

**Summary Minutes of the
ISLAMORADA, VILLAGE OF ISLANDS
(HYBRID) SPECIAL CALL VILLAGE COUNCIL MEETING**

Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036
Thursday, December 2, 2021
5:30 PM

CALL TO ORDER / ROLL CALL

Mayor Pinder called the meeting to order at 5:36 p.m. Deputy Village Clerk Stephanie Conde 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. Also in attendance were Village Clerk Kelly Toth, Village Attorney Roget Bryan, Village Manager Greg Oravec, Assistant Planning Director Hank Flores and Environmental Planner Daniel Parobok and other pertinent staff.

PLEDGE OF ALLEGIANCE AND INVOCATION

Don Horton led the Pledge of Allegiance. Mayor Buddy Pinder provided the moment of silence.

PUBLIC COMMENT

Mayor Pinder opened public comment. Van Cadenhead spoke in favor of democracy, civility in tonight's discussion, and election integrity. Susan Raffanella expressed appreciation for events returning to Founders Park, and Council reexamining the Jennings Rule regarding FLUM items. Angel Borden spoke on behalf of Conchs United Group, expressing displeasure for the recent Beach Road Trip (BRT) Event that disrupted traffic, and how Village Manager Greg Oravec managed the situation. Sue Miller spoke in favor of Manager Greg Oravec and the job he has been doing. Mr. Oravec inquired as to whether a policy existed that shielded staff from personal attacks and misinformation. Mayor Pinder stated that he was unaware the BRT event was occurring, that he fielded numerous phone calls regarding the event, and would like to discuss it at a future Council meeting. Ed Davidson spoke regarding FL Keys becoming an area of Critical State Concern, the importance of conservation, and how mistreatment of staff should be discouraged. Cheryl Meads commended Council and staff on the ability to adapt to change. Joan Schultz spoke regarding responsiveness and Local Planning Agency (LPA) involvement by Mr. Oravec since his arrival.

ORDINANCES

TAB 1: Second Reading: Ordinance Requesting a Future Land Use Amendment by Petition of Andreas Hopman for Property Located to the Southeast of 81197 Overseas Highway on Upper Matecumbe Key with RE #00404690-000100 (File No.: PLMA20210097)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF ANDREAS HOPMAN TO AMEND THE VILLAGE'S FUTURE LAND USE MAP FROM RESIDENTIAL MEDIUM (RM) TO MIXED USE (MU) FOR PROPERTY WITH REAL ESTATE

NUMBER 00404690-000200, 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

This item was heard at 6:01 p.m. Village Attorney Roget Bryan read the title of the ordinance. Assistant Planning Director Hank Flores presented the staff report noting the ordinance was approved on first reading and recommended approval. Mayor Pinder invited the applicant, Andreas Hopman, to speak. Mr. Hopman stated the State, Local Planning Agency (LPA), and Council all agreed on the amendment. Vice Mayor Peter Bacheler inquired if lot paving was part of his plan. Mr. Hopman commented that he planned to submit a Site Plan and that he preferred gravel but would consider pavers if he had to.

Mayor Pinder opened public comment, no comment was offered.

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

TAB 2: First Reading: Petition of Michael Murphy, for a Future Land Use Map Amendment for Property Located at the East Corner of the Intersection of Overseas Highway and Coral Way on Plantation Key with RE#'s: 00415850-000000 and 00415860-000000 (File No.: PLMA20200118)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF MICHAEL MURPHY, TO AMEND THE FUTURE LAND USE MAP FROM RESIDENTIAL CONSERVATION (RC) TO MIXED USE (MU) FOR PROPERTY LOCATED AT THE EAST CORNER OF THE INTERSECTION OF OVERSEAS HIGHWAY AND CORAL WAY, AT APPROXIMATELY MILE MARKER 88.7, WITH REAL ESTATE NUMBERS 00415850-000000 AND 00415860-000000,, 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

This item was heard at 6:05 p.m. Village Attorney Roget Bryan read the title of the ordinance. Rebecca Jetton presented the staff report recommending denial.

