savage, Attorney for the abutting property owner Keys Basin LLC, cross-examined Senior Planner Craig Southern regarding item 2 on page 4 of the staff report and prior testimony regarding the applicant having a report that delineated the environmental resources. Mr. Southern confirmed that he was informed it had been completed, but that staff had not received the report. Mr. Savage inquired about the Mixed-Use classification and Highway Commercial classification and permitted uses. Mr. Southern identified section 30-696(b) of the Land Development Regulations (LDRs) pertaining to uses. Mr. Southern stated use would be limited to the open space requirement and would be defined by the habitat analysis citing sections 30-1613 and 30-1614 of the LDRs. Mr. Savage asked if there was language in the ordinances that only permitted office space and self-serve storage. Mr. Southern stated that pursuant to Florida Statutes, zoning amendments could not be conditioned, however, site-specific land use changes were allowable. Mr. Southern stated compatibility was contingent upon several factors: the size of the parcel, vegetation and adjacent properties; and noted that the Floor Area Ratio would allow up to 25% of the parcel to be developed with a structure. Mr. Southern commented that Mixed Use (MU) was one of the greatest demands within the Village and that there was a need for additional MU as well as affordable housing. Mr. Savage asked if Mr. Southern had seen the Declaration of Restrictive Covenants (DRC) that was sent by the applicant before the meeting. Mr. Southern confirmed that he had an opportunity to review them. The Village Attorney stated that the DRC was sent to him, and Council, before the meeting as well as correspondence from Mr. Savage and that it would not be in the ordinance because the Village had just received it prior to the meeting. Mr. Savage requested that the Council vote against the two ordinances opining that the factors set forth by the Comprehensive Plan and LDRs had not been met by the applicant.

Susan Raffanello commented about the objectors not being able to be seen on video; and about her conversation with Mr. Bacheler about the restrictive covenant in which he informed her there was only one spokes-person for their group and that was Mr. Hernandez.

John Timura, speaking in opposition, commented about the quite residential neighborhood; opined about the historical change of ownership and ex parte communications.

Mayor Forster stated ex parte communications occur with almost every quasi-judicial item. Village Attorney Roget Bryan asked the councilmembers to elaborate on the substance of their ex parte communications. Mayor Forster stated he spoke with Pete Bacheler and asked him about the status of the Declaration of Restrictive Covenants (DRC). Vice Mayor Davis stated he spoke with Mr. Bacheler about the buffer zones and requested a rough sketch, which he received; and that he spoke with Susan and Tom Raffanello regarding the application. Councilwoman Gillis stated she had spoken with Mr. Bacheler in which she asked him about the restriction that would proffer (1) residential unit and no wave runners and inquired about the uses that would be restricted in the DRC. Councilman Mooney stated he spoke with Mr. Bacheler who asked if he had any questions, to which he replied he did not and that was the extent of the conversation. Councilman Sante stated he spoke with Mr. Bacheler about the DRC, which he reviewed and was asked by Mr. Bacheler if he had any questions.

Village Attorney Roget Bryan clarified for the record that Mr. Bachler did not participate in the discussion held by the Local Planning Agency regarding the items; he passed the gavel and completed a Form 8. He reminded the Council that there was an entire file for the planning item which was available to the public upon request for inspection. The Mayor asked the Village Attorney to share via Zoom the DRC.

Mr. Bacheler expressed appreciation to the Village Attorney for clearing up the matter regarding ex parte communications and compliance with FS 112.3143 and noted it was permissible for him to speak with the councilmembers regarding the items and that there were no violations by council or himself. He stated that he asked Dr. Susan Sprunt to label the vegetation with specificity to determine the quality of hammock. He stated that the property was disturbed with hammock, which meant, according to the Environmental Resources Manager, the client could use 70% of the property. He stated the client was not building on the canal, was not building a marina, gas station/ service station, or restaurant; and that Mr. Hernandez, who was the attorney for the majority of the property owners, had noted three different issues to which Mr. Bacheler provided a notarized letter with his client's proffer. He stated the Council wanted something stronger than a letter which was why the DRC was created which was sent to opposing counsel and the opposition. Mr. Bacheler stated the opposition responded after 30 days by sending them the DRC which they had scratched through; and that the opposition stated his client could only build a home. He stated he and his client then modified the DRC, which is what the Council had before them, and sent the modified version back to them. Mr. Bacheler stated they took 60 days and that he and his client did not really receive an answer from them after several attempts.

