Summary Minutes of the
ISLAMORADA, VILLAGE OF ISLANDS
REGULAR VILLAGE COUNCIL MEETING
Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036
Thursday, May 20, 2021
5:30 PM

The Regular Village Council Meeting was open to in-person attendance and also utilized the Zoom video conferencing application for public participation.

CALL TO ORDER / ROLL CALL

Mayor 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 David Webb and Councilman Henry Rosenthal. Village Clerk Kelly Toth and Deputy Clerk Stephanie Conde were also present. Village Attorney Roget Bryan and Acting Village Manager Maria Bassett, along with other pertinent staff appeared virtually.

PLEDGE OF ALLEGIANCE AND INVOCATION

Kyle Burkel led the Pledge of Allegiance. Pastor Tony Hammon led the prayer.

Agenda Addition: Acknowledgement of Kyle Burkel's Service & Retirement
Mayor Pinder invited Firefighter/Paramedic Kyle Burkel to the dais and presented him with a plaque honoring his 25 years of service to the citizens of Islamorada and congratulated him on his retirement.

VIRTUAL MEETING PROCEDURES
Village Attorney Roget Bryan provided the meeting procedures addressing participation through Zoom.

REPORTS, PRESENTATIONS AND ANNOUNCEMENTS

COVID-19 Update by Monroe County Florida Department of Health Administrator, Bob Eadie and Revaluation by Council Regarding the June 1 Restriction on Special Events

This item was heard at 5:39 p.m. Monroe County Florida Department of Health Administrator, Bob Eadie provided an update on Covid-19 vaccinations in Monroe County; recommended the public continue to wear a mask on buses and airplanes; and suggested that people that have not been vaccinated continue with the safety protocols. He opined that the non-profit events could once again be conducted; and cautioned that COVID-19 transmission was still occurring.

Councilman David Webb commented about the positive effects of the voluntary precautions individuals within Monroe County adopted. Mr. Eadie concurred commenting that without the public participation we would not have been as successful; noted the vaccinations that were still occurring as well as the continued voluntary wearing of masks. Webb asked if Mr. Eadie if he felt the

Village could lift the prohibition on special event permits at the end of May. Mr. Eadie commented that he believed it could be lifted and commended the Village Council for their COVID-19 efforts. Councilman Henry Rosenthal and Mayor Pinder thanked Bob Eadie for all of his efforts.

Mayor Pinder asked the Council to confirm the suspension on events would end June 1. Each Council Member expressed their agreement with a thumbs-up.

PUBLIC COMMENT

Mayor Buddy Pinder opened public comment.

Van Cadenhead commented regarding his opposition to past Council discussion about longer Council term limits. He stated, "politicians were like baby diapers and should be changed frequently for the same reasons"; that the current two-years terms had worked really well; noted the voters voted against four-year terms on a few occasions; and that three-years terms would require special elections costing the taxpayers approximately $25,000. Mr. Cadenhead stated that "any politician that begins his term by wasting $2 million of Florida taxpayer's money in an antidemocratic display of disdain and disregard for public safety and inconvenience, blatantly ignoring four years of meetings and votes by previous administrations, should be changed like a baby diaper". He commented that the next time residents and tourists were subjected to 3-day traffic jams in Islamorada, they should remember the FDOT wanted to gift Islamorada with a $5 million bridge over the US-1 Highway to help solve the problem. He referenced the traffic jams that occurred as a result of the events held at Founders Park, specifically mentioning the Gigantic Nautical Flea Market, and recommended the Council limit the number of days an event could occur to two days and restrict the number of vendors that participated to 150-200 or to half of number of previous vendor participants. He suggested fundraising could occur without all of the inconvenience. Councilman Henry Rosenthal addressed Mr. Cadenhead thanking him for his time to endorse two-year term limits and asked if he had considered how two-year terms would be separated. Mr. Cadenhead stated he was not opposed to staggered terms and suggested the stagger could dictate that the three highest vote earners receive two-year terms, and the remaining two election winners would receive one-year terms.

Angel Borden thanked the Council for stopping the construction of the pedestrian bridge. She provided comment regarding an upcoming agenda item because she was not sure she would be in attendance when the item was heard. She commented that when the contract was awarded to Advanced Disposal they were paying higher disposal fees because they were not disposing at one of their sites; stated that Advanced Disposal was purchased by Waste Management, that they were disposing of waste at their own sites, and that she had not heard of any benefits to this change; noted that the Council was considering raising the commercial rates to businesses that were just beginning to recover from the effects of COVID-19; that the new rate increase did not come from the trash index but rather was an index based on sewer, water and garbage rates and expressed that this was an error in judgement. Ms. Borden commented that it was not the time to increase the rates, but to determine what Advanced Disposal was now saving in disposal fees now that they were disposing of waste at their own sites. She noted that Monroe County property owners had a much lower cost for disposal of yard waste because it was burned at their waste energy plant; that Advanced Disposal and Waste Management were no longer separate companies; and opined that Waste Management was creating a fallacy by continuing the name of Advanced Disposal.

Cheryl Meads commented that the longer council terms were not needed because the Council was doing a great job; that she served on a board that underwent the same type of change; and opined that most of the residents liked it the way it was noting that she had not heard any complaints about the current Council.

Mayor Pinder closed public comment.

AGENDA: Requests for Deletion / Emergency Additions

Councilman Mark Gregg added a discussion regarding an expression of support for state and federal funding to complete Everglades' restoration projects. Councilman David Webb added a discussion regarding Village acquisition of the Tennis Club on Lower Matecumbe Key.

