

**Summary Minutes of the:**  
**ISLAMORADA, VILLAGE OF ISLANDS**  
**VIRTUAL SPECIAL CALL VILLAGE COUNCIL MEETING**

Islamorada, FL  
Wednesday, August 12, 2020  
5:30 PM

Pursuant to Executive Order No. 20-69 and the Centers for Disease Control (CDC) social distancing guidelines established to contain the spread of the COVID-19 virus, the August 12, 2020 Special Call Village Council Meeting 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 was provided on the last page of the agenda.

**CALL TO ORDER / ROLL CALL**

Mayor Mike Forster called the virtual meeting to order at 5:31 p.m. Village Clerk Kelly Toth called the roll and the following Councilmembers, appearing virtually, responded on roll call: Mayor Mike Forster, Vice Mayor Ken Davis, Councilman Jim Mooney, Councilwoman Deb Gillis and Councilman Chris Sante. Also, appearing virtually were Acting Village Manager & Finance Director Maria Bassett, Village Attorney Roget Bryan, Village Clerk Kelly Toth and other relevant personnel.

**PLEDGE OF ALLEGIANCE**

Peter Frezza led the Pledge of Allegiance.

Village Attorney Roget Bryan provided the virtual meeting procedures noting that the emailed public comments were forwarded to Council for their consideration.

Councilwoman Deb Gillis announced free COVID-19 testing would occur on August 13<sup>th</sup> at Founders Park.

**PUBLIC COMMENT**

No general public comment was offered.

**ORDINANCES**

**TAB 1:** Second Reading: An Ordinance Amending Section 66-2 "Operation of Vessels in Restricted Areas" of the Village Code to Create a Vessel Exclusion Zone/Swim Area Generally Located North of Port Antigua and White Marlin Beach on Lower Matecumbe Key

**AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 66 "WATERWAYS", ARTICLE I "IN GENERAL", SECTION 66-2 "OPERATION OF VESSELS IN RESTRICTED AREAS" OF THE VILLAGE CODE TO CREATE A VESSEL EXCLUSION ZONE/SWIM AREA GENERALLY LOCATED OFF OF PORT ANTIGUA AND WHITE MARLIN BEACH ON LOWER MATECUMBE KEY, AS FURTHER DESCRIBED ON EXHIBIT "A"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE**

This item was heard at 5:37 p.m. Village Attorney Roget Bryan read the title of the ordinance and stated it was a public hearing and second reading. Mr. Bryan presented the staff report and noted that the item had been continued from a second reading held on June 18<sup>th</sup> to accommodate further public input.

Prior to opening public comment, Mayor Forster stated that due to the number of attendees and speakers, public comment would be limited to two minutes per speaker to allow everyone an opportunity to speak; and that persons representing a group of individuals would have five minutes to speak. Vice Mayor Davis stated that he had read all of the comments emailed to him directly and through the Village Clerk. Councilmembers expressed agreement that they too had read the emailed comments. The Mayor encouraged individuals that had emailed public comments to limit their comment to "in favor" or "opposed" when they spoke. He encouraged those that did speak to be brief and to the point and noted that public comment was limited to two minutes unless there was a need to further restrict it. Mayor Forster opened public comment.

Jose Rodriguez commented regarding opposition expressed by non-residents, duplicate emailed public comments, and concern regarding property values.

Mayor Forster advised the speakers to quickly make their points because of the two-minute limitation.

Raquel Rodriguez commented that the Port Antigua Homeowner's Association survey indicated that 84% of homeowners wanted some form of action taken; and that the swim area was referred to, by those opposed, as one of the few remaining family-friendly sandbars, yet it was plagued by immorality, disrespect, drunkenness, and a disregard for safety. She opined that these issues were most likely caused by individuals opposing the swim zone and that no amount of enforcement or regulations would control the behavior of these individuals.

Milton Hugh commented regarding the dangerous safety issues.

Richard Haight commented regarding the beach situation being out of control making his home unlivable 3-5 days a week and asked the Council to pass the ordinance.

Rick Hoskins suggested a shorter swim zone opining that it would create safety issues; and suggested Port Antigua could hire private security to address the trespass issue.

Sylvie Hugh, Islamorada homeowner, commented that there were families with children that could no longer use the beach due to safety issues and encouraged the Council to do something that would prevent a child from being hurt.

Alejandro Brito, representing a group of individuals, stated that he had 109 homeowners that recognized the issues pertaining to noise, boats and the quality of life; and had agreed that the 300-foot swim zone was not the solution. He referenced a proposal that identified a multifaceted approach to the issue. The Village Attorney confirmed that the Council had received the proposal. He proposed a shorter swim line for the safety of the swimmers; a Port Antigua administered beach ambassador program to diffuse problems; and hiring private security to address trespass problems and referenced research and a survey his group had conducted.

