

**Summary Minutes of the
ISLAMORADA, VILLAGE OF ISLANDS
(HYBRID) VILLAGE COUNCIL WORKSHOP**

Founders Park Community Center

87000 Overseas Highway

Islamorada, FL 33036

Thursday, February 25, 2021

5:30 PM

Hybrid Meeting to Occur Utilizing Communications Media Technology (CMT)

Pursuant to the Centers for Disease Control (CDC), social distancing guidelines established to contain the spread of the COVID-19 virus, the Village Council Workshop was conducted utilizing Communication Media Technology (CMT) via a Zoom video conferencing application. Additional information regarding options for viewing the meeting and participation through public comment were included on the last page of the agenda and on the Village website. The agenda included additional information about Coronavirus-related precautions that addressed meeting attendance.

CALL TO ORDER / ROLL CALL

Mayor Pinder called the meeting to order at 5:32 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 present; Village Attorney Roget Bryan and Acting Village Manager Maria Bassett, along with other pertinent staff appeared virtually.

PLEDGE OF ALLEGIANCE AND INVOCATION

Monroe County Sheriff's Captain Derek Paul led the Pledge of Allegiance. Pastor Tony Hammon blessed the meeting with a prayer.

VIRTUAL MEETING PROCEDURES

Village Attorney Roget Bryan provided the virtual meeting procedures.

REPORTS, PRESENTATIONS AND ANNOUNCEMENTS

Presentation of Refund Check by Monroe County Sheriff Rick Ramsay

Sheriff Rick Ramsay presented Mayor Buddy Pinder with a \$70,000 refund check as a result of being underbudget for the prior fiscal year and reported a reduction in crime of 17.2% noting that crime had never been lower in Monroe County.

Monroe County Florida Department of Health COVID-19 Update

Bob Eadie, Administrator & Health Officer for the Monroe County Department of Health reported that the COVID-19 precautions that had been taken needed to continue; there had been an increase in pediatric infections over the last week; the infection rate in Monroe County had remained low; vaccines were becoming more available and there were more locations administering the vaccine; the Monroe County Florida Department of Health(MCDOH) had recently partnered with the College of the Florida Keys for vaccine administration; and noted that Winn Dixie and Publix were receiving their vaccines from the federal pharmacy program. He reported that the MCDOH was receiving 500 vaccines a week; identified locations of upcoming vaccination events; and reported this week, 2 vials of vaccine were distributed to each of the fire rescue agencies to vaccinate home-bound individuals. He opined that in the next four to six weeks there would be a significant increase in the number of

vaccines available throughout the country. Vice Mayor Bacheler asked if it was too early for the Village to be allowing flea markets. Mr. Eadie stated that he thought it was too soon and suggested staying the course for at least four more weeks and that being conservative was the right thing to do. Councilman Webb stated the Village's moratorium on special event / temporary use permits was due to expire April 1, 2021 and noted the initial influx of spring breakers. He asked Mr. Eadie what percentage of Monroe County residents had been vaccinated. Mr. Eadie replied 1.7% of the population had been vaccinated of which 47% were in the 65+ age category and noted that experience has shown that college age individuals were super-spreaders. Councilman Webb commented about the significant effort that had been made to manage the spread of the virus and opined that it would be premature for the Village to relax their restrictions. He suggested extending the moratorium until June 1, 2021. Councilman Webb expressed concern for sanctioning something that was not in the best interest of the Village. Mr. Eadie expressed agreement with Councilman Webb's comments and noted that the younger population had not been vaccinated unless they had an underlying condition. Vice Mayor Bacheler agreed with Councilman Webb and seconded the extension to June 1, 2021 as a motion. Councilman Gregg expressed agreement with Councilman Webb. Councilman Webb stated his motion was to extend the deadline from April 1 to June 1, 2021. Vice Mayor Pete Bacheler seconded the motion. Council voted and the motion passed 5-0.

Presentation Regarding FEMA Flood Maps- Woods Hole Group

The presentation began at 6:01 p.m. Leslie Fields, Coastal Geologist & Marine Environmental Analyst with Woods Hole Group, reported that Woods Hole Group had been contracted by Islamorada to evaluate FEMA's preliminary flood insurance rate maps; they had been working on the project for over 18 months; the appeal period is a 90-day period which would begin in the middle of March; and that they had identified components of FEMA's study that required further review. She reported that they thought that there was reason to appeal; that Woods Hole Group planned to get revised maps to the Village within the next month; and noted the maps would be developed based on their analysis using FEMA's methods and models. She stated they would expect the Village to consider their findings and provide direction as to whether the Village wished to move forward with an appeal and if so, Woods Hole Group would file the necessary documentation to support the appeal. Ms. Woods presented their findings. She explained that they had identified eight areas that warranted deeper review and analysis. The first five areas, which would have a regional impact on the maps, were:

1. Storm selection
2. Statistical analysis of storm sets
3. Wave model validation
4. ADCIRC + SWAN model mesh resolution
5. ADCIRC + SWAN modeling of reefs

Ms. Fields explained that the five areas had to do with FEMA's hydrodynamic modeling and statistical analysis of the model results in order to come up with water levels and wave heights that represent the 100-year condition that maps were meant to depict. The next three areas, which would have a local impact, were:

1. Overland modeling of mangroves
2. Transect spacing and location for overland modeling
3. Topography

She noted that Woods Hole Group was also under contract to do the same analysis with the City of Marathon, the City of Key West and Monroe County.