CITIZENS' ADVISORY COMMITTEE REPORTS & APPOINTMENTS

TAB 1 : Annual Appointments to Citizens' Advisory Committees, the Historic Preservation Commission and the Local Planning Agency

This item was heard at 6:01 p.m. Village Clerk Kelly Toth explained the process for annual committee appointments beginning with Citizens' Advisory Committees, followed by Historic Preservation Committee appointments and ending with Local Planning Agency appointments.

Councilman David Webb explained that he prepared for changes by attempting to contact those individuals that would be affected. He noted that he was unable to reach Jack Niedbalski who currently serves on the Achievable Housing Committee and commented that he was removing Jack Niedbalski and replacing him with Lindsay Fast who is the Director of Habitat for Humanity of the Upper Keys. He appointed Emma Haydocy, Executive Director of Florida Bay Forever, to the vacant seat on the Near Shore Water Regulation Citizens' Advisory Committee. Councilman Webb made no other changes to his committees and reappointed the remaining members.

Councilman Henry Rosenthal reappointed all of his committee members to the five Citizens' Advisory Committees, and appointed Dave Petkovich to fill the vacancy on the Water Quality Citizens' Advisory Committee.

Mayor Buddy Pinder reappointed all of his committee members to the five Citizens' Advisory Committees and appointed Susan Sprunt to fill the vacancy on the Landscape Advisory Committee.

Vice Mayor Pete Bacheler reappointed all of his committee members to the five Citizens' Advisory Committees. Councilman Mark Gregg reappointed all of his committee members to the five Citizens' Advisory Committees.

Village Clerk Kelly Toth explained that there were two members on the Historic Preservation Commission with expiring terms. Those members were Jorge Cabrera who was the appointed member of Councilman Rosenthal and Corie Abel who was the appointed member of Councilman Webb. Councilman Rosenthal reappointed Jorge Cabrera and Councilman Webb reappointed Corie Abel.

Village Clerk Kelly Toth explained that there were two members on the Local Planning Agency (LPA), Mirna Hormechea and Lorie LaLonde, who were appointed by the entire Council. She stated that all of the appointments / reappointments before the Council would require a super-majority vote to continue serving explaining that in addition to the two member previously mentioned, the remaining members had already served three consecutive one-year terms after which a super-majority vote to continue their service was required.

Councilman Rosenthal made a motion to reappointment Mirna Hormechea. Councilman David Webb seconded the motion. Council voted and the motion failed 3-2 as it required a supermajority vote to pass. Vice Mayor Bacheler and Councilman Gregg were the dissenting votes. Councilman Gregg expressed a desire to appoint/reappoint individual members first then revote on Ms. Hormechea's appointment. He explained that this this would provide the Council with the names of individual's that were appointed and not reappointed. Vice Mayor Bacheler and Mayor Pinder expressed agreement with Councilman Gregg's suggestion.

Councilman Mark Gregg removed Van Cadenhead from the LPA and appointed former Councilwoman Deb Gillis. Mayor Buddy Pinder removed Cheryl Culberson and appointed Rich Russell. These appointments did not require a super-majority vote.

Councilman Henry Rosenthal stated he would reappoint Lesley Rhyne. Councilman Rosenthal made a motion to reappoint Lesley Rhyne. Councilman David Webb seconded the motion. Council voted and the motion passed 5-0.

Councilman David Webb stated he would reappoint Tony Hammon. Councilman Webb made a motion to reappoint Tony Hammon. Mayor Buddy Pinder seconded the motion. Council voted and the motion passed 5-0.

Village Clerk Kelly Toth stated the remaining two members were Lorie LaLonde and Mirna Hormechea, the seats appointed by the entire Council . Vice Mayor Pete Bacheler made a motion to reappoint Lorie LaLonde. Councilman Mark Gregg seconded the motion. Council voted and the motion passed 5-0. Councilman Henry Rosenthal made a motion to reappoint Mirna Hormechea. Councilman David Webb seconded the motion. Council voted and the motion passed 5-0.

Vice Mayor Pete announced that he was appointing Dr. Stan Zuba to fill his vacancy on the LPA.

Councilman David Webb commented regarding the resolutions creating the various committees and about his interpretation of a resolution that gave other committees a voting seat on the LPA. Village Clerk Kelly Toth, with support from Village Attorney Roget Bryan, explained that a resolution or ordinance was passed in 2015 that allowed LPA members to also serve on a citizens' advisory committee as long as there was not another member of the LPA serving on the same committee and provided Lesley Rhyne as an example noting she served on LPA and the Parks & Recreation Committee. Councilman Webb expressed that he had read something different regarding committee members having a vote on the LPA. Councilman Webb commented that the Council needed some expertise on the committees as the Village had some critical technical issues on the horizon; that leadership in the chairman position was needed to illicit the best from the committees. He suggested, with support from Councilman Gregg, that either in the summer or fall, the Council review the various committee resolutions and ordinances to harmonize the structures of the committees and find ways to make them more productive and more enjoyable for those serving. Village Clerk Kelly Toth mentioned that Councilman Webb had expressed his suggestion at a prior meeting and that she had added it to the June agenda.

Mayor Pinder asked if the committees were going to start meeting in person again. The Village Clerk reported that the Landscape committee held a hybrid meeting in which one person attended virtually with the other members participating in-person and that the Near Shore Water Regulation committee held a hybrid meeting in April with one or two members attending in-person. Vice Mayor Pete Bacheler expressed agreement with Councilman Webb regarding there being a lot of talented committee members; that in his experience, the meetings have not been well attended; suggested the Council make the meetings easier to attend; and commented that he liked the idea of hybrid meetings for committees as it allowed for virtual attendance. Councilman Rosenthal concurred with Vice Mayor Bacheler regarding virtual participation.