Councilman Chris Sante stated one of the primary concerns of the opposition was increased traffic in the canal and that the Declaration of Restrictive Covenants (DRC) appeared to address that issue and opined that he did not see it changing the sensitivity of the canal by very much noting there was an existing dock with boats. He stated that when the applicant brought forward a development item that the conservation easement may need to be greater than 25%. Councilman Jim Mooney referenced his familiarity with the canal; referenced photos noting that there were 21 boats moored in that part of the canal; that if a single family residence was built he could moor four boats and have six jet skis if he so desired; that a four-plex affordable housing structure could be built and that the inhabitants could have boats and jet skis; that the DRC that was proffered was more than fair and restrictive to the owner; and that the items before Council were zoning related, not a site plan which was the development item that determined what would be constructed on the property. Councilwoman Deb Gillis stated that she felt the DRC addressed many of the items the opposition was concerned about and that the applicant tried to work with the opposition to address their concerns. Vice Mayor Ken Davis asked who returned the DRC to Mr. Bacheler that was struck through. Mr. Bacheler stated the strike through was done by Mr. Hernandez on behalf of his clients. Vice Mayor Ken Davis expressed concern that months were wasted trying to negotiate; and that the opposition would receive another opportunity to express their opinion when a site plan was submitted. Mayor Mike Forster stated he was in opposition to the amendments until he received the Declaration of Restrictive Covenants and informed that it had been rejected and noted the efforts made to mediate the issues. He stated he wanted to be assured that the DRC would be included with the items they were voting on. Village Attorney Roget Bryan asked Mr. Bacheler if he was proffering to have the Declaration of Restrictive Covenants as inclusion to be one of the conditions to be attached moving forward. Mr. Bacheler stated yes. The Mayor asked if the one (1) residential unit that was proffered in the letter was also included as a condition. Mr. Bacheler replied yes.

Councilwoman Deb Gillis made a motion to approve the zoning amendment to include the proffered conditions of the Declaration of Restrictive Covenants and the one (1) residential unit. Councilman Chris Sante seconded the motion. Council voted and the motion passed 5-0.

TAB 5: Application for Alcohol Beverage Use Permit (PLABP20200121) Katanga LLC d/b/a The Moorings Village

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST BY IAN G. BACHEIKOV OF AKERMAN LLP ON BEHALF OF KANTANGA, LLC D/B/A THE MOORINGS VILLAGE FOR A 2COP ALCOHOLIC BEVERAGE USE PERMIT TO ALLOW BEER AND WINE CONSUMPTION ON-PREMISES FOR WITNESS RESOURCES, INC./THE MOORINGS-ISLAMORADA, INC. ON THE PROPERTY LOCATED AT 123 BEACH ROAD ON UPPER MATECUMBE KEY, WITHIN THE TOURIST COMMERCIAL (TC) ZONING DISTRICT AS LEGALLY DESCRIBED BELOW; AND PROVIDING AN EFFECTIVE DATE

This item was heard at 8:02 p.m. Village Attorney Roget Bryan read the title of the resolution and asked the Council to disclose ex parte communications. Each councilmember stated that they did not have ex parte communications. Councilman Mooney stated that Debbie Pribyl asked if she should appear virtually or appear in person. Senior Planner Craig Southern presented the staff report for the 2COP alcohol beverage use permit recommending approval.

Mayor Forster invited the applicant to speak. Debbie Pribyl stated they would to be able to purchase their wine from wine vendors at wholesale and would have the ability to offer their guests the opportunity to purchase wine and beer.

Ian Bacheikov, attorney for the applicant, stated they wanted to be able to provide beer and wine to hotel guests.

Mayor Forster closed public comment.

Vice Mayor Ken Davis made a motion to approve. Councilman Jim Mooney seconded the motion. Council voted and the motion passed 5-0.