She reported that when they analyzed FEMA's modeling which was used to determine the 100-year water elevations, their modeling showed the water levels at 0.6 to 0.7 feet and sometimes one-foot lower than what FEMA modeled. She explained that FEMA applied one dimensional transects to do the mapping and interpolated the flood zones between the transects. She noted that irregular shorelines or changes in topography made it difficult to interpolate and stated that Woods Hole Group added additional transects to refine the ability to produce the maps. Ms. Fields reported that they conducted a hindcast of Hurricane Irma with "best winds" input data, which was not included in FEMA's original study. She explained that the storm had significant impact in the Keys and that there was a lot of high-water measured data to use to ensure that the hydrodynamic modeling was performing adequately. She stated the other studies that FEMA conducted did not have a lot of high-water marks in the Florida Keys, but Hurricane Irma provided a good opportunity to use the high-water marks, so they added it to the data and analysis information that FEMA had. Ms. Fields stated they were also doing 500-year wave modeling which was an additional requirement for having a complete appeal submittal. She clarified that the maps were based on the 100-year water levels, and the 500-year modeling added data to FEMA's database.

Ms. Fields reported on the following reanalysis that had been completed to date.

1. Updated storm surge/wave model (resolution and frictional effects for reefs)
2. Reran five validation storms (Andrew, Wilma, Betsy, Georges and David)
3. Reran 40 synthetic storms (30 east and 10 west)
4. Developed spatially variable storm rates (with Ransom Consulting)
5. Revised model uncertainty term used in statistics (model skill & measurement error)
6. Recomputed statistical water levels (with Ransom Consulting) which resulted in the new water levels previously mentioned
7. Conducted hindcast of Hurricane Irma
8. Conducted hindcast of Hurricane Irma with "best winds" input data
9. Revised model skill, measurement error, and overall uncertainty term with Irma results (excluding Hurricane Andrew which would require authorization)
10. Rerun six additional synthetic storms
11. Recompute statistical water levels (with all updates)
12. Recompute wave statistics

She reported the reanalysis that remained to be completed included:

1. Reconducting overland wave modeling (1-D transects) for 100-year conditions
2. Reconducting overland wave modeling (1-D transects) for 500-year conditions (which would require authorization)
3. Revise flood zone delineation and mapping

Ms. Fields stated that they anticipated providing the maps to the Village by mid-March when the appeal period began and that they were on track to file an appeal, assuming that was the Village's direction, by mid-April which allowed FEMA time for questions and comments.

Councilman David Webb asked if all areas of Islamorada were being reviewed for possible appeal or were there areas identified that did not have enough substantive reason to appeal. Ms. Fields stated they expected to revise all of the panels in Islamorada because of their reanalysis of the hydrodynamic modeling. She stated that they did look at, with the help of the Building Official and Planning Director, some of the panels where community officials had questions; and that they would look at the panels again once they had revised the maps to make sure the questions had been answered. Councilman Webb asked if every neighborhood would be covered by the appeal process. Ms. Fields confirmed that they would.

Councilman Gregg asked if property owners needed to file their own appeals and commented regarding his personal experience with a FEMA Letter of Map Revision noting that FEMA appeared to be overriding that determination. He asked if there was an opportunity for individual property owners to provide this type of information to Woods Hole Group for review noting the review costs would be borne by the property owner. Ms. Fields stated that they would look at an engineered study or LOMR/LOMA but suggested that individual owners needed to review the maps as soon as Woods Hole Group submitted them to the community to determine whether it reflected an increase in risk for that property owner. She stated individual property owners could hire their own consultant to conduct a review and that if the property owner decided they wanted to file an appeal the appeal needed to be filed with the community appeal. She stated that they had not worked out the detail on Woods Hole Group's role in the review of individual appeals. Councilman Gregg stated he would prefer to hire Woods Hole Group to review his property specific information rather than hiring a different contractor that could have a different approach to their review. Ms. Fields stated that it would be better that they use a different contractor because it would be somewhat of a conflict for Woods Hole Group. Councilman Gregg reported that he attended a FEMA workshop hosted by Monroe County a couple of years ago and confirmed with the officials that they were not including any of the Hurricane Irma data and that he asked the age of the data that was being used by FEMA and was told it was from 2007.

Mayor Pinder opened public comment.

Don Horton expressed concern about FEMA's outdated lidar data; that there were several areas that had changed with the coastal control line or the Limit of Moderate Wave Action (LiMWA) line and the elevations; and that FEMA did not account for many areas topographically especially on Plantation Key. He asked when the revised maps would be available to the public; and if Woods Hole Group considered the loss of about 1.6 feet with the change from NVDA to NGVD. Ms. Fields stated that they did review the lidar data and compared it to more recent lidar data and that they found a few areas that needed updating in terms of topography but that it was actually less than they had expected. They updated the transects in the areas where they saw significant difference in the lidar data FEMA used and the more recent lidar data. Ms. Fields said that the change in datum was relative to where sea level was and should not be thought of as an increase in Base Flood Elevation (BFE) by a foot and a half. She said it was a change in BFE but was based on a sort of zero position. Ms. Fields commented that technically it did not result in an increase to the BFE. She reported that they had made some adjustments to the LiMWA lines. She stated that they expected to present the maps the second or third week of March but was unsure of how the Village was going to make them available to the public.

Anna Richards commented that she had provided input to the Building Official regarding areas she had researched on Plantation Key; that in some areas in Key Largo the BFE was lowering three to four feet; areas such as Plantation Key Colony and Indian Harbor some floods zones had stayed the same or risen; expressed concern that the datum change was not being taken into effect; and noted that some of the brand-new houses receiving Certificates of Occupancy would now be six inches below flood. She stated that she had offered to help with the project and noted that she had 20-plus years of elevation information. Ms. Fields suggested that Ms. Richards review the maps as soon as possible to see if those areas of concern were addressed. Ms. Richards noted that many people were under the impression they were okay because there did not appear to be a change to their property noting that they did not understand the datum change. Ms. Fields stated she provided information to Monroe County, which was on their website, which helped to explain the difference in the datum change. Ms. Fields stated that she would also forward the information to the Building Official.