CONSENT AGENDA

TAB 2: Resolution Approving a First Amendment to the Agreement with Advanced Modular Structures, Inc. for a Modular Office Space for the Plantation Yacht Harbor Marina

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING A FIRST AMENDMENT TO THE AGREEMENT BETWEEN ADVANCED MODULAR STRUCTURES, INC., AND ISLAMORADA, VILLAGE OF ISLANDS TO PROVIDE AND INSTALL A NEW MODULAR MARINA OFFICE BUILDING; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AMENDMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE

TAB 3: Resolution Approving a Cost Increase for the Purchase of a 2021 25’ Pathfinder Vessel with Trailer and the Purchase of a Yamaha 300 HP Outboard Motor for the Local Law Enforcement Department

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RATIFYING THE PURCHASE OF A 2021 25′ PATHFINDER VESSEL WITH TRAILER AND YAMAHA 300 HP OUTBOARD MOTOR FOR LAW ENFORCEMENT SERVICES FROM CARIBEE BOAT SALES AND MARINA; AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO ENTER INTO AN AGREEMENT FOR THE PURCHASE; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

TAB 4: Resolution Approving Engagement of Poseidon Marine Towing Corp. for the Installation of Uniform Waterway Markers

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING ENGAGEMENT OF POSEIDON MARINE TOWING CORP. FOR THE PURCHASE AND INSTALLATION OF THE VESSEL EXCLUSION ZONE BUOYS OFF OF PORT ANTIGUA AND WHITE MARLIN BEACH; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE NECESSARY DOCUMENTS; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Pinder opened public comment.

Van Cadenhead suggested the modular dock office be mobile or elevated five to six feet due to potential loss associated with a storm/flood event; that the cost of the project includes elevating the structure above flood. Acting Village Manager Maria Bassett stated that she believed it would be elevated on pilings seven to eight feet, which was one of the reasons for the cost increase. Councilman Webb noted that the structure was also being built to Florida windstorm requirements.

Mayor Pinder closed public comment.

Vice Mayor Pete Bacheler made a motion to approve the consent agenda. Councilman David Webb seconded the motion. Council voted and the motion passed 5-0.

QUASI-JUDICIAL

This item was heard at 6:32 p.m. Village Attorney Roget Bryan provided the quasi-judicial procedures. Village Clerk Kelly Toth swore in the witnesses.

TAB 5: Second Reading: Ordinance Requesting a Zoning Map Amendment by Petition of By Scouts of America (AEC Build, Agent) for Property Located at Approximately MM 72.8 on Lower Matecumbe Key RE# 00391010-000000 and 003911020-000000 (File No.: PLMA20200209)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF AEC BUILD ON BEHALF OF BOYS SCOUTS OF AMERICA TO AMEND THE OFFICIAL ZONING MAP FROM THE RESIDENTIAL SINGLE FAMILY (R1) ZONING DISTRICT TO THE RESIDENTIAL DUPLEX (R2) ZONING DISTRICT FOR PROPERTY LOCATED AT APPROXIMATELY MILE MARKER 73.8 WITH REAL ESTATE NUMBER 00391020-000000, 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

Village Attorney Roget Bryan read the title of the ordinance and requested the Council disclose ex parte communications. Councilman David Webb stated he did not have ex parte communications. Councilman Rosenthal disclosed that he had spoken with Chuck Till and Sue Miller. Mayor Pinder stated he did not have ex parte communications. Vice Mayor Pete Bacheler inquired as to whether an email forwarded to Council by the Clerk's office should be disclosed. The Village Attorney opined that it would not hurt to disclose it as it was broadly within the scope of an ex parte communication and noted the email was part of the record file and that each Councilmember should have received the forwarded email. Councilman David Webb and Mayor Buddy Pinder acknowledged that they each received the email but did not respond. Vice Mayor Pete Bacheler and Councilman Mark Gregg each stated that they had received the email from the Clerk.

Senior Planner Hank Flores presented the staff report noting the ordinance was passed on first reading.

Mayor Pinder invited applicant Keith Douglas to comment. Mr. Douglas expressed his gratitude to Council and staff; explained that a duplex allowed for more flexibility when hiring staff; and noted the site was close to their shop/maintenance building.

Councilman Rosenthal noted different options that were available such as affordable housing. Mr. Douglas stated the option they chose was the one that was best for the organization; that it made more sense to construct duplexes than individual houses as a duplex made more sense for one or two inhabitants.

Mayor Pinder opened public comment.

Van Cadenhead expressed his support for the zoning map amendment and asked the Council to unanimously approve the request.

Mayor Pinder closed public comment.

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

Councilman Mark Gregg commented that he thought the point Councilman Rosenthal was trying to make was that if the units were constructed as affordable units, then he could build a triplex. Mr. Douglas stated they considered constructing affordable and chose not to due to the income limitations, noting specifically the possibility of hiring someone who made more than what was allowed in an affordable unit.

ORDINANCES

TAB 6: First Reading: Proposed Ordinance Amending Chapter 30 Land Development Regulations to Specifically Amend Bufferyard Standards for Driveways

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS; AMENDING ARTICLE V "SCHEDULE OF DISTRICT USE AND DEVELOPMENT STANDARDS", DIVISION 6 "LANDSCAPE STANDARDS", SECTION 30-815 TO SPECIFICALLY AMEND BUFFERYARD STANDARDS RELATING TO DRIVEWAYS; PROVIDING FOR PENALTIES; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY

This item was heard at 6:45 p.m. Village Attorney Roget Bryan read the title of the ordinance.