TAB 6: A Resolution Considering the Request of Cove Village Properties, LLC for Transfer of Development Rights of Two (2) Market Rate Residential Dwelling Units from the Sender Site Property Located at 199 Carroll Street to the Receiver Site Property Located at 73501 Overseas Highway

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF COVE VILLAGE PROPERTIES, LLC FOR TRANSFER OF DEVELOPMENT RIGHTS OF TWO (2) MARKET RATE RESIDENTIAL DWELLING UNITS FROM THE "SENDER SITE" PROPERTY LOCATED AT 199 CARROLL STREET, PARCEL # 00400900-000000 ON UPPER MATECUMBE KEY, WITHIN THE RESIDENTIAL SINGLE FAMILY (R1) ZONING DISTRICT, AS LEGALLY DESCRIBED HEREIN, TO THE "RECEIVER SITE" PROPERTY LOCATED AT 73501 OVERSEAS HIGHWAY, PARCEL# 00388620-000000 ON LOWER MATECUMBE KEY, WITHIN THE TOURIST

COMMERCIAL (TC) ZONING DISTRICT AS LEGALLY DESCRIBED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE

This item was heard at 8:09. Village Attorney Roget Bryan read the title of the resolution and asked the Council to disclose ex parte communications. Vice Mayor Ken Davis stated he had spoken with Jim Lupino about the density issue. Councilman Chris Sante stated he had spoken with Jim Lupino. Councilwoman Deb Gillis stated she had spoken with Jim Lupino and Robert Moser regarding the density and number of units. Councilman Jim Mooney recused himself from the item because he represented the seller in the real estate transaction and stated he had communicated with Mr. Lupino in his capacity as a real estate agent, not a councilmember. Mayor Forster stated that he did not have ex parte communications.

Senior Planner Craig Southern presented the staff report recommending approval. He provided background information on the item; and noted the noticing requirements and mailings to affected property owners regarding the notice of intent to approve and issue the transfer of development rights. Subsequently, Robert Moser emailed the planning director requesting a public hearing about the transfer of development rights of the two (2) market rate residential dwelling units. Mr. Southern provided the staff analysis and noted there had been a few open code violations on the property that had been remedied as of today, noting the violations were the reason the item was previously tabled. He noted that public comment was received expressing concern that a development project would occur and stated development required a site plan approval and that adjacent property owners would be notified.

Mr. Southern stated that Mr. Moser had requested that a second condition be added to section four of the resolution which was a site plan requirement that was identified within section 30-215(b) of the Land Development Regulations.

Mayor Forster invited the applicant to speak.

Jim Lupino, attorney for the applicant, expressed his agreement with the staff analysis; and that they had started the process with a preapplication conference that confirmed in writing the appropriateness of the sender and receiver sites for the two TDRs; and noted that they had fulfilled all of the legal requirements. He asked the Council for their approval without the additional language requested by Mr. Moser stating it should be treated the same way all previous transfers had been treated.

Mayor Forster opened public comment.

Robert Moser expressed disapproval with the scheduled meeting time; noted that there were open permits and referenced the relevant Code language; and commented that there were differences in the surveys. He commented regarding his email that asked that the resolution be understandable to the public and neighbors and recited the following language that he requested be added to the resolution: "This resolution and the transfer of development rights does not authorize, convey, or grant any development rights or vested rights on the receiver site or on any other property. A final decision on interpretation on the use of the transferred rights cannot be made until an application is submitted and a final development order is issued." He commented regarding the ineffective noticing; referenced a 1971 zoning letter; and expressed concern that approval would be detrimental to the community. Mr. Moser provided historical information regarding the development of the property and stated they would like to know the buildable acreage and maximum development of the property. He asked if they could include conditions that would limit transient rentals, as that was their primary concern. Mr. Moser asked that the Council deny the request.

Jim Lupino commented that a 2017 survey indicated that there was 9.68 acres; that the request for the TDRs was well under the amount allowed and well under what could be challenged; that notice was also provided to the time-share board that decided not to take any action regarding the matter; that the road was a private road; that Sr. Planner Craig Southern had visited the property on Wednesday to ensure that the permits that needed to be closed were closed; and that the requirements to approve the transfer of development rights have been met.

Mr. Moser expressed disagreement with some of Mr. Lupino's comments; and noted that The Rivera family that owns Caloosa was the majority owner of the time shares.

Mayor Forster closed public comment.

Councilman Chris Sante noted the risks of owning next to commercial property and expressed support for the transfer of development rights. Councilwoman Deb Gillis, Vice Mayor Ken Davis and Mayor Mike Forster expressed their support for the transfer of development rights.

Councilwoman Deb Gillis made a motion to approve as is. Councilman Chris Sante seconded the motion. Council voted and the motion passed 4-0. Councilman Mooney had abstained.