Robert Moser asked Ms. Fields if she thought there would be ample time to prepare an appeal application if property owners waited until the revised maps were made available. Ms. Fields suggested that property owners find someone that could do the work and get them in the queue in case their services were needed.

Mayor Pinder and Councilman Gregg spoke in support of a mechanism to educate the public on the topic.

Mayor Pinder closed public comment.

PUBLIC COMMENT

Mayor Pinder opened general public comment and reminded the public that comment was limited to three minutes.

Elizabeth Jolin commented, Florida Bay Forever board member, expressed her support for tabs seven and nine.

Ed Davidson, Chairman of the Florida Keys Citizens' Coalition, commented regarding the Village Manager search noting that some employees left the Village for lower paying local jobs; opined that it would be desirable that senior staff live locally; opined that staff's actions should be supported by at least three councilmembers; and suggested an appeals mechanism for staff should they feel uncomfortable with something they have been told to do.

Larry Barr inquired about the cost the Village would incur for having halted the construction of the pedestrian bridge; opined that if it came out of the reserve fund then it would require taxes be raised to replenish the fund; and suggested that the Mayor said that he sent a breakdown of the costs to the other councilmembers opining that it was a Sunshine violation. Mayor Pinder and Councilman Webb clarified that District Six Secretary Jim Wolfe sent the letter and the information was shared with all of Council via the Village Clerk.

Jay Jans wanted to comment about the farmers market and was advised by Councilman Rosenthal and the Village Clerk that there would be a discussion item added to the agenda by Council regarding farmers markets.

John Cooper commented regarding the responses to a stormwater survey for Venetian Shores; noted that the four streets most adversely affected were Stromboli Dr., Giardino Dr., Milano Dr. and Severino Dr.; that the majority of survey respondents for those streets agreed there was a stormwater issue and were willing to pay for improvements; noted that there would be no cost to the Village; and stated that the streets could not be repaired without the Village's cooperation. Mr. Cooper stated they took the \$2 million Phase one costs to repair Bayview Isle Dr. and Villabella Dr. and estimated \$645 per linear foot; that they estimated a total of 5,800 linear feet for the four streets which would be an estimated cost of \$3.75 million; the interest rate was estimated for a 30-year period which brought total projects costs to approximately \$5 million; and stated the approximate cost breakdown of \$26,000 per property, \$72 per month without grant funds and \$36 per month with grant funds. Councilman Webb commented that the Council was familiar with the flooding issues based on the prior presentations to Council; noted that there were flooding issues in many other neighborhoods throughout Islamorada; that the Council had voted unanimously to update the stormwater management plan taking into account FDOT's future projects such as the drawbridge project that would affect Venetian Shores; and that he supported the Village's decision to approach stormwater projects methodically to identify which streets needed to be addressed.

Mayor Pinder closed public comment.

AGENDA: Requests for Deletion / Emergency Additions

Councilman Henry Rosenthal added a discussion regarding farmers / flea markets to Mayor Council Communications; Village Attorney Roget Bryan formally added Tab X to the agenda under resolutions to follow Tab 9; Councilman Mark Gregg added a discussion regarding Senate Bill 426; Mayor Pinder added a discussion about the proposed Walgreens property and a discussion regarding Council term limits; and Councilman Mark Gregg added an update regarding an FDOT virtual public meeting that he, Councilman Webb and Vice Mayor Bacheler attended.

CITIZENS' ADVISORY COMMITTEE UPDATES

Resignation and Appointment to the Historic Preservation Commission

Mayor Buddy Pinder announced Gary Bynum had resigned from the Historic Preservation Commission and thanked him for his participation. Mayor Pinder appointed Angel Borden to the fill the vacancy.

CONSENT AGENDA

TAB 1: Minutes for the December 17, 2020 and February 4, 2021 Regular Village Council Meeting

TAB 2: Resolution approving the Final Ranking and Recommendation of the RFQ 20-10 Evaluation Committee- Design and Engineering Services for Portable Emergency Generator Connection Panels at Islamorada Fire Stations #19, #20 and #21 and Replacement of an Existing Generator Fuel Tank at Fire Station #21

TAB 3: Resolution Approving the Final Ranking and Recommendation of the RFQ 20-11 Committee for Design and Engineering Services for Portable Emergency Generator Connection Panels and Flood Proofing at Six (6) Wastewater Lift Stations

TAB 4: Resolution Approving a New Turf and Landscape Maintenance Agreement with the Florida Department of Transportation

Vice Mayor Pete Bacheler moved to approve the consent agenda. Councilman Mark Gregg seconded the motion. Council voted all in favor; the motion passed 5-0.

QUASI-JUDICIAL

Village Attorney Roget Bryan provided the quasi-judicial procedures explaining that the meeting was being conducted using communications media technology and that anyone giving sworn testimony had to be sworn in by the Village Clerk, and that if a person were not sworn in their statement would be considered public comment. Village Clerk Kelly Toth swore in the witnesses.

TAB 5: Request for Home Occupation Permit for Casey Dooley

This item was heard at 6:55 p.m. Village Attorney Roget Bryan read the title of the resolution and asked Council to disclose ex parte communications. Mayor Buddy Pinder, Councilman David Webb, Councilman Mark Gregg and Councilman Henry Rosenthal each disclosed that they did not have ex parte communications. Vice Mayor Pete Bacheler disclosed that he had spoken with neighbor Dawn Miller and had listened to an audio tape.

Planner Megan Rumbaugh presented the staff report noting that the planning department had issued a notice of intent to approve the home occupational permit for a swim school with the following conditions:

1. Home Occupation is used for low intensity use. The permit shall allow up to two (2) children in a class at one time; no more than two (2) children in a class at one time will be permitted.
2. Class B buffer on each property line. Existing vegetation may apply.