Environmental Coordinator Daniel Parobok presented the staff report explaining the purpose of a bufferyard and the reason for the amendment.

Councilman Mark Gregg asked if swales were still permitted in the bufferyard. Mr. Parobok stated yes, swales were still allowed as the amendment only pertained to driveways. Councilman Gregg asked if someone could plant in a swale. Mr. Parobok stated they could. Councilman Rosenthal asked if the amendment pertained to residential property and new development. Mr. Parobok confirmed that it applied to residential as well as new development and redevelopment.

Mayor Pinder opened public comment.

Van Cadenhead stated that the item was discussed at length by the LPA when he was a member of the LPA and expressed his support for the amendment.

Mayor Pinder closed public comment.

Councilman David Webb made a motion to approve. Vice Mayor Pete Bachler seconded the motion. Council voted and the motion passed 5-0.

TAB 7: First Reading: Ordinance Requesting an Amendment to Chapter 34 "Natural Resources", Article II "Water Conservation" Section 34-31 to 34-36

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 34 "NATURAL RESOURCES," ARTICLE II "WATER CONSERVATION", RELATED TO WATER CONSERVATION MEASURES; SPECIFICALLY AMENDING SECTION 34-31 "PURPOSE", SECTION 34-33 "DEFINITIONS", SECTION 34-34 "HOURS OF IRRIGATION; AUTOMATIC IRRIGATION SYSTEMS" SECTION 34-35 "PROHIBITIONS", AND SECTION 34-36 "EXEMPTIONS" OF THE VILLAGE CODE TO REVISE LANDSCAPE IRRIGATION RESTRICTIONS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; 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 6:50 p.m. Village Attorney Roget Bryan read the title of the ordinance. Scarlett Hammons, Planning Consultant with the Corradino Group, presented the staff report noting the changes were requested by the South Florida Water Management District (SFWMD) and that the changes address landscape irrigation water conservation.

Councilman Webb noted the request was made by the SFWMD, but there was no mention of enforcement and stated he did not know how the Village was supposed to enforce the rules. Ty Harris, Director of Planning and Development Services, explained that code enforcement would educate the commercial properties first, followed by residential, noting it was more challenging to address residential properties due to the volume and noted more could be done if needed.

Councilman Gregg asked Ms. Hammon to confirm that the rules did not apply to cisterns or reuse. She provided confirmation; stated it only applied to sprinkler irrigation systems; and that hand watering was allowed.

Mayor Pinder opened public comment.

Van Cadenhead noted the LPA discussed the item thoroughly when he was a member of the LPA; recalled the SFWMD wanted to allow irrigation two days a week, but the LPA stretched irrigation to three days a week and allowed 90 days for new plantings; noted that some people allow their irrigation system to water during a rain event and noted the redundancy; and expressed his support for the amendment.

Mayor Pinder closed public comment.

Vice Mayor Pete Bacheler asked SFWMD Board Member Cheryl Meads if she worked on the item. Ms. Meads commented that Monroe County does not receive the amount of water that other parts of the State receive; expressed that the changes made during the LPA meeting were appropriate; that when the board reviewed water conservation they decided they needed to reach out to communities and request compliance; and expressed her gratitude to the Village for making the changes; and stated the 90 days allowed for new plants was brilliant.

Councilman Henry Rosenthal made a motion to approve. Vice Mayor Pete Bacheler seconded the motion. Council voted and the motion passed 5-0.

TAB 8: First Reading: Ordinance Amending Ordinance 20-02 Related to Transfers of Residential Density

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING ORDINANCE NO. 20-02 RELATED TO TRANSFERS OF RESIDENTIAL DENSITY; AMENDING CHAPTER 30, "LAND DEVELOPMENT REGULATIONS," ARTICLE IV "ADMINISTRATIVE PROCEDURES," DIVISION 12 "TRANSFERS OF DEVELOPMENT RIGHTS" OF THE VILLAGE CODE OF ORDINANCES BY SPECIFICALLY AMENDING 30-503 TO CLARIFY AREAS ELIGIBLE FOR TRANSFER OF RESIDENTIAL DENSITY WITHIN THE VILLAGE; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITYRESOLUTIONS

This item was heard at 7:03 p.m. Village Attorney Roget Bryan read the title of the ordinance. Senior Planner Craig Southern presented the staff report explaining that Ordinance 20-02 was approved by DEO in October 2020; that a petition was filed challenging the ordinance with the Division of Administrative Hearings (DOAH) in November 2020; to resolve the DOAH petition, the parties entered into a stipulated agreement to add clarifying language to the Land Development Regulations (LDRs); and recommended Council pass the ordinance on first reading. Councilman Mark Gregg noted a typographical error in section "b" of the proposed amendment stating the word "influences" should be changed to "influenced".

Mayor Pinder opened public comment.

Van Cadenhead stated while serving on the LPA, they thoroughly discussed the amendment and stated staff did an outstanding job with the amendment. He stated he served on the LPA for three years and thoroughly enjoyed it; that he happily turned over his seat to Deb Gillis who knew exactly what the problems were that the LPA would be facing between now and 2023; noted the LPA was the only board on which he ever served; and expressed his gratitude to Council.

Councilman Webb told Mr. Cadenhead that he has stolen one of his quotes which was "People are loving the Keys to death". Councilman Gregg told Mr. Cadenhead he would always be an honorary member of the LPA because he attends so many meetings.