ORDINANCES

TAB 7: Second Reading: Ordinance Amending the Village Comprehensive Plan to Adopt the Water Supply Facilities Work Plan Update

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING THE VILLAGE'S COMPREHENSIVE PLAN TO ADOPT THE WATER SUPPLY PLAN AS MANDATED BY FLORIDA STATUTES 163.3177(6)(C)3; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY

This item was heard at 8:40 p.m. Village Attorney Roget Bryan read the title of the ordinance. Scarlett Hammons presented the staff report noting it was second reading. She reported that the DEO and the coordinating review agencies had no objections to the proposed ordinance but did have two comments. Ms. Hammons read the comments and stated they had presented the responses and amendments to what they thought was appropriate and the update to the plan and updates to the Comprehensive Plan.

Mayor Forster opened public comment; no comment was offered.

Councilwoman Deb Gillis made a motion to adopt. Councilman Jim Mooney seconded the motion. Council voted and the motion passed 5-0.

RESOLUTIONS

TAB 8: Request to Continue Adoption of Final Rate Resolution for FY 2020-2021 Solid Waste Assessment

This item was heard at 8:45. Village Attorney Roget Bryan read the title of the agenda item. Acting Village Manager / Finance Director Maria Bassett explained that there was an advertising miscommunication with the Key West Citizen and requested a continuance to the September 17th Village Council Meeting. Discussion ensued between Councilwoman Gillis and Ms. Bassett regarding whether the item would come before Council on September 10th or September 17th.

Councilman Jim Mooney made a motion to continue the item. Councilwoman Deb Gillis seconded the motion. Council voted and the motion passed 5-0.

TAB 9: FY 2020-2021 Annual Rate Resolution for Stormwater Management Services

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RELATING TO THE PROVISION OF STORMWATER MANAGEMENT SERVICES; REIMPOSING STORMWATER SERVICE ASSESSMENTS AGAINST CERTAIN REAL PROPERTY WITHIN ISLAMORADA, VILLAGE OF ISLANDS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020; APPROVING THE STORMWATER ASSESSMENT ROLL FOR THE STORMWATER SERVICE ASSESSMENTS; PROVIDING FOR COLLECTION OF THE STORMWATER SERVICE ASSESSMENTS; AND PROVIDING FOR AN EFFECTIVE DATE

This item was heard at 8:47. Village Attorney Roget Bryan read the title of the resolution. Acting Village Manager/ Finance Director Maria Bassett presented the staff report and noted that it had met the advertising requirements. She stated the resolution proposed a rate of $32.00 per net Equivalent Stormwater Unit (ESU).

Mayor Forster opened public comment.

Robert Moser commented asked the Council to consider the emails he had sent them when considering stormwater.

Mayor Forster closed public comment.

Councilman Chris Sante expressed that at some point the stormwater rate should be increased to address stormwater projects. Councilwoman Deb Gillis commented regarding postcards that were sent by the Village in 2007 to property owners asking them to return the postcard to the Village if they objected or thought it was incorrect and stated that the returned postcards were not answered. She suggested that the amounts that the property owners were being charged should be verified. Ms. Bassett commented that the non-ad valorem assessment before them was meant to address the stormwater utility and to address minor operational issues. She explained larger assessments were needed that benefited specific projects. She commented that staff could look into the stormwater charges now that they were done with wastewater reviews.

Councilwoman Deb Gillis made a motion to approve. Mayor Mike Forster seconded the motion. Council voted and the motion passed 5-0.

TAB 10: FY 2020-2021 Annual Assessment Resolution for Wastewater Collection Fees and Administrative Costs within Woods Corner Assessment Area

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RELATING TO THE COLLECTION OF WASTEWATER FEES AND ADMINISTRATIVE COSTS WITHIN THE WOODS CORNER ASSESSMENT AREA; REIMPOSING SPECIAL ASSESSMENTS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020; APPROVING THE ASSESSMENT ROLL; PROVIDING FOR COLLECTION OF THE ASSESSMENTS; AND PROVIDING FOR AN EFFECTIVE DATE

This item was heard at 8:55. Village Attorney Roget Bryan read the title of the resolution. Acting Village Manager/ Finance Director Maria Bassett presented the staff report and stated they had met the advertising requirements.

Mayor Mike Forster opened public comment; no comment was offered.