David Stine commented that his family could not enjoy their home because of the situation noting boaters could leave the area, but they could not leave their home. He encouraged the Council to support the proposed swim zone.

Megan Alderman acknowledged the nuisance; suggested more law enforcement; and opposed the swim zone.

Lauren De Michiel expressed agreement with David Stine's comments; noted the issues she had experienced, degradation to the environment and the overall out-of-control situation. She encouraged the Council to pass the ordinance.

Angel Muina expressed opposition to the swim zone stating the 300-foot swim zone would create life safety issues. He suggested requiring 25-feet to 50-feet distance between boats, or a 150-foot to 200-foot swim zone.

Adam Hollingsworth spoke in support of the swim zone and asked the Council to vote in favor of the ordinance.

Iris Delgado commented regarding her experiences with the swim area issues that include excessive boating, noise, garbage and trespass and suggested stronger enforcement of the regulations.

Jen Wiggins commented regarding having witnessed issues that include excessively loud music, drunkenness, marijuana use, defecating in the water and on personal property, explicit language around children, trash, unruly behavior, water quality issues, and safety issues.

Otto Ortega expressed support of the 300-foot swim zone. He stated the beach was not being taken away from anyone; noted noise issues and the need for a physical barrier to deter people.

Rick Gonzalez expressed opposition to the ordinance noting that it would restrict access by other property owners due to the lack of parking for the beach. He stated it was suggested that the property owners could ride their bikes or walk to the beach.

Maria Rodriguez expressed opposition to the 300-foot swim zone and opined the music would only get louder. She expressed concern for having to swim to the proposed area when she could not swim. She suggested a 200-foot swim zone because she would be able to touch the bottom.

Jorge Vasseur stated he did not like what was occurring on the weekends and did not take his boat to the area. He expressed opposition to a 300-foot swim zone opining the music would get louder and it would become a greater safety issue due to the deeper depths. He suggested a negotiated swim zone and more law enforcement.

Martin Pico expressed opposition opining it would create a dangerous situation for children, handicap and the elderly; that it would be dangerous for kayakers and paddleboarders; suggested fences and security to address trespass issues; and opined the 300-foot swim zone would make the issue worse.

Fred Kaub recalled issues he had experienced and urged the Council to pass the ordinance.

Juan Carlos Pernas expressed opposition to the 300-foot swim zone and suggested a compromise of 200-foot. He commented regarding the trespass issues and utilizing law enforcement and private security.

Mario Lopez acknowledged the issues and suggested a compromise. He noted the limited amount of parking for the beach.

Lazaro Vilarchao expressed opposition to the 300-foot swim zone citing safety issues.

Sy Katalik acknowledged the various issues. He commented regarding the difficulty associated with enforcing current regulations and noted that if the swim line were moved closer to shore people would not be able to swim because the water would be too shallow. He expressed his support for the proposed ordinance.

Pep Alvarez expressed opposition to the 300-swim zone. He suggested that with a 300-foot swim zone more people would go onto the beach because of the location of their boats and opined that it was an enforcement issue.

Alfonso Fernandez Fraga, Lower Matecumbe property owner, referenced an email he sent to Council stating the National Park Service, in response to the Columbus Day Regatta in Biscayne National Park, issued regulations limiting boat rafting to no more than five vessels; separating vessels by 100-feet; and zero tolerance for anyone broadcasting music through amplified speakers.

Jose Valencia suggested identifying who was causing the issues.

Wilson Rodriguez expressed opposition to the 300-foot swim zone and suggested a compromise of 200-feet and greater enforcement.

Lawrence Hawkins opined that the proposed ordinance would create a private beach for the beach front property owners as 98% of the Port Antigua property owners would have to walk several blocks to access the beach. He opined that there was no data to support that there was a safety issue and expressed his opposition.

Leo Plascencia commented regarding the dangerous situation, noting a pregnant lady was hit by a boat not long ago; and spoke in support of the 300-foot swim zone and the need to mitigate the safety of the swimmers.

Joe St. Aubin, Lower Matecumbe Key property owner, expressed agreement with the suggestions made by Alfonso Fernandez Frag regarding the National Parks Service regulations and suggested the ordinance could be restricted to certain time periods and noted the possibility of a pilot program.

Hermine Zavar expressed support for the 300-foot swim zone. She stated some people did not report offences such as trespass; and noted that law enforcement has asked boaters to turn down their music, which they did, until the officer left the area, then the boater turned the music back up.