She reported one neighbor objected to the issuance of the permit and requested the public hearing. Ms. Rumbaugh provided vehicle traffic information and suggested the Council may wish to impose an additional condition limiting the maximum number of classes per day, with a time frame on when the classes can be conducted. She stated staff recommended limiting classes from Monday through Friday, six classes per day with hours of operation from 9:00 a.m. to 4:00 p.m. She reported the objector expressed concern regarding the noise level of the classes and that staff was recommending installation of an eight-foot stone brick wall around the pool to buffer the sound. She stated additional conditions would need to be added to ensure the home application complied with the Village Code. Ms. Rumbaugh explained that the sound level was a primary complaint by the neighbor which the wall would help to alleviate.

Mayor Pinder invited applicant Casey Dooley to speak. Mr. Dooley explained that the Little Conch Swim School was an Infant Swimming Resources (ISR) class that his wife would teach; his wife had the necessary certifications and was also a registered nurse; that the class was a survival training class; the business had a one-million-dollar insurance policy; that there was a lot of interest in the course; that his wife had previously conducted one session; and commented that the yard was fully vegetated. Discussion ensued between Mayor Pinder and Mr. Dooley regarding the brick wall and sound barrier alternatives such as 12 ft. and 20 ft. industrial sound blankets. Councilman Webb asked Mr. Dooley if building the wall was a viable option for him. Mr. Dooley replied that it was. Councilman Webb asked if teaching the course at Founders Park would be an option if there was no

way to solve the issue with the neighbor. Mr. Dooley stated their preference would be teaching from their home. Councilman Rosenthal asked if the wall would be conducive to the neighborhood. Mr. Dooley stated it would not, elaborated regarding the existing vegetation and fence, and noted his preference to using sound blankets that could be taken down between sessions. Vice Mayor Bacheler stated he had listened to the neighbor's audio tapes of the sounds coming from the classes and expressed concern for the neighbor's right to quiet enjoyment of life. He stated that the sound boards were a great idea if they worked and spoke in favor of six classes a day, five days a week. Mr. Dooley stated the classes were 15-minute classes; that they would not be able to keep up with the demand if they only conducted six classes per day; that the classes were only offered four to six months out of the year; and that they offered the classes from 9 a.m. to about 11 a.m. and from 3:30 p.m. to 5:30 p.m. Vice Mayor Bacheler asked how many hours of the day would be noisy. Mr. Dooley responded two hours in the morning and two hours in the afternoon. Councilman Gregg inquired about a statement made by the neighbor regarding the classes continuing when there was thunder and lightning. Mr. Dooley explained that if there was a light rain, they held off but had cancelled classes when there was thunder or lightning. He noted the ISR guidelines and the ISR rules that addressed operating procedures for weather. Councilman Rosenthal asked if the wall would have to go around the entire pool. Mr. Dooley replied that it would only be one wall.

Councilman Webb expressed confusion as the neighbor's letter indicated several classes had occurred, yet Mr. Dooley had commented that they had only conducted one class before. Mr. Dooley clarified that they had conducted one eight-week session and that he applied for the home occupational permit after his wife became certified. Councilman Webb asked if there was a conditional home occupational license. Village Attorney Roget Bryan stated there was a mechanism to revoke the permit if the conditions of the permit were violated; explained that staff had applied two conditions to the permit during the review process; that the item was before them because it was opposed by the neighbor; and that the Council could require additional conditions be added to the permit. Planner Megan Rumbaugh restated the two conditions applied by staff. Vice Mayor Pete Bacheler asked if the sound boards could be substituted for the wall. Ms. Rumbaugh replied that it could be substituted.

Councilman Gregg commented that he was very sensitive to a neighbor that had a sound complaint and opined that the sound boards would address the issue. He read Code sections 30-1191 regarding businesses being allowed to operate from a home as long as the residential nature of the neighborhood was not disturbed by substantial traffic, parking or nuisance impacts; and 30-1193(6) regarding the home occupations not generating noise beyond what would normally occur in the applicable zoning district. Councilman Gregg recalled his experiences living in the applicant's neighborhood, noting specifically the many children that lived there. He commented about children gathering for pool parties and the resulting noise opining that such noise was characteristic of the neighborhood. He stated the nature of the business was lifesaving; that the stonewall was overkill; and expressed his support for requiring the use of sound boards. Councilman Rosenthal asked the applicant if he was in the sound board business. The applicant explained that he was a general contractor but had researched sound barrier alternatives; that the blankets seemed to be the most practical; explained how the sound blankets were used in construction projects; and noted that they were large and made for outdoor use.

Mayor Buddy Pinder made a motion to approve with conditions to include use of a sound barrier rather than a stone wall and to allow classes until 5:30 p.m. Councilman Mark Gregg seconded the motion. Council voted and the motion passed 5-0.

ORDINANCES

TAB 6: Second Reading: An Ordinance Amending Chapter 50, Article 5, "Motor Vehicles and Penalties" of the Village Code to Revise Civil Fines and Penalties for Illegal Parking on Streets and Right-of-Way within the Village

This item was heard at 7:28 p.m. Village Attorney Roget Bryan read the title of the ordinance, stated it was second reading and a public hearing. Mr. Bryan presented the staff report noting the changes he made, as directed, from first reading.

Mayor Pinder opened public comment; no comment was offered.