Councilwoman Deb Gillis made a motion to approve. Vice Mayor Ken Davis seconded the motion. Council voted and the motion passed 5-0.

TAB 11: FY 2020-2021 Annual Assessment Resolution for Phase 1 Wastewater Collection and Treatment Facilities / Remaining Service Area Phase 1 (RSA1) Wastewater Assessment

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RELATING TO THE CONSTRUCTION OF WASTEWATER COLLECTION AND TREATMENT FACILITIES FOR THE WASTEWATER ASSESSMENT AREA WITHIN THE VILLAGE EXCLUDING THE NORTH PLANTATION KEY, WOODS CORNER, AND NORTH PLANTATION KEY SUPPLEMENTAL ASSESSMENT AREAS; REIMPOSING SPECIAL ASSESSMENTS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021; APPROVING THE ASSESSMENT ROLL; PROVIDING FOR COLLECTION OF THE ASSESSMENTS; AND PROVIDING AN EFFECTIVE DATE

This item was heard at 8:59. Village Attorney Roget Bryan read the title of the resolution. Acting Village Manager/ Finance Director Maria Bassett presented the staff report. Village Attorney Roget Bryan confirmed that the commencement date of the assessment resolution was October 1, 2020 noting there was a scrivener's error.

Councilwoman Deb Gillis made a motion to approve. Councilman Chris Sante seconded the motion. Council voted and the motion passed 5-0.

TAB 12: FY 2020-2021 Annual Assessment Resolution for Phase 2 Wastewater Collection and Treatment Facilities / Remaining Service Area Phase 2 (RSA2) Wastewater Assessment

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RELATING TO THE CONSTRUCTION AND FUNDING OF WASTEWATER COLLECTION AND TREATMENT FACILITIES FOR PHASE II OF THE WASTEWATER ASSESSMENT AREA WITHIN THE VILLAGE BUT EXCLUDING THE NORTH PLANTATION KEY, NORTH PLANTATION KEY SUPPLEMENTAL AND WOODS CORNER ASSESSMENT AREAS; REIMPOSING SPECIAL ASSESSMENTS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020; APPROVING THE ASSESSMENT ROLL; PROVIDING FOR COLLECTION OF THE ASSESSMENTS; AND PROVIDING AN EFFECTIVE DATE

This item was heard at 9:01. Village Attorney Roget Bryan read the title of the resolution. Acting Village Manager/ Finance Director Maria Bassett presented the staff report.

Mayor Forster opened public comment; no comment was offered.

Councilwoman Deb Gillis made a motion to approve. Vice Mayor Ken Davis seconded the motion. Council voted and the motion passed 5-0.

TAB 13: Resolution Approving the Final Rankings and Recommendation of the RFP 20-05 Evaluation Committee for Water Quality and Benthic Vegetation Monitoring

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE FINAL RANKINGS AND RECOMMENDATIONS OF THE RFP 20-05 EVALUATION COMMITTEE FOR WATER QUALITY AND BENTHIC VEGETATION MONITORING IN VILLAGE CANALS; AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO ENTER INTO AN AGREEMENT FOR THE REQUESTED SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE

This item was heard at 9:03. Village Attorney Roget Bryan read the title of the resolution. Environmental Resources Manager Pete Frezza presented the staff report recommending approval.

Mayor Forster opened public comment.

Robert Moser commented in support of the item.

David Webb commented in support of the item and noted the importance of testing and the date it provided that would be beneficial for future grant applications.

Mayor Forster closed public comment.

Councilman Chris Sante inquired about the actual purpose of monitoring the canals. Peter Frezza reminded Councilman Sante that Monroe County and the municipalities within the county were mandated to monitor the water quality in order to meet certain requirements and noted the importance of the data.

Vice Mayor Ken Davis made a motion to approve Councilman Chris Sante seconded the motion. Council voted and the motion passed 5-0.

TAB 14: Resolution Approving the Piggyback Purchase of a 2020 Chevrolet Silverado 5500HD Truck

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA PIGGYBACKING THE FLORIDA SHERIFF'S ASSOCIATION CONTRACT NO. FSA19-VEH17.0 FOR HEAVY TRUCKS AND EQUIPMENT AND APPROVING THE PURCHASE OF A 2020 CHEVROLET SILVERADO 5500HD TRUCK FROM DUVAL FLEET SALES FOR THE VILLAGE WASTEWATER DEPARTMENT; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE NECESSARY DOCUMENTS; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

This item was heard at 9:11. Village Attorney Roget Bryan read the title of the resolution. Public Works Director A.J. Engelmeyer presented the staff report.