Vice Mayor Pete Bacheler made a motion to approve. Councilman David Webb seconded the motion. Council voted and the motion passed 5-0.

RESOLUTIONS

TAB 9: Resolution Approving Work Authorization No. 1 with M.T. Causley, LLC for Building Services Department Support Services

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RATIFYING AND APPROVING WORK AUTHORIZATION NO. 1 BETWEEN M. T. CAUSLEY, LLC, AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE GENERAL SUPPORT SERVICES TO THE BUILDING SERVICES DEPARTMENT; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF WORK AUTHORIZATION NO. 1; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE WORK AUTHORIZATION; 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. Acting Village Manager and Finance Director Maria Bassett provided background information regarding the current Continuing Services Agreement (CSA) with M.T. Causley, Inc. and that use of their services, most recently, has been for plans examiners and inspectors. She explained that the work authorization being considered would cover services through September 30, 2021 and would help staff catch up on outstanding permit processing caused in part by the Village's inability to fill the Deputy Building Official position; and that she, the Building Official and the Director of Planning and Development Services had determined that expanding the scope of services with M.T. Causley Inc. was necessary. Ms. Bassett provided details of the services that would be provided under the work authorization; noted that the authorization contained a not to exceed amount of $370,000; that the services would be paid for from revenue generated from building permit fees and paid from the Building Department Fund; explained that filling vacancies for inspectors and plans examiners had become increasingly difficult; explained that M.T. Causley would be responsible for wages, benefits, vehicles, liability, workers compensation coverage, uniforms and training for staff assigned to the Village; noted at some point staffing levels may need to be evaluated and even eliminated to compensate for the use of the contracted services and recommended approval of the resolution.

Councilman Webb commented in support of attrition over termination should the need arise. Councilman Gregg stated he had spoken with some local contractors who expressed concern about difficulties and delays they had experienced in the past with contracted services. Councilman Gregg expressed that the Building Official would oversee the services; the Village would be assigned the same support staff daily; and noted that the contracted services allowed for the Village to trim the hours when demand was lower. Mayor Pinder noted the difficulty in filling the Deputy Building Official vacancy as applicants often lacked the necessary credentials; and commented that if there was an issue with a contracted support staff person that individual could be replaced with someone else. Vice Mayor Pete Bacheler expressed his support for the change noting that oversight would be provided by the Building Official. Councilman Rosenthal expressed that there was probably no need to put the item out to bid because the workforce was slim and asked if the Council should wait to make the decision until after the new Village Manager begins. Mayor Pinder asked Building Official Sheila Denoncourt to confirm that it was urgent to get the additional staffing support given the Deputy Building Official vacancy was still open. She confirmed that it was urgent as each day of each week the department was pushed back more and more; that the work authorization was requesting the additional assistance from July 1, 2020 to September 30, 2021 and that during this time they would discuss with the new Village Manager how to move forward with future staffing needs. Acting Village Manager Maria Bassett stated the new Village Manager would have input; and explained that the Village had an existing contract with M.T. Causley Inc. that was entered into as the result of a bid process. Councilman Webb noted that there were a number of items the new manager would need to deal with coming in, and that this was an administrative issue with a short-term contract that would provide the manager with a little "breathing room". Ms. Bassett commented that staff had asked at the previous Council meeting whether the Council wanted staff to proceed with the work authorization.

Mayor Pinder opened public comment.

Sue Miller commented that it was unfortunate that the Village was unable to hire staff; noted employees could commute just the same as contracted staff; and expressed her preference for employees that were part of the community over contracted staff suggesting they were more loyal to the community. Mayor Pinder commented about his experiences as a business owner and the need to transport workers from the mainland.

Ms. Bassett noted that M.T. Causley Inc. had been the Village's contractor since 2018, had proven their dedication to the Village and had prioritized the Village's needs.

Mayor Pinder closed public comment.

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

TAB 10: Resolution Approving Third Amendment to Agreement between Islamorada, Village of Islands, Florida and Advanced Disposal Services Solid Waste Southeast, Inc.

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING THE THIRD AMENDMENT TO THE AGREEMENT BETWEEN ADVANCED DISPOSAL SERVICES SOLID WASTE SOUTHEAST, INC. AND ISLAMORADA, VILLAGE OF ISLANDS TO PROVIDE RESIDENTIAL AND COMMERCIAL SOLID WASTE, YARD WASTE AND RECYCLING COLLECTION AND DISPOSAL SERVICES (EXCLUDING COMMERCIAL RECYCLING AND ROLL-OFF SERVICES); AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AMENDMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE

This item was heard at 7:28 p.m. Village Attorney Roget Bryan read the title of the resolution. Public Works Director A.J. Engelmeyer stated that there were two changes being proposed in the amendment, one of which was the continuation of waste removal services beginning at 5:00 a.m. and the other was the amendment to the agreement that would adjust fees annually based on the Consumer Price Index (CPI); explained that the current agreement adjusted CPI annually in a generalized manner; that the amendment would change the CPI rate changes to the "Water, Sewer, and Trash" category noting that it made more sense to use the industry category as the services provided were for trash removal; that a one-time increase of seven percent was being requested for commercial rates to bring the fees up to the current rates which would continue on a year-to-year basis with a maximum CPI increase of up to three percent.

Councilman Webb inquired as to whether there were financial penalties included in the contract that addressed service failures, such as inoperable service vehicles or would Advanced Disposal now be able to recover from these situations. He expressed concern about an issue he experienced in which waste removal staff took an item out of the recycling container and threw it on the road in front of the house. He suggested a different procedure whereby the recycling container would be red-tagged, and the onus would be on the property owner to work out the issue. Councilman Webb asked if the disposal dumping fees were different depending on how the trash truck was labeled such as "Advanced Disposal" paying a different fee than "Waste Management".