David Petkovich, representing The Peaceful Waters Group, thanked the Council and their efforts for the past six years to address the issues; noted that many of the boats were currently within the 300-foot area; and commented regarding the trespass issues.

Adriana Morales, property owner in White Marlin Beach, stated she was present when a pregnant woman was struck by a boat a few weeks prior and stated the offenders were given a warning. She stated her sister was nearly run over in the swim area and expressed her support for the proposed ordinance and the need for stronger law enforcement.

Joanne Hennessey, White Marlin Beach property owner, commented regarding having almost been hit by a propeller in the swim area; that boats enter the sand 20-feet from shore; and the limited

amount of law enforcement officers. She stated she was present with the pregnant woman was struck by the boat.

Brad Dougherty, Lower Matecumbe Key homeowner, commented regarding the requirements of the Comprehensive Plan regarding ADA accessibility for recreation and open spaces noting the area would be designated as a public swim area. He expressed hope the Village would leave the area open to the public.

Tatiana Madden, full-time Port Antigua homeowner, commented regarding the trespass issues she and others had experienced such as people using their bathrooms, helping themselves to water hoses and chairs and noted the confrontation that these issues brought. She commented that a passive position to trespass would be relinquishing their rights as a property owner and the rights to peacefully enjoy their homes. She commented regarding hundreds of boats that were individually below the noise ordinance threshold, noting the cumulative effect of the vessels exceeded the threshold and asked how that could even be enforced. Ms. Madden asked how long an officer would stay to "baby sit" the vessels that received warnings.

Michael Markgraf acknowledged the issues that occurred, but noted the area was a public space. He opined that he owned waterfront property elsewhere where the public enjoyed themselves in the water near his back yard. He stated he did not like it, but it was a public space when he bought the property and that he had the choice of accepting the situation or moving. He expressed his opposition to the ordinance and suggested it would lead to lawsuits.

Lee Ramirez opined that much of the opposition came from the beach front property owners and commented that the beach belonged to the 330-plus property owners in Port Antigua. He commented that he has had no issues at the beach in 15 years and expressed opposition to the proposed ordinance.

Alejandro Brito stated that one of the primary issues was that the 300-foot swim zone would coincide with the existing no wake zone and would create a problem. He asked the Council to consider a pilot program and a 200 to 250-foot swim zone; and consider a different solution for White Marlin Beach.

Jerry Manzo, White Marlin Beach homeowner since 1958, commented regarding how the area had degraded over the past few years noting the trash and loud music. He expressed his support for the proposed ordinance and suggested a noise ordinance within 500 feet of a waterfront residential property so that it would be easily enforceable.

Jay Cannon commented regarding the Ambassador Program proposed by some of the property owners. He stated that when he asked people to turn their music down, they would respond rudely and turn their music up. He stated that if people were concerned about exiting their boats into deep water, they should wear a life jacket. He noted there was no one to police the suggested compromises. Mayor Forster closed public comment.

Council discussion ensued regarding the idea of a pilot program; the inability to correct bad behavior; individuals that could not swim should be wearing life preservers; residents and taxpayers of Islamorada should not be burdened with the cost of additional law enforcement; beachfront property owners should not be punished for owning property on the beach; the possibility of a no rafting ordinance; an ambassador program lacking authority; Monroe County Sheriff's Office having

enforcement authority within 1200-feet of the shoreline; the ongoing issue over the last six years; the 300-foot buoys did not exceed the idle zone markers; the swim area being promoted on YouTube as the place to go in South Florida; FWC regulations pertaining to kayaks and paddleboards in swim zones; and launching a kayak versus use of one in the swim zone area; inflatable devices without engines were permissible; and the legislation component and the enforcement component

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

## **MAYOR / COUNCIL COMMUNICATIONS**

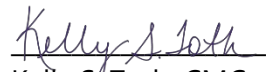
### **Discussion Regarding Opening Date for Facilities- Mayor Forster**

This item was heard at 7:24 p.m. Mayor Forster stated the Village currently had facilities closed through August 19<sup>th</sup> and noted the Monroe County facilities were open. He asked if it was the will of the Council to keep Village facilities closed through Labor Day or to reopen sooner. Council and staff discussion ensued resulting in the Council agreeing to keep the facilities closed through Labor Day.

## **ADJOURNMENT**

Councilman Chris Sante made a motion to adjourn. Vice Mayor Ken Davis seconded the motion. The meeting adjourned at 7:34 p.m.

Approved by the Village Council September 17, 2020.



Kelly S. Toth, CMC

Village Clerk