Mayor Mike Forster opened public comment; no comment was offered.

Councilwoman Deb Gillis made a motion to approve. Councilman Chris Sante seconded the motion. Council voted and the motion passed 5-0.

TAB 15: Resolution Approving the Purchase of AirVAC Vacuum Pits from Aqseptence Group

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE PURCHASE OF 26 AIRVAC VACUUM PITS FROM AQSEPTENCE GROUP FOR THE VILLAGE CENTRAL WASTEWATER SYSTEM; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE NECESSARY DOCUMENTS; PROVIDING FOR A WAIVER OF COMPETITIVE BIDDING; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

This item was heard at 9:16. Village Attorney Roget Bryan read the title of the resolution. Public Works Director A.J. Engelmeyer presented the staff report.

Mayor Mike Forster opened public comment; no comment was offered.

Councilwoman Deb Gillis made a motion to approve. Vice Mayor Ken Davis seconded the motion. Council voted and the motion passed 5-0.

MAYOR / COUNCIL COMMUNICATIONS

Update Regarding Village Manager- Mayor Forster

This item was heard at 9:19 p.m. Mayor Mike Forster stated that Seth Lawless had submitted a resignation letter, due to his health, that would be effective August 21, 2020 and suggested providing six months of insurance and ten weeks of pay to Mr. Lawless. Councilmembers thanked the Mayor for working out the terms of the resignation. The Village Attorney stated the letter he provided to the Council was a draft document and asked the Council to make a motion to accept the terms that the Mayor referenced, 10 weeks of salary and six months of health insurance, and to authorize the Mayor to execute the document.

Councilwoman Deb Gillis made a motion to accept the terms of the document and authorize the Mayor to execute the document. Vice Mayor Ken Davis seconded the motion. Council voted and the motion passed 5-0.

Discussion Regarding Deputy Village Manager- Mayor Forster

This item was heard at 9:26 p.m. Mayor Mike Forster suggested the Council change Ms. Bassett's title to Acting Village Manager beginning August 21st; adjusting her base salary, to be effective July 6, 2020, the day she took over the Village Manager responsibilities and go to March 1, 2021; raising her base salary equal to Seth Lawless' compensation; provide the 1.5% increase if the increase was approved by the Council; her FRS classification should be changed to Senior Management; 10% of salary contributed by the Village to a 457 plan while serving as Acting Village Manager; serving as Acting Village Manger and returning to Finance Director to be determined by the new council; and if asked to continue as Deputy Village Manager requests to continue as Senior Management classification in FRS otherwise return to Regular Class. Vice Mayor Ken Davis expressed support for the Mayor's suggestion and suggested Ms. Bassett have the right to hire additional support if necessary. Councilmembers discussed the idea of advertising for the Village Manager. The majority agreed to allow the new council to decide and begin that process. The Mayor asked Ms. Bassett if she felt the need to hire an additional person in Finance. She stated no, as staff had implemented new software that improved the departments efficiency. That if the need arose, they could use the services of an external accounting firm. The Village Attorney stated he would create a memorandum to file; and noted the Council had 90 days to decide how to fill the vacancy.

Vice Mayor Ken Davis made a motion to approve. Councilman Chris Sante seconded the motion. Council voted and the motion passed 5-0.

Discussion Regarding Temporary Use Permits for Special Events through the December 31, 2020- Councilwoman Deb Gillis

This item was heard at 9:36 p.m. Councilwoman Deb Gillis asked the Council to consider the planning involved with special events and suggested the Council cancel events that required temporary use permits or that occurred at Founders Park through December 31, 2020 noting the new council could review it. Council and staff discussion ensued.

Vice Mayor Ken Davis made a motion to cancel events through October 31, 2020. Councilman Jim Mooney seconded the motion. Council voted and the motion passed 4-1 with Councilwoman Deb Gillis voting in opposition.

ADJOURNMENT

Councilman Chris Sante made a motion to adjourn. Vice Mayor Ken Davis seconded the motion. The meeting adjourned at 9:46 p.m.

Approved by the Village Council October 1, 2020.

Kelly S. Toth

Kelly S. Toth, CMC
Village Clerk