Vice Mayor Pete Bacheler asked Angel Borden to provide comment. Ms. Borden commented that she attended the committee meeting during which the bid document that led the Village to switch from Veolia to Advanced Disposal was considered; and noted issues that had occurred with Advanced Disposal. She stated she had spoken with the Monroe County BOCC a few years ago and that the value of recycling was "off the chart" and noted her experience in the recycling industry and how those values fluctuate; that Waste Management could dispose of the recyclables in their own plants and opined that their disposal costs should have decreased; and asked if the 5:00 a.m. start time would allow Advanced Disposal to drop a roll-off container at a construction site at 5:00 a.m.

Vice Mayor Pete Bacheler asked for staff comment regarding disposal at Waste Management owned sites. Acting Village Manager Maria Bassett stated staff needed to defer to Waste Management staff Greg Sullivan and Henry Sori who were attending virtually. Mr. Sullivan explained that they were in the process of changing the logos on all the trucks to Waste Management nationwide; that they were operating under the same contractual obligations which meant all of the solid waste and recycling was taken to the Monroe County transfer station which was what Advanced Disposal had been doing for the last few years; they receive no benefits from those relationships; they chose to continue disposing at the Monroe County transfer station because it made recordkeeping easier; and that yard waste was taken to the Atlantic Trash and Transfer station which was owned by Mr. Lindback. Mr. Sullivan stated the issue with recycling containers being turned over had been addressed; reported Tommy Lowery would continue to be the Operations Manager; explained the issues that arose when office staffing was handled out of Palm Beach; and noted Village staff had seen vast improvements. Councilman Webb stated his comment was not about overturned recycling containers. He stated Advanced Disposal staff informed him that the procedure was for them to remove items from the recycling container that were not supposed to be in the container and place the item(s) on the side of the road which was inappropriate and unacceptable. Mr. Sullivan stated the issue was addressed and that the new procedure was to tag the bin, inform the route manager, the route manager would inform the Village, and then Advanced Disposal would meet with the customer and explain the issue.

Vice Mayor Pete Bacheler asked Ms. Borden if her questions were addressed. Ms. Borden asked Mr. Sullivan if the Village was paying the same costs for yard waste that Waste Management paid for yard waste collected in other areas of the county; asked if Advanced Disposal received the same rate at the Monroe County transfer station that Waste Management received, noting they originally paid different rates; that she had not located what the Village was being charged for disposal of the recyclables and what was getting reclaimed with the recyclables; expressed opposition to using the CPI changes based on the "Water, Sewer and Trash" category; and asked how much the Village would receive in franchise fees based on the three percent and seven percent proposed increases.

Mr. Sullivan stated Monroe County had a contract with Hubbard to haul the yard waste; roll-off containers would not be delivered to construction sites probably any earlier than 8:00 a.m.; recycling was taken to the County site where they pay a tip fee, and the County pays Waste Management a tip fee to haul the material out and process it; and noted the global recycling market had tanked and provided examples. Councilman Mark Gregg asked for clarification as to who the Village was dealing with given Advanced Disposal was owned by Waste Management. Mr. Sullivan referenced the 18-month merger and then became inaudible in his reply as he was participating via Zoom. Councilman Gregg asked if Waste Management would back up Advanced Disposal if there were an issue and who the Village was supposed to contact. Mr. Sullivan stated Waste Management purchased Advanced Disposal. Councilman Gregg stated that there should be something in the agreement that identifies the merger and the successor. Acting Village Manager Maria Bassett stated the Village received a letter in November 2020 from Waste Management advising the Village of the acquisition; that an assignment of the agreement was not necessary or legally required because the scope of work was not being assigned to a different company within the Waste Management family; that Advanced Disposal would continue to service the Village and the agreement would remain in full force and effect; for the near term nothing would change for the community; and the existing sales and support contacts would remain unchanged. She reported that since receiving the letter, staff had been in almost biweekly communications with Mr. Sori and Mr. Sullivan. Councilman Gregg reiterated his concern regarding the absence of Waste Management's name in the contract. He asked what the advantage to the Village was to approve the requested increase. Mr. Sullivan commented regarding the various increases they had experienced over the last few years. Councilman Gregg stated that an increase was being requested for a known risk that was present from the beginning. Mr. Sullivan noted the extremely high influx of visitors to the Florida Keys over the last six months citing the destination was recently reported as the highest in the nation; and that the rates were in line with or even lower than what the rest of Monroe County was paying. Councilman David Webb asked if Waste Management was operating Advanced Disposal as a subsidiary. Mr. Sullivan stated that he was not an attorney, but to the best of his knowledge Waste Management purchased 100 percent of Advanced Disposal. Councilman Webb explained that Waste Management could still operate Advanced Disposal as a wholly owned subsidiary and that if it was not operating Advanced Disposal as a subsidiary then he echoed Councilman Gregg's concern. Village Attorney Roget Bryan confirmed that Advanced Disposal was a wholly owned subsidiary of Waste Management Inc.; he explained that the contracts Advanced Disposal had with other government agencies as well as the Village were still in play; that it was a very complicated acquisition that took about 18 months at the federal level to ensure all of the anticompetitive provisions were complied with; the rebranding of Advanced Disposal to Waste Management was ongoing; the Village still had a contract with Advanced Disposal; how Waste Management chose to modify their corporate structure was ongoing; if changes needed to be made to the contractual agreement they would be presented; and that nothing would change for the Village regarding points of contact and general operations. Councilman Webb asked whether there would be a fee advantage if the Village was dealing directly with Waste Management. Mr. Bryan stated he could not opine as to whether the parent company could offer a better deal. Councilman Webb inquired about the decision deadline so as not to jeopardize the contract in case the Council was not able to decide at this meeting. Mr. Sullivan stated it would not be jeopardized and that he would put the Village Attorney in contact with Waste Management's legal counsel. Henry Sori, with