Mayor Pinder invited the applicant's representative Bart Smith to address the Council. Mr. Smith started his slide presentation regarding principles for guiding development and weighting the need for affordable housing. He described two similar cases where the need for affordable housing outweighed other principles of the Comprehensive Plan policies which were the U.S. Navy versus Rockland Operations where the court found a desperate need for affordable housing allowing 208 units and Bosworth versus Islamorada where the court agreed affordable housing was the most pressing need in the county.

Mr. Smith referenced the needs analysis showing 1,192 units of affordable housing were needed in Monroe County, then called the applicant Mike Murphy to podium. Mr. Murphy referred to three aerial photos that identified the location of his two parcels (total 24,000 sq. feet) and the adjacent properties; that he was requesting a change of zoning to Mixed-Use to develop 994 square feet of non-residential

office space and 2 deed-restricted affordable units on second floor. Mr. Smith stated the tropical hardwood hammock on the two parcels was low quality under Village Code and noted that at the June LPA meeting, staff had recommended approval and at the November LPA Meeting staff recommended denial.

Mr. Smith called upon Biologist Travis Ferguson of Keys BioSurveys, to explain his 'low quality hammock' determination. Mr. Ferguson explained that he found the parcels to be typical habitat of hammock properties regarding patch size, invasive species presence, connectivity to other habitat types, and cited his use of the Village's 2015 Habitat Map and aerial images for his determination of the delineation and patch size. Councilman David Webb inquired about Mr. Ferguson's qualifications. Mr. Ferguson stated that he has a Bachelor's in Science, works as a private biologist and previously worked for the Florida Department of Environmental Protection doing wetland permitting. Mr. Ferguson stated the lack of connectivity between habitat types was an indicator of reduced hammock quality. Councilman David Webb asked Mr. Ferguson if he would support cutting down a Mahogany Tree. Mr. Ferguson acknowledged the need for conservation, but that he supported increasing the availability of affordable housing and tree mitigation processes and noted he was in need of affordable housing.

Councilman Henry Rosenthal inquired as to Mr. Ferguson's claim to be an unbiased third-party opinion but questioned the sticker he was wearing. Mr. Ferguson stated he reported on the facts of the parcels and represented them in a manner that could be understood by those reading the report. Vice Mayor Peter Bacheler asked what the sticker said, Mr. Ferguson answered 'yes for project.' Councilman Mark Gregg acknowledged that he had worked with Mr. Ferguson when he worked for FDEP. Councilman Gregg asked about his hammock patch size determination and if he had used the Habitat Evaluation Index (HEI) handbook referenced in Village Code, which indicates roads should not constitute a hammock boundary, meaning this patch was closer to twenty-five acres and should be classified as 'high quality' if over five acres. Mr. Ferguson cited the patch size hammock boundary dispute defined by break in habitat. Mr. Smith reminded Council that they were not there to decide on the quality of hammock but were to decide on the consistency with Comprehensive Plan and the principles for guiding development. Councilman Gregg pointed out that if the FLUM amendment was approved, the percentage of clearing allowed would not be enough for the building, parking, and setback requirements, making the hammock quality topic relevant.

Mr. Smith pointed out that the Swallowtail Butterfly range was not within this parcel, the Florida Tree Snail was no longer a protected species, nor was it not found there. Mr. Smith referenced the 2006 Ordinance 06-23 which approved a FLUM amendment from Residential Conservation to Mixed Use for the Miklas Property just north of Murphy parcels. The following year the 2007 Ordinance 07-06 was passed to change to Miklas property to Highway Commercial.

Councilman Mark Gregg appreciated the Council consistency argument by Mr. Smith but pointed out the Miklas property had an existing building and that no new clearing or impacts were proposed. Councilman Gregg went on to reference a recent council decision about a nearby project that requested a change from Residential to Commercial, that was denied. Councilman Gregg commented about the adjacent Mahoney property that went through a similar rezoning process with Monroe County that continued with the Village and had a large conservation easement.

A recess was requested at 7:25 p.m.; the meeting reconvened at 7:47 p.m.

Mayor Pinder opened public comment at 7:48 p.m.