Councilman Rosenthal commented about the need for additional law enforcement for issuing citations and the associated additional costs. Councilmembers commented that the tickets would offset the costs of additional law enforcement. Councilman Rosenthal commented that the fine amount should be posted. Vice Mayor Bacheler stated the fine amount would be on the signs. The Village Attorney confirmed the sign amount would be included in the signage. He pointed out that page two of the council communication explained that the staff impact would be limited to the cross-training of existing Village staff to assist with administration of the parking enforcement activities which included the ability to issue parking citations. He stated staff had not identified a specific need for the Sheriff's Office to add additional personnel to deal specifically with parking enforcement.

Councilman Gregg noted that there was a distinction between parking on the US-1 rights-of-way versus in neighborhoods and that it was not the intention of the Council to ticket people that parked in the right-of-way near their homes. Vice Mayor Bacheler clarified that the issuance of citations only applied to those areas that had signage. The Village Attorney explained that the Council could identify and designate additional no parking areas throughout the Village including residential neighborhoods.

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 7: Resolution Approving an Agreement with Attention Media, LLC for Services to Develop and Implement a Social Media Outreach Program and Other Related Services

This item was heard at 7:35 p.m. Village Attorney Roget Bryan read the title of the resolution. Acting Village Manager Maria Bassett presented the staff report noting that the term of the agreement would be four months with a not-to-exceed amount of \$24,000 and the Village would pay Attention Media, LLC \$6,000 a month for four months. She explained that based on the contract amount a waiver of competitive bidding was not required because it fell within the Village Manager's authority. She noted that it was before the Council for approval because it was a Council initiative.

Councilman Mark Gregg commented about section 3.3 of the contract noting it did not mention pandemic or insurrection and deferred to the Village Attorney to do what was best. He suggested with regard to the scope of work that perhaps the work product should have a host such as the Village's Public Information Officer; that the agreement should include a metric for measuring effectiveness; and that the subject matter should not be limited to Council and should be opened up to all staff and perhaps a Village contractor / vendor. He suggested that if the project were to be extended or expanded the Council may want to consider competitive bidding.

Vice Mayor Pete Bacheler asked Councilman Gregg if the item met the requirements of competitive bidding when the item was first presented. Councilman Gregg replied that it did because it was over the purchasing threshold. Vice Mayor Bacheler noted that now, all of a sudden, it was under the threshold and no longer required competitive bidding. Council discussion ensued regarding the contract duration changing from the first time it was presented; the cost changing because it was "front-end loaded" requiring more work and equipment; and that Councilman Rosenthal had not used the services of Attention Media. Councilman Rosenthal expressed concern that the cost increased from \$5,000 a month to \$6,000 a month and asked what the Village was receiving for the extra \$1,000. He stated he would be comfortable with \$5,000 a month for a four-month period. Mayor Pinder commented that the Freebee agreement that was passed by the previous Council was passed without a competitive bid; that he was comfortable with a one-year contract; and that a minimum of four months was needed. Acting Village Manager Maria Bassett opined that Mr. Garcia thought that four months was enough time to attain the results Council hoped for; that the Village's Public Information Officer could monitor the Village's social media account and webcast for views; that contractually Mr. Garcia was required to provide a report to Council so the Council could decide whether to continue with the effort; and that a social media outreach program was considered by staff in the past but that the Village Manager did not support the idea. Councilman Webb stated he was floored by the pushback from some citizens regarding their attempt to address better transparency; and commented that the Council would be able to determine whether the project was effective. Councilman Gregg noted it was a pilot project. Councilman Rosenthal stated that he supported the project but that it was not clear what \$5,000 a month bought or what the extra \$1,000 a month was for. Councilman Gregg noted the original proposal was for \$60,000 and the proposal before Council was for \$24,000 and that he understood Mr. Garcia had to invest in equipment and certain upfront expenses which had previously been spread over a longer period of time in the original proposal. Vice Mayor Bacheler clarified that he supported the project but that his concern was the methodology used to get to the current item; and commented that he wanted the public to see what the Council was doing and what staff jobs entailed.

Mayor Pinder opened public comment.

Titus Rennie wanted to discuss the farmer's markets. Village Clerk Kelly Toth advised the speaker that the farmer's market discussion would occur later in the evening.

Nick Mulick commented that the most maligned individuals in government were staff and expressed his support for including staff in the social media project and expressed his support to the Council for their decision to enhance communication through the social media project.

Larry Barr opined that it was outrageous for the Council to promote themselves with taxpayer money but would support the project to highlight staff. He commented that someone running

against a Councilmember in the next election would be at a disadvantage; and opined that people that were uniformed needed to watch the Council meetings.

Mayor Pinder closed public comment.

Village Attorney Roget Bryan stated section 3.3 of the agreement provided for riots and noted pandemic was not covered due to the timing of the contract occurring during a pandemic which would trigger force majeure; and that specificity was not provided in the scope of work as it would be a bit fluid. Acting Village Manager Maria Bassett clarified that the cost increased because the contractor would not receive certain discounts for systems and applications that he would be using.

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

At 8:05 p.m. Council took at brief recess.

TAB 8: Approval of the Residential Building Permit Allocation System Ranking and Awards Quarter 1 of 2021 for Affordable Housing

This item was heard at 8:12 p.m. Village Attorney Roget Bryan read the title of the resolution. Vice Mayor Pete Bacheler abstained from the vote because the recipient of the BPAS allocations was one of his former clients and noted that he had filed the necessary paperwork with the Village Clerk. Planner Megan Rumbaugh presented the staff report recommending approval.

Mayor Pinder opened public comment; no comment was offered.

Councilman Mark Gregg made a motion to approve. Mayor Buddy Pinder seconded the motion. Council voted and the motion passed 4-0.