Waste Management, affirmed that Waste Management would be the provider and was completely dedicated to doing so. Mayor Pinder explained that as a new Council this was something that they wanted to understand. Councilman Webb stated he had not read the entire agreement and wanted to know if there was a recovery mechanism for service failures. Councilman Rosenthal commented that if they wanted to keep the Village as a customer then they needed to "sharpen their pencil". Mayor Pinder shared a conversation he had with Mr. Sullivan. Mr. Sullivan stated he understood the Council tabling the item and the need to have their questions answered. He provided his phone number to the Village Council.

Mayor Pinder opened public comment.

Angel Borden stated Advanced Disposal used to take the recyclables out of Monroe County under the same costs and payments and that now they were travelling a shorter distance by taking them to Monroe County which was a savings; questioned if they were now taking the recyclables out of Monroe County to an unrelated materials processing facility or were they taking the recyclables to a Waste Management owned facility for processing which would be double-dipping. She explained that they now were paid additional money when they took the recyclables out of Monroe County and spoke against the seven percent increase. Ms. Borden explained why Waste Management did not bid on the Village's RFP which occurred at a time when Waste Management was in contract negotiations with Monroe County; commented about valuable recyclables and educating the public.

Sue Miller expressed agreement with Councilman Gregg and suggested Waste Management should honor the existing contract.

Councilman David Webb made a motion to table the item. Councilman Mark Gregg seconded the motion. Council voted and the motion passed 5-0.

MAYOR / COUNCIL COMMUNICATIONS

Agenda Addition:

Discussion Regarding Village Support for Everglades Restoration Projects and Related Funding

This item was heard at 8:10 p.m. Councilman Mark Gregg requested Council support to adopt a resolution expressing the Village's position in support for state and federal funding to complete Everglades Restoration projects; and noted that Monroe County recently adopted a resolution. Council expressed their support for staff to provide the resolution to Council at the June 10 meeting.

Discussion Regarding Acquisition of the Islamorada Tennis Club on Lower Matecumbe Key

This item was heard at 8:12 p.m. Councilman David Webb commented that Lower Matecumbe Key was probably the only area in Islamorada that did not have a public park. He commented that the Islamorada Tennis Club had fallen into neglect; that a lot of the residents had previously enjoyed using the property; noted the Village owned an abutting vacant parcel from the highway to the bay that was approximately 26 acres; that he had spoken with staff about the potential of the Village acquiring the tennis club property and turning the property into a park with possible walking paths. Staff relayed to him that that was the type of thing the State wanted the Village to do. He asked for

Council support to direct staff to investigate purchasing the tennis club property, followed by incorporating it into the Village's existing parcel. Ms. Bassett stated she thought the Council had already expressed a desire to acquire the property and to include it in the FY 2021-2022 budget. She stated staff could inquire whether it was for sale and, if so, identify a funding source, but recommended a loan. Councilman Webb stated initially staff would need to determine if the property were for sale; that he did not want to fund the project outside of the budget cycle; he would like to explore available grants and noted that by combining the parcels, the tennis property may be eligible for grants. Council expressed support for Councilman Webb's request for staff to determine if the property was for sale. Ms. Bassett stated staff would contact the owner to see if he was interested in selling the property.

Discussion Regarding Wastewater Concerns

This item was heard at 8:18 p.m. Mayor Buddy Pinder expressed concern about the Village's wastewater system and recent emergency repairs. He suggested a discussion item at the next meeting or two to consider ideas to be better prepared; suggested utilizing FKAA, having spares available and noted the existing interlocal agreement with the Key Largo Wastewater Treatment District. Councilman Gregg expressed support for the mayor's suggestion; noted that he did not understand why Islamorada was in the wastewater business; noted that FKAA was a large proficient provider with redundancies; and opined that it made sense that a bigger entity (FKAA) could operate a smaller one more efficiently. Vice Mayor Bacheler expressed his support. Village Attorney Roget Bryan recapped his understanding of the future discussion which would be to identify ways to manage the system better, improve on efficiencies and solve some of the logistical challenges. He noted the contractual obligations that existed and capital investments. Mr. Bryan suggested staff compile historical information as well as current information for the new Village Manager to consider before bringing the item to Council for discussion. Acting Village Manager/ Finance Director Maria Bassett reported staff was considering capital projects for the North Plantation Key (NPK) system when the pump issues occurred; staff was currently working with an engineer for an alternative proposal for a set of projects that would eliminate what had occurred with the pumps at NPK; the engineer was conducting a redesign and a proposed cost for the project; she had communicated with the Village's financial advisor to research possible funding for wastewater and refunding of State Revolving Fund (SRF) loans to result in interest savings plus a release of the funds, approximately $7 million, that were being used as collateral for the SRF loans. Release of the funds used for collateral would give the Village latitude for the funding of the capital projects. Councilman Webb noted it was a freak circumstance that had occurred with the NPK system; suggested other communities in the Keys were using the same types of equipment and that the Village build a relationship with these communities and create a repository of highly expensive spares. Councilman Webb noted that the Village had a lot of infrastructure and personnel that were brought on board, and he would not be supportive of "flushing that down the toilet" but expressed support for having the discussion.