Bart Smith asked the audience members who were in favor of the Murphy Project to stand.

Sue Miller expressed concern about abandoning the Village's preservation processes, which were developed upon incorporation, by returning to Monroe County map designations.

Ed Davidson spoke on behalf of the Islamorada Community Alliance, speaking in favor of protecting hardwood hammock and threatened species habitat from overdevelopment; expressed concerned with an up zoning the property and what the applicant could do if the zoning change were granted and the chain reaction that could follow.

Angel Borden read a statement from Rich Russell, a Local Planning Agency (LPA) member, that referenced his internal conflict in deciding how to vote on the Murphy item at the November LPA meeting; that had staff not altered the allowable building space from 50% to 10% he was poised to support the request with a caveat that development be restricted to the described office space and affordable housing. Mr. Russell's statement expressed his support for affordable housing needs; noted he was actively engaged in conservation while being highly empathetic to the property rights of citizens; and noted that barring any environmental factor yet to be revealed he supported the creation of affordable housing units and office spaces in proximity to the new Monroe County government center.

Ms. Borden read a statement on behalf of Henry Pinder. Mr. Pinder stated that from 1973 to 1986 the Murphy property was zoned BU2; that in 1988 it was rezoned to Suburban Residential; in 1997 was rezoned to Residential Low; that the same thing happened to his property at Mile Marker 90 and the Miklas property to the north of the Murphy property noting both properties were returned to commercial zoning; and suggested the current zoning of the Murphy property was a mistake.

Ms. Borden commented that she had heard the Village Manager had tried to help the situation by suggesting Mr. Murphy utilize one of two Village owned properties for development, both of which had hardwood hammock and opined that the suggestions should come from Council. She noted numerous businesses along the US-1 Highway including the adjacent commercial property owned by Ms. Mahoney; opined that the Old Road was not a secondary road but a major road; referenced a 2006 letter written by Joe Miklas regarding the Monroe County commercial zoning of his property noting the Village's rezoning of the parcel was inconsistent with its use since 1982; she suggested the commercial zoning should also apply to the Murphy property; and noted the need for affordable housing.

Cheryl Meads stated that the Miklas property did not set the precedent because it was nonconforming; noted the parking and pedestrian issues on the Old Highway; suggested that upzoning the parcel would set the precedent; and noted the taxable value increase with upzoned property.

Susan Raffanello, representing the Worland Group, stated the LPA denied this twice as the lots contained large patches of high-quality hammock; and the adjacent lot redesignations were due to the presence of existing structures.

John Timura opined that the project supporters were the minority among members of the community and that most trust Council to make decisions that protect our environment.

Van Cadenhead expressed neutrality in the matter and suggested finding a project compromise that was beneficial to both parties to avoid court.

Laura Gasser opined that the denial by the Local Planning Agency was due to lacking a biological study showing low-quality hammock.

John Kocol expressed opposition to zoning changes.

Don Horton expressed support for a site-specific amendment that would bind the development to affordable housing units and tree mitigation.

Mayor Pinder closed public comment at 8:31 p.m.

Councilman David Webb commented that he did not want FLUM changes happening that encouraged removing high-quality hammock and destroying scarce natural resources for development. Councilman Mark Gregg reminded speakers to avoid personal attacks while exercising free speech, suggesting that we were a family community that discusses facts to get desired outcomes. Councilman Gregg agreed that affordable housing was necessary but that it should not destroy hammock. Vice Mayor Pete Bacheler acknowledged the need for affordable housing but did not support the application as it was written. Councilman Henry Rosenthal thanked the audience members that showed up to support the applicant but noted that with the data provided he could not vote in favor of the project.

Michael Murphy spoke regarding verbal pre-approval he received from staff for development of a potential office with affordable housing on the property prior to his purchase of the property; as well as his independent biologist and staff biologist agreeing on the biological conditions on the parcels.

Village Manager Gregory Oravec spoke regarding the original staff report having missed some sides of the story; that Village staff did not possess Council's power to approve land use changes; and that he strives to provide consistency with staff recommendations based on the facts. Village Attorney Roget Bryan clarified the procedural record regarding site-specific amendments noting that that was not the application before the Council to decide upon; and noted that affordable housing was not the only component of the application.