TAB 9: Resolution Approving an Operating Agreement with Florida Bay Forever Save Our Waters for the Green Turtle Hammock Preserve

This item was heard at 8:17 p.m. Village Attorney Roget Bryan read the title of the resolution. Councilman Mark Gregg abstained from voting because he is a board member of Florida Bay Forever. He explained that he researched abstaining from the item based on the circumstances; that he sought and received a legal opinion from the State of Florida Commission on Ethics; and that he was abstaining because of the appearance that there could be a conflict. He stated the Memorandum of Voting Conflict and associated documentation would be filed with the Village Clerk.

Environmental Resources Manager Peter Frezza presented the staff report providing background information regarding the acquisition of the property, selection of Florida Bay Forever Save Our Waters (FBFSOW) through the RFQ process, and the Management Plan requirements. He reported a multi-faceted environmental educational program was a provision of the Management Plan and that buildings on the property were to be altered to provide a staffed environmental education/nature center that would provide year-round education programming as well as office space and meeting space for lectures and presentations for environmental and cultural education programs. He reported that the permitted uses were outlined in the Operating Agreement; the Village would retain ownership of all aspects of the property; the Village would retain use of all facilities on the property excluding the Russel Cottage which would be restricted for use by

FBFSOW; the Village would not charge a fee/rent for the use of the property; the non-profit would be responsible for utilities associated with the Russel Cottage; FBFSOW would be responsible for a few upgrades to the Russel Cottage and a few nature trails located on the property; and that the agreement had a five-year term and included term extensions. Mr. Frezza stated the operating agreement would not affect use of the property and that the property would remain open to the public during normal operating hours and recommended approval of the agreement.

Councilman Webb asked if there were safeguards in the agreement to ensure compliance with the terms. Mr. Frezza stated that there were safeguards and that the agreement differed from the past agreement as the Village would retain extensive oversight and would continue to maintain the grounds.

Mayor Pinder opened public comment.

Emma Haydocy, Executive Director of Florida Bay Forever Save Our Waters, expressed her gratitude to the Council and staff. She noted the mission of FBFSOW and stated that they looked forward to developing the site into a base for environmental education and stewardship within Islamorada.

Mayor Pinder closed public comment.

Mayor Pinder made a motion to approve. Councilman David Webb made a motion to approve. Council voted and the motion passed 4-0.

TAB X : Approval of Interlocal Agreement between the Village and Key Largo Wastewater Treatment District for Equipment Sharing

This item was heard at 8:30 p.m. Village Attorney Roget Bryan read the title of the resolution and presented the staff report recommending approval.

Mayor Pinder opened public comment.

Nicholas Mulick, representing the Key Largo Wastewater Treatment District, stated the board had considered the agreement and if approved by Council he would present the item to the KLWTD board for approval at the next meeting.

Mayor Pinder closed public comment.

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

MAYOR / COUNCIL COMMUNICATIONS

The following discussion items were added to the agenda.

Discussion Regarding Farmer's Markets

This item was heard at 8:33 p.m. Councilman Henry Rosenthal commented that regarding the operation of Farmer's/Flea Markets in Islamorada that he felt it was important that the vendors have an opportunity to be heard; and that review by Council was in order before shutting down the markets. Councilman Webb reminded the Council and public that the Village had made the decision to extend the prohibition on events and temporary use permits until June 1, 2021; and stated that everyone needed to be treated equally and that if permits were needed to conduct the business then the Village needed to make sure that happened. Councilman Gregg expressed agreement with

Councilman Webb; commented that the Code allowed farmer's markets but did not allow other things; suggested the topic be a tabbed item on a future agenda to allow for proper public notice of the topic; and noted that the Village needed to keep the situation under control until the pandemic was over and the Village resumes normal operations. He stated that he understood the farmer's market was allowed under certain conditions that those conditions were not met and that if the conditions were met, they would be able to operate. Vice Mayor Bacheler commented that they needed to fit the requirements of a farmer's market and if they could not then they needed to wait. He commented that the Village had explained to many other groups who had all acquiesced and that the farmer's market needed to do the same thing.

Councilman Webb stated that if someone wanted to hold an event on their property for something different than what the property was licensed for then they had to meet certain conditions. He stated he supported the postponement of the markets last weekend to allow Council time to gain a better understanding of the issue. He commented that he was not in favor of allowing the markets to continue, suggesting they should be postponed like other events were postponed; and that if they wanted to continue in the future, they would need to provide the same criteria such as law enforcement to control parking. Councilman Webb stated he was not in favor of allowing the events to continue until the Council could meet again. Councilman Gregg expressed agreement but noted the Code allowed a minimal amount of activity. He stated he recently attended the event and that it was more arts and crafts rather than farmer's market; and that he was not in favor of suspending enforcement. Councilman Rosenthal noted that there were three properties that conducted farmer's markets. Mayor Buddy Pinder suggested staff develop a definition; commented that the property owner's holding the markets needed to work with staff regarding the requirements; and agreed with Councilman Gregg regarding placing the item on a future agenda. Councilman Webb stated he was not comfortable with the Council sanctioning individual events when they had cancelled events for other people and that there was plenty of time between now and June 1st to iron out the details. Councilman Gregg expressed agreement ; noted the concerns expressed earlier by Mr. Eadie; suggested the LPA discuss the item; and suggested a workshop to address the issue. Mayor Pinder noted that Art Walk did not occur.

Mayor Pinder opened public comment.

Michael Anzalone commented regarding some of his Galleria tenants complaining last December because the farmer's market attendees were using their parking lot. He called the Village Manager and was told the market did not require a special events permit that it was an approved use. He stated Captain Corey Bryan informed him that he would have to control the parking by monitoring it himself. Mr. Anzalone explained that he eventually put up a few tents in his parking lot and found it to be very rewarding. He commented regarding other markets in the Keys; vendors travelling in a circuit; and that they had remedied the parking issues that caused the complaints.