Public Works Director A.J. Engelmeyer provided a detailed explanation of the emergency issue. He explained that in the beginning of the wastewater project there was not enough flow, so the Village installed a smaller 70 horsepower pump that was designed to eventually be replaced with a larger 120 horsepower pump; noted staff was in the design phase for that replacement; that one of the pumps was pulled for maintenance because it had failed and while it was out for repair the other pump failed so there was no backup pump. He reported staff executed the emergency bypass by utilizing trailer mounted pumps, on an emergency basis, to address the issue and resume normal operations. The pump that was being repaired was installed two days later and is currently in operation; the last pump was currently being repaired and should be in operation within the next week or two; and noted the emergency operation pumps were still set up. Mr. Engelmeyer stated that it was a freak occurrence as the odds of all three pumps failing at the same time were slim. He noted that as each pump broke it put more pressure on the remaining pump(s) which made the odds worse. He explained that, with regard to utilizing spare parts from other entities, nobody in Monroe County uses the same pumps as the Village; the Village's pumps were wet well pumps that were very large and pumped up to 1,800 gallons per minute; and that nowhere else in Monroe County were they using anything of that size. Mr. Engelmeyer explained that the Village uses its pumps to move all of the effluent in one direction similar to the KLWTD; that the Village does have spare parts for everything and teams up when able; noted the occurrence was a freak anomaly, noting that during normal operations three pumps were used and that when the issue occurred there were only two pumps in operation and both of them failed.

Mayor Pinder responded to Councilman Webb's earlier comments stating that he was interested in possibly bringing in another entity, possibly saving money, to allow for more manpower and extra backup. Councilman Webb stated he supported the idea but that he would not be supportive of contracting the wastewater maintenance out and terminating all of the wastewater personnel. Mayor Pinder stated that he never suggested that and noted his past wastewater experience; noted upgrades made by the Florida Keys Aqueduct Authority; suggested the Village needed to stay abreast of needed enhancements and upgrades; and that his suggestion for a discussion was about being prepared. Vice Mayor Bacheler noted that the Council had agreed that it would be discussed next month; noted the Public Works Director had a herculean task and that he took care of it extremely well and expressed his gratitude to the wastewater staff for their efforts. Mayor Pinder expressed his gratitude to Mr. Engelmeyer.

VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

TAB 11: Wastewater Code Compliance Lien Reduction Amnesty Program Update (Sewer Connections)

This item was heard at 8:31 p.m. Code Enforcement Officer Carlota de La Sierra reported that in December 2020, the wastewater code compliance lien amnesty program was extended from January 1, 2021 through June 30, 2021. The intent of the program was to expedite the process of resolving wastewater code compliance liens incurred for failing to connect to the Village central wastewater system. She reported that at the end of September 2020, there were 54 properties that had not connected to the central wastewater system and that by May 11, 2021 there were 27 properties that had not connected. Of the 27 properties, 15 were accruing daily fines. Ms. de La Sierra reported that of the 27, 17 were residential and 10 were commercial; 8 were connected but had not paid their accrued fines; since October 2020, 15 applications for the wastewater amnesty program had been approved; and described the communication methods utilized to notify affected property owners. She explained that staff was requesting direction as to whether the Council wanted to extend the program. Councilman Webb recalled that the Council had previously made the decision at the December meeting to extend the program for six months and that it would be the last extension. He opined that the extension could explain why half the property owners had since connected and strongly suggested that the program not be extended further. Councilman Gregg expressed his agreement with Councilman Webb and commented that he would like to see staff reach out to the remaining property owners advising them of the deadline. Councilman Rosenthal expressed his agreement with Councilman Webb regarding the June 30 deadline. Vice Mayor Bacheler commented that there were no more extensions; that the property owners needed to get the job done or exhibit some good faith. Village Attorney Roget Bryan explained that procedurally after the June 30 deadline, if someone connected that was not in the amnesty program, they could go before the Special Magistrate and request a reduction and then they could go before the Village Council to request a further reduction of fines which was similar to other lien reduction requests. He explained that the amnesty program, which had been in place since early 2017, had been successful; that if the program were not extended, staff could reach out to the remaining properties and advise them that they needed to close out their code cases or connect to the sewer system in order to take advantage of the amnesty program. He stated staff would continue to take applications through June 30; that in order to qualify for amnesty a property was required to be connected to the central sewer system, have passed the final inspection and be in compliance. Councilman Webb expressed his position for no further extensions.

Mayor Pinder opened public comment.

Angel Borden commented about an individual that recently purchased a property and noted that it took the new owner three months to find a contractor. She suggested the Council extend the program through September.

Mayor Pinder closed public comment.

Code Compliance Officer Carlota de La Sierra commented that there were eight residential properties since 2015 that did not have a permit nor had they applied for a permit; noted staff had tried working with these individuals; and that if the Council decided not to extend the program, code staff would begin issuing final notices to connect.

The consensus of the Council was to not extend the program.

Announcement:

Councilman Henry Rosenthal announced that the Memorial Day event hosted by the Matecumbe Historical Trust would take place at the Hurricane Monument at 9:00 a.m.

ADJOURNMENT

Councilman Mark Gregg made a motion to adjourn. Councilman David Webb seconded the motion. The meeting adjourned at 8:46 p.m.

Approved by Council July 1, 2021.

Kelly S. Toth

Kelly S. Toth, CMC
Village Clerk