At 9:04 p.m. Mayor Pinder requested a brief recess; the meeting reconvened at 9:17 p.m. Attorney Roget Bryan stated Mayor Pinder had filed the paperwork with the Clerk to abstain from voting.

Councilman David Webb made a motion to deny. Vice Mayor Pete Bacheler seconded the motion to deny. Council voted and motion to deny was passed 4-0 with Mayor Pinder abstaining.

Bart Smith, Attorney for the applicant, requested to withdraw companion zoning item at Tab 4, reserving rights for appeal.

Council agreed to move Tab 4 before Tab 3.

QUASI-JUDICIAL

Village Attorney Roget Bryan read the title of resolution and quasi-judicial statement. Deputy Clerk Stephanie Conde swore in the witnesses.

TAB 3: Second Reading: Ordinance Requesting a Zoning Map Amendment by Petition of Andreas Hopman for Property Located to the Southeast of 81197 Overseas Highway on Upper Matecumbe Key with RE #00404690-000100 (File No.: PLMA20210097)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF ANDREAS HOPMAN, TO AMEND THE VILLAGE'S ZONING MAP FROM SETTLERS RESIDENTIAL (SR) TO HIGHWAY COMMERCIAL (HC) FOR PROPERTY WITH REAL ESTATE NUMBER 00404690-000200, 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

This item was heard at 9:22 p.m. Village Attorney Roget Bryan read the title of the resolution and asked Council to disclose ex parte communications. Each Councilmember disclosed that they had not had any ex parte communications. Assistant Planning Director Hank Flores provided the staff report noting the request met the Village's criteria and recommended approval.

Mayor Buddy Pinder invited the applicant to speak: no comment was offered. Mayor Pinder opened public comment; no comment was offered.

Vice Mayor Pete Bacheler made a motion to approve; Councilman David Webb seconded the motion. Council voted and motion passed 5-0. At 9:25 p.m. quasi-judicial portion was closed.

TAB 4: First Reading: Ordinance Requesting an Official Zoning Map Amendment by Petition of Michael Murphy for Property Located at the East Corner of the Intersection of Overseas Highway and Coral Way on Plantation Key with RE#'s: 00415850-000000 and 00415860-000000. (File No.: PLMA20200118)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF MICHAEL MURPHY, TO AMEND THE OFFICIAL ZONING MAP FROM NATIVE RESIDENTIAL (NR) ZONING DISTRICT TO HIGHWAY COMMERCIAL (HC) ZONING DISTRICT FOR PROPERTY LOCATED AT THE EAST CORNER OF THE INTERSECTION OF OVERSEAS HIGHWAY AND CORAL WAY, AT APPROXIMATELY MILE MARKER 88.7, WITH REAL ESTATE NUMBERS 00415850-000000 AND 00415860-000000, 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

This item was heard at 9:20 p.m. Village Attorney Roget Bryan read the title. Bart Smith, Attorney for the applicant, requested to withdraw the item reserving the right to bring the item back if the corresponding FLUM decision was overturned.

Councilman David Webb made a motion to approve the withdrawal of Tab 4; Vice Mayor Pete Bacheler seconded the motion. Council voted and the motion passed 5-0.

MAYOR / COUNCIL COMMUNICATIONS

At 9:25 p.m. Councilman David Webb requested staff create public comment guidelines to deter inappropriate comments and personal attacks. Councilman Rosenthal agreed. Vice Mayor Peter Bacheler added he would like to discuss enforcement when it does occur. Councilman Mark Gregg wanted the pledge of civility to return to the podium. Councilman Rosenthal inquired on timing of committee appointments, and it was suggested that they could occur at next regular council meeting.

ADJOURNMENT

Councilman David Webb made a motion to adjourn. Vice Mayor Pete Bacheler seconded the motion. The meeting adjourned at 9:29 p.m.

Approved by Council December 16, 2021.



Stephanie Conde
Deputy Village Clerk