Jae Jans, Manager with the Florida Keys Farmer's Market, commented that it would be premature for the Council to vote on shutting the markets down; they had been conducting the market for four years; that they count on being able to use their property for permitted uses; that there was a distinction between an event and a permitted use; Village Code section 30-696 subsection (b) defined farmer's markets and other types of business; opined that it set a dangerous precedent if the Village shutdown one of the categories of business because it gave leeway to shut down any business putting property owners in a dangerous situation if they had a permitted use of their

property; and requested the Council consider farmer's markets as an outdoor venue similar to a Publix where various items were sold. He noted the adverse impact of not being able to use the property for its permitted use; asked the Council to reconsider shutting down the markets; noted they had a petition with over 1,200 signatures, from primarily the Florida Keys, that supported keeping the markets open; and suggested the Council adopt the Florida Department of Agriculture and Consumer Services' definition of a community farmer's market.

Ingrid Mejia, farmer's market vendor and consumer, commented regarding her purchases from the vendors; that the market was a farmer's market not an Art Walk; allowed people to do something outdoors that was safe; and that cancelling the markets would be a mistake for those people that were trying to make a living.

Kelly Perez, Key Largo resident, stated the farmer's market was essential to the economy and was not a flea market; noted the agricultural and homemade goods that were sold; commented that the outside market was referred to as unsafe yet everyone wore their masks; opined that there were many bars and restaurants that did not require people to wear masks noting that large groups of people congregated together while inside these establishments; and opined that the outdoor markets were much safer.

Mayor Pinder closed public comment.

Discussion Regarding Senate Bill 426-Gregg

This item was heard at 8:59 p.m. Councilman Mark Gregg commented about preemption efforts in the Florida Legislature; noted Senate Bill 426 had to do with ports and was a direct response to the vote in Key West to restrict the size of cruise ships in the seaports of Key West; noted the harmful impacts on sea coral; the City of Key West unanimously passed a resolution opposing the bill; and requested Islamorada adopt a resolution that formally opposed SB 426. Vice Mayor Bacheler requested that preemption be explained to the public. Village Attorney Roget Bryan provided the explanation. He stated Senate Bill 426 sought to gain control over local seaports noting all of the major seaports were currently controlled by local governments. Councilman Webb commented that the City of Key West overwhelmingly supported more than one referendum addressing the issue. He commented that the opposition came from the cruise line industry; their influence in Tallahassee was growing; home rule of vacation rental was being plummeted by VRBO and Airbnb who had huge financial gains from having unregulated access to homes in Florida; and expressed his support. Vice Mayor Bacheler commented regarding Islamorada's ability to regulate itself under home rule and expressed opposition regarding the State removing any of those abilities. Councilman Rosenthal expressed his concern regarding not having heard from the Village's lobbyists; and suggested the lobbyists report to Council on a weekly or biweekly basis. Councilman Gregg commented that they had been in touch with the Village's lobbyist liaison, the Village Attorney, who was very informed on the matter. Councilman Gregg noted that there were so many bills that it was difficult to keep up with all of them. Councilman Rosenthal stated he would like to hear from the lobbyists directly. Village Attorney Roget Bryan commented that we received frequent reports from the State and Federal lobbyists during this time of the year; we received weekend reports during the legislative session, often biweekly reports as the legislation moved; noted the lobbyists were all actively engaged in the process; as of last week, there were approximately 1,600 pieces of legislation filed of which about 600 were appropriation/budget requests; and noted some bills had very significant impacts on municipalities. He explained that he compiled the information during the

legislative session and provided legislative reports to the Council and that if the Council desired to receive the reports that came in daily and weekly, he would provide them. Mr. Bryan explained that he was a member of the Florida League of Cities Advocacy Advisory Group as well as a couple of policy committees. He explained that this was an active effort amongst the municipalities in Florida on issues that involved State preemption. He stated that if the Council wanted to have direct conversations with the lobbyists regarding specific issues it could be arranged. He stated that the lobbyists were constantly engaged in providing the Village with updates and reports throughout the process.

Village Attorney Roget Bryan confirmed that there was a motion to bring forward a resolution at the next Council meeting supporting Key West's position regarding cruise ships regarding local control and opposing the State preemption that was being proposed through HB 267 and SB 426.

Councilman Webb referenced the 1,600 pieces of legislation and commented that much of the legislation was in committee and would never make it out of committee; that he understood that one of the key issues in engaging lobbyists was for the lobbyists to monitor the bills to avoid the Village wasting resources on an item that would not make it out of committee; that if a bill was moving and gaining momentum, then the Village Attorney would bring it to Council's attention. The Village Attorney confirmed Councilman Webb's characterization. He stated some of the goals of the lobbyists and the Florida League of Cities was to make sure that some of the legislation, that was damaging to municipalities, never made it out of committee. Mr. Bryan noted the presession report that he provided to Council and stated the Council would be receiving a legislative report in the next few days regarding some of the bills that had made it through to some part of the committee process; and noted that he has been engaged in the Florida League of Cities defender of home rule advocacy and recognized for his efforts. He stated one of the issues that was worked on actively every session was vacation rentals and making sure the Village's grandfathered vacation rental ordinance, which was well protected in Statute, stayed protected.

Mayor Pinder opened public comment; no comment was offered.

Councilman David Webb moved to support via a resolution the City of Key West's position regarding cruise ships and opposing HB 267 and SB 426. Councilman Mark Gregg seconded the motion. Council voted and the motion passed 5-0.

Discussion Regarding the Walgreens Building-Pinder

This item was heard at 9:14 p.m. Mayor Pinder commented that he had visited the Walgreens site on Upper Matecumbe, formerly Island Silver & Spice, and noted the disrepair. He asked if the Village could encourage the owners to donate the property to the Village and whether a tax credit could be offered. Village Attorney Roget Bryan stated the site had a pending development application; staff could inquire about their short-term plans and if there was an opportunity for a public/private partnership; and that he did not think the Village had the ability to offer a tax incentive noting the Village did not have a Community Redevelopment Agency.

Councilman David Webb noted the building was dilapidated, a nuisance and a fire hazard and suggested the Village take steps to see if it needed to be condemned. Vice Mayor Bacheler suggested the Village should try to acquire the parcel for a municipal parking lot. Councilman Gregg reported the property had been cited for Code Violations; the Planning Director was engaged with the property owner's attorneys and they were working in the right direction; the building could

not be repaired to bring it up to Code without unreasonable expense; and that his understanding was that owners had invested more than it was worth. Councilman Webb opined that they could get a federal tax credit if they wanted to donate the property. Mayor Pinder noted that they were cleaning the property that morning.

Mayor Pinder opened public comment; no comment was offered.

Discussion Regarding Council Term Limits

This item was heard at 9:20 p.m. Mayor Pinder stated the Council could discuss term limits or postpone the conversation to the next meeting. Councilman Webb commented that the previous Council had a referendum to extend and stagger the terms; opined that the previous Council should have publicized longer the need for staggered terms; suggested the item be placed on the November 2021 ballots; noted that if a referendum passed it would not be retroactive and the current Council would be up for election in November 2022; and suggested the conversation not be just about longer terms, but should include the entirety of the Council election, and how they could add stability to the process. Councilman Gregg noted that the consultant hired to conduct the Village Manager search had commented that the short Council terms led to instability which was related to the turnover of the Village Manager. He stated that he served on one of the early Village Councils for a four-year term which he thought worked out great and explained how the staggered terms worked. Councilman Rosenthal stated that the City of Marathon could serve two three-year terms. Council discussion ensued regarding the Village's existing documentation on the issue, a future discussion and possibly a workshop.

Mayor Pinder opened public comment.

Larry Barr expressed his support for staggered terms.

Mayor Pinder closed public comment.

Update Regarding Recent FDOT Public Meeting- Gregg

This item was heard at 9:26 p.m. Councilman Mark Gregg reported that he, Councilman Webb and Vice Mayor Bacheler attended an FDOT public meeting via Zoom that addressed FDOT's upcoming road raising project on Lower Matecumbe Key. He expressed concern regarding the impacts that would be associated with the raised road such as drainage and the sea turtle nesting areas; noted that the project involved concrete brick placement and did not include sand replenishment; that he was informed by FDOT that they were responsible for the roads and that Islamorada usually installed mesh barriers to prevent the turtles from going onto the highway; and was directed to contact the U.S. Army Corps of Engineers (ACOE) who had an upcoming restoration project in the area. He asked for Council agreement to direct Environmental Resources Manager Peter Frezza to update the Council regarding ACOE's intentions for the area. Councilman Webb suggested obtaining advice from Mr. Frezza about what could happen and what effects a letter from Council would have to encourage their efforts. Village Attorney Roget Bryan commented that the history and methodologies of the projects began back in 2016. Councilman Gregg stated he would like to see ACOE's plans. Mayor Pinder asked Mr. Frezza for a quick update and a longer report to follow in the future. Mr. Frezza stated the ACOE wanted to give a presentation to Council about a shoreline restoration project, possibly in the Keys; ACOE presented last June and wanted to give an update; the potential ACOE project for Sea Oats Beach was cancelled due to the current FDOT project because they felt the FDOT was addressing the issues that they were going to address at Sea Oats; the current ACOE project on Lower Matecumbe Key would not include Sea Oats Beach because of

FDOT's involvement; and that he and the Public Works Director offered comments during the design phase of the FDOT project to include protections for the Sea Turtles and FDOT did not include them in the plans. Public Works Director A.J. Engelmeyer reported that he had recently conducted review of the 90% plans for the road raising project; that he had advocated for a permanent sea turtle barrier but that communications between FDOT's environmental department and FWC determined the barrier was not necessary; and that he recently expressed great concern to FDOT which opened up communications to allow for a discussion in the coming weeks about a more permanent solution and how to implement the barrier into the 100% plans.

Councilman David Webb expressed concerns with the project regarding stormwater mitigation opining that FDOT was not doing enough to address stormwater; that FDOT deflected the responsibility for stormwater mitigation that was in an area owned by Islamorada; sheet drainage from US-1 would be three times as bad once the road was raised causing water to runoff into residential properties; and suggested the Village could partner with FDOT on stormwater mitigation in some areas. Mayor Pinder opened public comment; no comment was offered.

VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

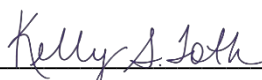
TAB 10: Update on Food Truck Pilot Program and State Preemption

This item was heard at 9:42 p.m. Planning Director Ty Harris reported that there were five trucks in the pilot program and that two applications were pending; opined that the recent State preemption did not impact the bulk of program as far as zoning control, but that it did prohibit banning food trucks; noted that the program was working well; and suggested possibly codifying the program through adoption of an ordinance due to the State's preemption efforts. He reported the program had been in place for about six months and that it was a two-year program. Councilman Webb confirmed with the Planning Director that when the trucks were not in service, they could be parked at the owner's home in a residential area and advocated for review of this should the program move forward into an ordinance. Vice Mayor Bacheler asked for the locations of the food trucks. Mr. Harris reported that the operation locations were at 8229, 85920 and 81219 Overseas Highway and 81611 Old Highway. Mayor Pinder opened public comment; no comment was offered.

ADJOURNMENT

Vice Mayor Pete Bacheler made a motion to adjourn. Mayor Buddy Pinder seconded the motion. The meeting adjourned at 9:48 p.m.

Approved by Council March 18, 2021.



Kelly S. Toth/CMC
Village Clerk